

## ~~MountainStar Suncadia~~<sup>1</sup> MPR Conditions of Approval

1. (a) Based on the foregoing analysis, this staff report concludes that the proposal can be conditioned so as to be compatible with applicable policies and regulations and to mitigate probable significant adverse environmental impacts identified in the EIS. The subarea plan amending the Comprehensive Plan land use map, rezoning of the site, and approval of the MountainStar Resort Conceptual Master Plan (Exhibit B to the Development Agreement Relating to the Development Commonly Known as MountainStar Master Planned Resort Between Trendwest Resorts, Inc. and Kittitas County) are recommended for approval subject to the Conditions set forth below. The Conditions identified herein are based on the proposed MPR master plan and design identified in the Final EIS, and probable significant adverse environmental impacts and mitigation measures identified in the Draft and Final EISs. Pursuant to the authority provided by WAC 197-11-655(3)(b), additional conditions based on the foregoing findings and conclusions are also identified.

(b) The County shall review any proposed changes to the MPR in terms of their consistency with the significant impacts and mitigation measures identified in the EIS. As warranted, the County may require supplemental environmental review, and may impose appropriate mitigation measures, if it determines, in its sole discretion, that such additional review and/or mitigation is required by SEPA.

(c) The Conditions set forth below include numerous references to federal, state and County laws, rules, regulations, official policies, standards and specifications applicable to the development of MountainStar. All such references herein shall be governed by and construed in accordance with the vesting and Applicable Law provisions set forth in Sections 4.1(a) and 4.1(c) of the Development Agreement.

### **A. MASTER PLANNED RESORT CONCEPTUAL MASTER PLAN/LAND USE.**

The EIS discusses adverse impacts to land and shoreline use, and the relationship of the proposal to relevant Growth Management Act and Comprehensive Plan policies relating to Master Planned Resorts, and identifies mitigation measures that should be implemented. Pursuant to Kittitas County SEPA Ordinance Section 15.04.200(d), the policies in Comprehensive Plan Section 2.4, Shoreline Master Program goals, policies, use regulations and environment designations, and KCC 17A, the following mitigation measures will be required.

A-1 The MountainStar Resort Conceptual Master Plan (Exhibit B to the Development Agreement) shall be used to indicate the types, general layout and densities of uses within the MPR. The MPR will be developed in phases, each of which may contain one or more subphases. Development applications for phases or subphases shall be measured against the land uses indicated on the Conceptual Master Plan. Proposed changes to the Conceptual Master Plan shall follow the procedures identified in the Development Agreement. All land uses shall be consistent with the Comprehensive Plan and Zoning Code, including any amendments adopted

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<sup>1</sup> Suncadia LLC, a Delaware limited liability company, is the successor in interest to Trendwest Resorts, Inc. and Trendwest Investments, Inc., and the name of the resort has been changed from "MountainStar Master Planned Resort" to "Suncadia Master Planned Resort." All references herein to Trendwest and MountainStar shall now be deemed to mean Suncadia.

for the MPR Subarea Plan and Zoning District, adopted at the time of MPR Approval.

A-2 (a) Required Infrastructure and Utilities, as defined in the Development Agreement, shall be installed and completed or bonded or other financial guaranties or accommodations made for their completion prior to final plat approval of each subphase.

Infrastructure and Utilities required to serve any ~~pPhase or subphase~~ Division of development shall be completed concurrent with approval of occupancy of the subject ~~pPhase or subphase~~ Division.

(b) The phasing of projects shall be in a way that fire protection can be maintained to protect the previous phase or phases. Water supplies for fire fighting and roads must be made available at the earliest point to allow the sites to be protected. As roads and paths become the established fire department/emergency access, maps should be kept up to date, with street names posted. Each development application shall specify how it relates to the overall MPR phasing program.

A-3 The amount of land developed for specific land uses (i.e., residential, recreation) shall be as indicated in the MPR Development Application, as updated in ~~the Final EIS (Table 2-1)~~, the Development Agreement, and the MountainStar Resort Conceptual Master Plan attached to the Development Agreement as Exhibit B. Specifically, the Resort may include up to: 327 hotel/lodge units; 1070 condominium units; and 3253 single family lots for a total of 4650 accommodation units. The nomenclature and criteria of Table 2-1 of the MPR FEIS no longer apply. Open space shall be governed by Conditions A-4, A-5 and A-65. Consistent with the nature of long-term master planned development projects, changes may be proposed in response to market conditions, economic/financial or conditions or for other unanticipated reasons. As noted in the County's August 8 Staff Report in paragraph 8 of its Findings, the amount of land shown in the application and Final EIS to be developed for specific land uses is considered a maximum "budget" for those uses; flexibility is intended in regard to the siting of approved land uses. Changes in the amount of land allocated to approved uses, if proposed in subsequent general site plans or site development plans, or any proposed deviation from the Conceptual Master Plan, shall be reviewed and determined based on applicable procedures in MPR Development Agreement. Any changes to the locations, type or intensity of land uses shall be consistent with applicable MPR Policies and shall be considered in the context of any minimums or maximums established by these Conditions and consistency with environmental conditions.

A-4 Open space lands within the MPR shall at a minimum include the following identified in the MountainStar EIS: Natural and Managed Lands that are retained in a substantially undeveloped state, which may include forested lands that are managed for habitat (approximately 2,700 acres); Perimeter Buffers around the perimeter of the MPR site (approximately 250 acres); Internal Buffers within the MPR site (approximately 1,300 acres); and Golf Courses (approximately 300 acres). Open space lands shall be segregated from other lands and shall be subject to a deed restriction, conservation easement or other mechanism ensuring permanent maintenance as open space. Prior to approval of the first site development plan for a phase or subphase, the applicant shall create one or more legal entities (e.g., conservation trust, homeowners associations or Trendwest management entity) which shall be responsible for maintaining open space lands on the site for their intended purpose.

A-5 Open space lands shall be managed to buffer sensitive environments from intensive development or activities; to retain and restore native plant communities and to maintain and enhance habitat; and, for developed areas, to provide an aesthetically pleasing landscape, provide habitat connections, and minimize risk of fire.

To document and achieve these landscape planning objectives, Trendwest will finalize and submit to the County for approval the existing conceptual Land Stewardship Plan and a Noxious Weed Plan for the entire MPR site prior to any construction and/or land clearing activities for the first phase or subphase of MPR development. An amendment to the Land Stewardship Plan and Noxious Weed Plan shall be submitted to the County for approval with a general site plan or site development plan for any phase or subphase of MPR development if the general site plan or site development plan is inconsistent with such Land Stewardship Plan and/or Noxious Weed Plan. Such amendments shall demonstrate how the goals and policies of the Land Stewardship Plan and Noxious Weed Plan will be implemented for the developed area in the phase or subphase of MPR development covered in the general site plan or site development plan.

The Land Stewardship Plan shall include and follow the Department of Natural Resources Backyard Stewardship Program, (Eastern Washington Type) as a model of fire prevention in the interface as a proven working program. The contents of the plan shall be as described in Plants & Animals Conditions B-23 and B-29.

A-6 Open space lands shall be retained in a substantially undeveloped state. Development which may occur shall be limited to recreational trails, golf courses, roads and utility facilities required to meet the needs of the MPR.

A-7 Lands within the geomorphic floodplain of the Cle Elum River shall remain undeveloped, except as provided herein, and shall protect the resources values and natural functions of the shoreline area. Clearing and disturbance shall be minimized. The following proposed activities may be permitted in the geomorphic floodplain, subject to submittal of appropriate development applications: non-motorized pervious trails, utilities, including a water intake, and a bridge and associated roads spanning the Cle Elum River, provided that impervious trails may be permitted on a case-by-case basis. Additional recreational facilities beyond those identified in the Final EIS, if any, shall be consistent with the Shoreline Master Program and other applicable regulations. Appropriate environmental review, or confirmation that adequate environmental analysis is contained in the MountainStar EIS, shall be conducted for any facilities located within the floodplain and all necessary permits will be obtained by the applicant.

A-8 Private Open Space as defined in the MountainStar EIS (approximately 815 acres), which includes the undeveloped portions of lots developed for housing or resort uses may, be included in the calculation of open space for the MPR provided that binding deed restrictions, and/or covenants, conditions and restrictions (CC&Rs) are adopted to limit the amount of clearing and alteration of lots or areas.

The amount of clearing on lots shall be consistent with Condition C-25(b). Single specimens of trees, ornamental shrubbery or similar plants used as plant covers, provided that they do not form

a means of rapidly transmitting fire from the native growth to any structure will be exempt.

A-9 The MountainStar Resort Conceptual Master Plan and the "budget" for land uses include two golf courses on the property. An amendment of the Conceptual Master Plan ~~may be required~~has been made by the County ~~if allowing~~a third golf course is proposed. Supplemental environmental review may be required as provided in the Development Agreement, subject to Kittitas County findings contained in a Planned Action ordinance for the MPR.

A-10 The Cle Elum River Corridor shown in Figure 2-2 of the MountainStar EIS shall be managed as Natural Open Space as identified in the EIS and consistent with the Land Stewardship Plan approved by the County pursuant to Conditions A-5 and B-29.

## **B. NATURAL ENVIRONMENT**

**Geology, Soils and Groundwater.** The EIS discusses adverse impacts to geology, soils and ground water resources and identifies mitigation measures that should be implemented. Pursuant to Kittitas County SEPA Ordinance Section 15.04.200 (d), Comprehensive Plan Policies GPO 2.194, 2.77, 2.78, and KCC 17A.04, 17A.05 and 17A.06, the following mitigation measures will be required.

### Erosion

B-1 To mitigate and reduce sheet and channel erosion, the MPR shall employ Best Management Practices (BMPs) ~~as set forth outlined in the Department of Ecology's then current Stormwater Management Manual for the Puget Sound (1992 Edition), until an Eastern Washington manual is published by Ecology and adopted by the county.~~ BMPs shall include the following measures:

- (a) Source-control BMPs for cleared areas shall be applied. Surface water runoff will be directed away from exposed subgrades or into approved temporary and/or permanent stormwater conveyance systems.
- (b) Protective measures for stockpiled soils.
- (c) Temporary sedimentation traps or ponds.
- (d) Rock check dams along roadways and within drainage ditches
- (e) Silt fences shall be established along wetlands, stream and river corridors, open space areas and other sensitive areas.
- (f) Erosion control measures for stormwater discharge points.
- (g) Construction runoff shall be collected and treated by sediment ponds, turf-covered sand filters, temporary filtration or other approved methods.
- (h) Clean water entering construction areas shall not be allowed to mix with construction water.
- (i) A temporary erosion and sediment control plan (TESCP) shall be established and must be approved by Kittitas County prior to beginning major clearing and earthwork activities, including timber harvest.

When a new manual and new BMPs are adopted by Kittitas County, the MPR shall incorporate the new BMPs into the design of any previously unapproved phases of development. Variances

may be considered to ensure compatibility between operational and maintenance BMPs applicable to different phases of development.

B-2 During development, Trendwest shall implement the following erosion control measures:

- (a) Surface water and domestic discharge shall not be directed onto sloping areas or randomly daylight on the site.
- (b) All emergency overflows from infiltration ponds, or other drainage conveyance features, on slopes at grades of 5H:1V or greater shall be tightlined to the base of the slope or to an approved outfall point.
- (c) Temporary TESC and infiltration facilities shall not be used for permanent facilities.
- (d) All proposed fill soils planned for slopes steeper than 5H:1V shall be benched into the hillside and compacted.
- (e) Potential stormwater discharge from detention ponds into Stream C between approximately elevations 2,160 and 2,080 feet shall not exceed flows of 15 cfs.

### Landslides

B-3 Minimum setback distances from the top of landslide hazard zones (as shown on Draft EIS ~~Figure 4.1-2~~ Table 6-2) for structures and lined detention ponds, shall be 50 feet for Landslide Hazard Zone 3, 75 feet for Landslide Hazard Zone 2, and 125 feet for Landslide Hazard Zone 1; provided that the setbacks for Landslide Hazard Zone 2 and 3 may be reduced with grading and stormwater measures approved by a geotechnical engineer, and additional site-specific studies might be required. Setbacks for infiltration facilities and unlined detention facilities shall be determined through site-specific geotechnical and engineering analysis, and shall be subject to the recommendation of a licensed geologist, the and approved by Kittitas County, prior to and the issuance of any applicable construction permit.

B-4 To minimize landslide risks, the following additional conditions shall be implemented:

- (a) Stormwater from the site shall be collected and tightlined away from the top of Landslide Hazard Zones 1 through 3.
- (b) No fill, topsoil or other debris shall be placed over the top of Landslide Hazard Zone 1. Any fill planned for slopes steeper than 5H:1V shall be benched and compacted into the hillside.
- (c) No cuts shall be made on or at the toe of Landslide Hazard Zone 1 unless approved by a licensed geotechnical engineer and Kittitas County.
- (d) No vegetation shall be removed from Landslide Hazard Zone 1, with the exception of dead or diseased trees, unless approved by a licensed geotechnical engineer and Kittitas County. Vegetation removed from Landslide Hazard Zones 2 and 3 shall be limited to the minimum clearing needed to permit construction.

### Seismic Activity

B-5 Uniform Building Code (UBC) guidelines shall be followed for siting and design of any facilities located in seismic hazard areas. Provisions for evaluating seismic issues as currently described in the draft International Building Code 2000 (IBC2000) shall be considered in design. If facilities are sited in areas prone to soil liquefaction, foundation supports shall be designed to

extend deeper than the liquifiable soils. The Building and Fire Codes reference any where in “This Document” shall reflect to the most current code/codes adopted by the Washington State Building Council and Kittitas County. This will allow buildings to be built with the most current codes applicable rather than the code at approval of the Development Agreement.

**Flooding.** The EIS discusses adverse impacts to lands within the 100-year floodplain of the Cle Elum River and identifies mitigation measures that should be implemented. Pursuant to Kittitas County SEPA Ordinance Section 15.04.200 (d), Comprehensive Plan Policies GPO 2.193 through GPO 2.195, Comprehensive Plan Sections 2.2(D) and 2.2(E), Shoreline Master Program goal statements, use activity statements, environment designations and shoreline regulations, Flood Damage Prevention Ordinance 93-18, Comprehensive Flood Hazard Management Plan, and KCC section 17A.05, Critical Areas, the following mitigation measures will be required.

B-6 Consistent with the MountainStar Resort Conceptual Master Plan (Exhibit B to the Development Agreement) and Land Use Conditions identified below, only the following uses may be developed within the geomorphic floodplain: pervious non-motorized trails; (except as allowed in A-7) and other recreational facilities permitted by the Shoreline Master Program; utilities, including stormwater management facilities, sewer and water facilities, and other utilities reflected in the MountainStar application and Final EIS, Appendix A; and a bridge spanning the river and the 100-year floodplain along with associated approach roads. Approval for these uses shall be contingent on review of the consistency of site-specific development applications with applicable provisions relating to flooding contained within the SMP, Flood Damage Prevention Ordinance and/or Critical Areas Ordinance, and other applicable Kittitas County regulations. Supplemental environmental review shall be required for the bridge spanning the Cle Elum River, to the extent that significant impacts of this element of the MPR are not fully addressed in the EIS for the Master Planned Resort.

B-7 Applications for any development within the 100-year floodplain, as delineated by FEMA, shall describe how any structures will be designed to protect human life and health, result in no net loss of floodplain storage, and be consistent with applicable setback provisions. The development within the floodplain requires “Floodplain development permits” for any work within the FEMA delineated area, which does not allow structures to be built within the floodway. Any development within the floodway shall result in no net loss of floodplain storage. Applications for any development within the 100-floodplain, as delineated by FEMA, shall describe how any structures will be designed to protect human life and health.

B-8 Clearing for approved development within the 100-year and geomorphic floodplains shall be limited to the minimum necessary to accommodate permitted recreational facilities and to provide access to resort lands on the west side of the Cle Elum River. The design of any approved facilities shall also ensure minimal impacts to the shoreline environment and safe operations during flood events.

**Groundwater & Stormwater.** The EIS discusses adverse impacts to groundwater and identifies mitigation measures that should be implemented. Pursuant to Kittitas County SEPA Ordinance

Section 15.04.200(d), Comprehensive Plan Policies 2.194 through 2.195 and 2.210, Comprehensive Plan section 2.2(E), and Kittitas County storm water regulations, as amended, the following mitigation measures will be required.

B-9 (a) Stormwater runoff shall be controlled according to an approved master drainage plan (MDP) that provides adequate retention/detention, promotes infiltration and provides water quality treatment. The MDP shall be prepared consistent with the standards, or functional equivalents, of the stormwater regulations referenced in these Conditions, and must be approved by the County Engineer prior to commencement of construction of MPR Infrastructure and Utilities as defined in the Development Agreement; provided, however, that this Condition does not preclude Trendwest from conducting lawful activities under its Forest Practice Application No. 2701173 approved by the Washington Department of Natural Resources.

(b) The MDP shall incorporate the following considerations and standards:

- a) Infiltration facilities shall be used to infiltrate water. Facilities shall be located within or as close as possible to the developed sub-basin which would generate the surface water runoff.
- b) For sub-basins underlain by soil having low infiltration rates, runoff shall be routed to detention facilities which discharge either to downstream infiltration facilities or to existing surface water drainage systems.
- c) Surface dispersion and infiltration through roadside ditches in the lower-density residential areas shall be used.
- d) Residential roof runoff shall be infiltrated where permeable subsurface soils are present.
- e) The surface and subsurface drainage systems for the golf courses shall utilize infiltration sumps and trenches to infiltrate water into subsurface soils.

(c) The applicant shall pay its proportionate share of stormwater design and treatment improvements needed on county roads and intersections pursuant to these MPR Conditions of Approval.

**Water Quality.** The EIS discusses adverse water quality impacts and identifies mitigation measures that should be implemented. Pursuant to Kittitas County SEPA Ordinance Section 15.04.200(d), Comprehensive Plan Policies GPO 2.193, 2.194 and 2.210, Shoreline Master Program goals, policies, environment designations and use regulations, and KCC 17A.04-17A.08, Critical Areas Ordinance, the following mitigation measures will be required.

### Construction Impacts

B-10 A Temporary Erosion and Sedimentation Control Plan (TESCP) shall be prepared prior to land clearing and construction activities commencing, and as part of the stormwater pollution prevention plan accompanying any NPDES permit application required due to proposed discharges to surface waters of the state. Erosion and sediment control measures shall be as specified in the most current Department of Ecology Storm Water Management Manual (Volume H) for Eastern Washington. Measures shall include best management practices (BMPs) for the control of sediments and pollutants; measures for marking of clearing limits; temporary and permanent cover of exposed soils and stockpiles; silt fencing, construction entry and roadway

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stabilization; sediment traps and ponds; wet season construction protective measures; controlled and lined concrete washout areas; waste disposal measures; and an accidental spill control and cleanup plan.

B-11 No earthwork shall occur between November 1 and February 28 in areas with high erosion potential. These dates may be extended by the Planning Director based on dry/wet weather conditions.

#### Post-Construction Impacts

B-12 The applicant shall monitor water quality as identified in the DEIS, FEIS, and these Conditions. Proposed monitoring programs shall be prepared and submitted to the County for its review and approval prior to approval of initial site development plan. Theis Water Quality Monitoring ~~Program~~, which shall be implemented during operation of the MPR to protect water quality, shall include the following:

- (a) a groundwater monitoring program incorporating the parameters identified in the EIS; and
- (b) surface water monitoring program to measure performance of drainage system; ~~and~~
- (c) ~~a sampling program for benthic macroinvertebrate sampling (as identified in Appendix C of the EIS).~~

B-13 Additional Conditions to protect water quality include:

- (a) infiltrating stormwater after treatment, excepting some catchments immediately adjacent to Stream C;
- (b) establishing a design criterion for water quality facilities to treat approximately 91 percent of all runoff (on an average annual basis);
- (c) locating, constructing and operating gasoline and diesel fuel storage tanks and fueling areas in accordance with Ecology regulations (Chapter 173-360 WAC);
- (d) providing drainage control for maintenance areas; and
- (e) implementing BMPs for the equestrian centers, which shall include preventing outdoor use of paddocks during the wet season (October through April) and control of sediment in runoff from dirt areas.

B-14 Concurrent with submittal of an application for any site development plan that includes a golf course, the applicant shall prepare and submit for the County's review and approval, a golf course management plan that addresses protection of water quality. The plan shall include provisions regarding proposed design for fairways, greens, tees and water bodies, to ensure appropriate drainage and infiltration; integrated pest management, to reduce use of pesticides; computer controlled irrigation, to reduce water consumption; storage and handling of all chemical substances, consistent with applicable state and federal requirements; a discussion of the toxicity, mobility, persistence and risk associated with use of proposed pesticides, fertilizers, fungicides and other applications; and drainage controls and facilities, to ensure appropriate collection, treatment and release of golf course runoff. Standards shall be as specified in the Development Agreement. The storage of all hazardous materials shall follow the same guidelines as prescribed by the latest codes and regulations from various agencies. The focus on the golf course chemicals shall be part of a total plan for use, containment and disposal of all hazardous



materials during construction and operation of the MPR. All chemicals on site will require MSDS sheets at site and construction main office for use in emergency situations.

B-15 All golf course fungicides, herbicides, insecticides and fertilizers shall be stored in an enclosure with a closed sump to prevent chemical release. Mixing areas for golf course chemicals shall be enclosed with concrete curbs or other means for spill containment and a closed sump or collection point.

B-16 The applicant shall prepare a golf course spill prevention and accidental spill response plan consistent with Department of Ecology requirements. Following approval by Ecology, a copy of the plan shall be submitted to Kittitas County.

**Water Supply.** The EIS discusses adverse impacts to water supply and identifies mitigation measures that should be implemented. Pursuant to Kittitas County SEPA Ordinance Section 15.04.200(d), Comprehensive Plan Policies GPO 2.210-2.215, and KCC 16.12, Subdivisions, and RCW 58.17, the following mitigation measures will be required.

B-17 As required by RCW 58.17.110 RCW 19.27.097 and by KCC 16.20.060, the applicant shall submit evidence of the availability of potable water at the time of approval for a final subdivision of land or application for a building permit.

Adequate water supply for purposes of this Condition means quality and quantity of water as required by the Department of Health and Kittitas County Health Department as defined in WAC 246-290, and RCW 43.20, 70.119A and 70.142. Appropriate conditions will be determined and imposed in connection with the County's review of those applications.

The Final EIS indicates that sufficient water to serve the MPR may be permitted by the responsible agencies and that environmental impacts can be satisfactorily mitigated. Approval of the MPR's proposed water supply is subject to decisions by the Department of Ecology and/or the Bureau of Reclamation, and the Department of Health. Those agencies will, therefore, consistent with the mandates of state and/or federal law, determine appropriate conditions that should be imposed on the approval of requested water supply actions. The MPR application and EIS contain sufficient information regarding likely sufficiency of proposed water supply alternatives, and no further conditions relating to water supply by Kittitas County are warranted at this time. However, any conditions imposed by the Bureau of Reclamation, Department of Health, or Department of Ecology shall become part of these Conditions by this reference.

B-18 In coordination with Kittitas County's Health Department, the Department of Health and Washington Utilities and Transportation Commission, the applicant shall prepare and implement a Water System Plan. The applicant shall seek review and certification of the proposed water supply system by the county health officer, who shall certify, prior to preliminary plat approval, his recommendations as to the adequacy of the proposed water supply system facilities as required by KCC 16.12.150 and RCW 58.17.110. The applicant shall obtain written approval from the State Board of Health, Office of Water, prior to any new construction of a public water system as required by RCW 70-119A-060 and WAC 246-290-125. Conditions imposed by Kittitas County on final plat approval shall also reflect the independent planning and

environmental analysis being conducted for shared water and sewer facilities by the City of Cle Elum and other parties, and shall adequately mitigate identified significant impacts attributable to water service to the MPR.

B-19 The applicant shall prepare and implement a program of water conservation as part of the project's water system plan approved by the Department of Health and as required under RCW 90.03.005 and 90.54.020(6). Water conservation measures shall be included in the design and irrigation of proposed landscaping and golf courses; plumbing fixtures and building design. The applicant shall equip residential units with water saving devices meeting at least the minimum guidelines established in the Conservation Planning Requirements, Guidelines and Requirements for Public Water Systems Regarding Water Use Reporting, Demand Forecasting Methodology, and Conservation Programs, July, 1994, as revised. Any conditions imposed by the Bureau of Reclamation, Department of Health, or Department of Ecology related to water conservation shall become part of these Conditions by this reference.

B-20 Trendwest shall ensure that all necessary transfers/exchanges of water rights shall be in place, and that water and wastewater facilities shall be completed or bonded, prior to final plat approval or issuance of a building permit. Phasing of water transfers/exchanges and water and wastewater facilities may be allowed.

B-21 Trendwest shall ensure that legal water rights have been obtained and are in force in accordance with the Department of Ecology before supplying potable water supplies to the development.

B-22 Trendwest shall ensure that the Department of Health Drinking Water Division has approved any "Group A" source of potable water in accordance with 246-290 WAC or as amended.

**Plants and Animals.** The EIS discusses adverse impacts to plants, wildlife, wetlands and fisheries and identifies mitigation measures that should be implemented. Pursuant to Kittitas County SEPA Ordinance Section 15.04.200(d), Comprehensive Plan Policies GPO 2.193-2.195, and GPO 2.86-2.91, and KCC 17A.04 and 17A.07, the following mitigation measures will be required.

#### Plants

B-23 Native plant species shall be used in landscape plantings in developed areas, and to revegetate cleared but open areas, including rights-of-way along MPR roads. A program to control the introduction or spread of noxious weeds or invasive species, using chemical and/or biological means, shall be developed by a professional forester in consultation with the Kittitas County Weed Coordinator, and shall be reviewed and approved as part of or in conjunction with the Land Stewardship Plan pursuant to Conditions A-5 and B-29. The revegetation of open areas and disturbed areas shall be in conformance with the Land Stewardship Plan. Such Land Stewardship Plan shall include provisions relating to: (a) revegetating open and disturbed areas with use of low growing, perennial grass species close to native or cultivars of native species; and (b) using drought resistive species to minimize the risk of transmitting fire. These

Conditions shall be addressed by the applicant through adoption of the Land Stewardship Plan and through general site plans or site development plans, and through restrictive covenants applicable to subdivisions and lots.

B-24 Remaining stands of unthinned mature forest habitat within development areas shall, to the extent feasible, be retained and incorporated within open space areas. Any forest management activities within these areas shall comply with applicable local, state, and federal rules and regulations, and with the Land Stewardship Plan adopted pursuant to Conditions A-5 and B-29.

B-25 The potential for salvaging and/or retaining native plants, where feasible and practical, for revegetation of open and disturbed areas shall be considered and addressed through the adoption of the Land Stewardship Plan pursuant to Conditions A-5 and B-29.

#### Wetlands

B-26 Pursuant to the wetland replacement ratios in the Kittitas County Critical Areas Ordinance, the applicant shall create 1.25 acres of wetlands as compensation for the filling of 0.65 acres of wetlands 18, 36 and 38. Impacts to wetland buffers identified in the EIS shall be mitigated through a combination of buffer width averaging, buffer enhancement and buffer restoration. Site development plans shall attempt to avoid or further reduce these wetland impacts, and impacts to wetland buffers, through realignments of roads or trails, or through use of retaining walls. The applicant shall submit, concurrent with any site development application for a development phase or subphase resulting in wetland fill, a detailed wetland mitigation plan for review and approval by the Kittitas County Planning Director. The mitigation plan shall include the design of proposed mitigation, a monitoring program, and a contingency plan in the event the mitigation is unsuccessful, and a performance bond.

B-27 Any additional wetlands identified during site planning or development shall be classified and delineated by a qualified biologist. Impacts to newly identified wetland functions and values shall be documented and suitable mitigation measures shall be approved by Kittitas County and implemented by the applicant.

#### Wildlife

B-28 Open Space shall be provided in the MPR consistent with the terms and conditions of the Development Agreement.

B-29 The applicant shall prepare and submit to Kittitas County for approval a Land Stewardship Plan which identifies an overall management framework and wildlife habitat goals and objectives and for the MPR site. The Plan shall also describe the means that the applicant will investigate and implement to achieve wildlife/habitat objectives.

- (a) The Plan may propose differing management objectives for varying portions of the site, based on planned resort activities, habitat value and other considerations. Preparation or implementation of the Plan may include creation of management entities and/or advisory bodies. The Plan shall address how the applicant proposes to consult and coordinate with federal, state and tribal agencies with expertise.

- (b) The Plan shall be submitted and approved consistent with Condition A-5.
- (c) The Plan shall consider the potential for achieving a goal of no net loss of elk forage habitat. This shall include a discussion of the implications and habitat trade-offs involved in emphasizing elk habitat relative to other habitat. In considering the goal of no net loss of elk forage habitat, consideration should be given for increasing the quality of such habitat in Managed Open Space areas to compensate for the unavoidable loss of elk habitat in developed areas.

(d) The Plan shall follow the guidelines of:

- The Department of Natural Resources, Backyard Stewardship Program (Eastern Washington Type)
- Recommendations for Fire Safety and Prevention of Forest and Rangeland in Kittitas County including Rural, Commercial and Private Developments as updated March 1999 by the Kittitas County Fire Co-op, a committee of the Kittitas County Fire Chief’s Association.

These guidelines shall be used to protect the wildfire interface area, which is being developed. These are proven useful tools in fire protection.

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B-30 Except as may otherwise be specifically approved by the BOCC, hunting and the use of firearms shall be prohibited on the MPR site. “Hot hunts” may be permitted if requested by Trendwest and deemed necessary by the Washington State Department of Fish and Wildlife to protect life and property.

B-31 Public access to salmon spawning areas of the Cle Elum River shall be restricted during the spawning period. These areas shall be identified through consultation with the appropriate state, tribal, and federal entities. Public access shall also be controlled where habitat enhancement activities would be undertaken.

B-32 Motorized vehicle use shall be prohibited in the Cle Elum River Corridor, except at the approved bridge and road crossing and for maintenance and public safety purposes.

B-33 Interpretive and educational materials regarding the range and sensitivity of wildlife on the MPR site, including information about potential conflicts with elk, shall be developed by the applicant, made available to resort visitors and/or posted in suitable locations on the property. At the interpretive areas and trail heads, points where telephone service is not readily available, communication devices of a type able to request emergency services shall be placed to allow the users of such devices to be able to call for help. Without such communications wildfires will have a chance to grow to a size that could endanger lives.

B-34 Trail ends and overlooks shall be located, through consultation with appropriate state, tribal, and federal entities, away from salmon spawning areas or otherwise designed to allow viewing without disturbance to wildlife using the river.

B-35 Existing snags and downed woody debris within the Cle Elum River Corridor shall be retained within natural open space areas. Further, large woody debris may be added to areas where natural recruitment is shown to be inadequate.

B-36 Use of trails by cross-country skiers shall be restricted in areas identified as moderate or high use area by winter elk. Winter use of hiking trails in the river bottom area that is used by elk in winter shall be restricted.

#### Fish

B-37 Best management practices shall be implemented to control sediment and contaminants from entering or impacting aquatic resources.

B-38 Bank armoring in connection with construction of recreational or utility facilities in the shoreline shall be limited to the minimum necessary to protect such facilities from potential flood damage and comply with all applicable county regulations.

B-39 To maintain future recruitment of large woody debris, any trees that must be removed within the floodplain shall be dropped and left on the ground. Cutting of firewood within the floodplain shall be prohibited.

B-40 Public access to the Cle Elum River for fishing or other recreational activities shall be managed to protect fish, fish habitat and the resources of the shoreline. If proposed, specific design and use of new access areas shall conform to the requirements of the Kittitas County Shoreline Master Program.

B-41 Managed access to the Cle Elum River shall continue consistent with the terms and conditions of the Development Agreement. Prior to occupancy of the proposed hotel, the applicant shall submit a plan for the County's review to manage recreational access to the river. This should include consolidation and management of access points and may propose improvement of trails and other facilities, consistent with the requirements of the Kittitas County Shoreline Master Program. Access areas shall be defined and clearly mapped in cooperation with federal, state and tribal agencies with expertise.

**Air Quality.** The EIS discusses adverse impacts to air quality and identifies mitigation measures that should be implemented. Pursuant to Kittitas County SEPA Ordinance Section 15.04.200(d), and Comprehensive Plan Policy 2.194 and Section 4.3(B), the following mitigation measures will be required.

B-42 Wood burning stoves shall be limited to common areas in the resort lodges, conference facilities and similar spaces. No stoves or wood burning devices shall be installed in individual resort units. The restriction of wood burning stoves shall be included to all privately owned units including the single-family residences. This would allow the fire prevention to be implemented from the highest standards and through out the MPR thus lowering the need for fire department

response to wood stove related problems and also the problem of wood storage in a wildfire interface area.

Wood storage in the wildland interface area presents a problem of possible fire encroachment into the woodpiles and the radiant heat produced enhancing the fire front and making protecting the building impossible. In general, people have their wood storage very close to the building being heated.

B-43 Development management practices shall include using well-maintained construction equipment and trucks to reduce emissions. Prolonged periods of vehicle idling and engine-powered equipment shall be avoided. Development Management Practices shall include the following fire safety items:

- (a) All construction and maintenance vehicles on site shall have the industrial fire safety equipment, which includes a fire extinguisher, shovel, and spark arrestor/muffler and other specific per application.
- (b) All smoking shall be controlled in prescribed smoking areas.
- (c) Open flame/spark emitting shall follow the WA State DNR Industrial Precautions.

Any exception of these will be examined on a per case basis by the Fire Chief of the Fire District, Department of Natural Resources and the Kittitas County Fire Marshal.

B-44 During construction, areas of exposed soils shall be sprayed with water or other dust suppressants. A program and schedule for road sweeping shall be submitted concurrent with submittal of an application for the first phase or subphase of MPR development. Cleared area that will be exposed for prolonged periods shall be paved, planted with a vegetation ground cover, or covered with gravel. Truck wheels shall be washed before exiting the site onto local roads. Trucks transporting dusty materials shall be covered.

B-45 Burning of land clearing debris shall be consistent with the County Solid Waste Plan, Fire Protection regulations, and as conditioned by WAC 173-425-030 or otherwise permitted in accordance with the County-approved Land Stewardship Plan.

**Noise.** The EIS discusses adverse noise impacts and identifies mitigation measures that should be implemented. Pursuant to Kittitas County SEPA Ordinance Section 15.04.200(d), and Comprehensive Plan Policy 2.194 and Section 4.3(B), the following mitigation measures will be required.

B-46 Construction activities shall be limited to daytime hours. For the months of November through February construction activities shall be limited to 8:00 AM to 6:00 PM and for the months of March through October to 7:00 AM to 8:00 PM. During the summer months, these may be amended to reflect those hours prescribed by the WA State Department of Natural Resources Industrial Fire Precautions as to hours start and completion per precaution level. In "Hoot owl" level operations it is permissible to work 8 PM to 1 AM to lessen the fire danger.

Working outside of the prescribed work hours should be an option with each case being looked at and reviewed by Kittitas County Planning Department as an Administration Decision.

B-47 Construction management practices shall minimize noise by using properly sized and maintained mufflers, engine intake silencers and engine enclosures, and requiring that idle equipment be turned off. Construction contracts shall specify that mufflers be in good working order and that engine enclosures be used on equipment when the engine is the dominant source of noise.

B-48 Stationary equipment shall be placed as far away from sensitive receiving locations as possible whenever construction occurs within 100 feet of a site boundary. Where this is infeasible, portable noise barriers shall be placed around the equipment with the opening directed away from any sensitive receiving property.

B-49 Use hydraulic or electric models for impact tools, such as jackhammers, rock drills and pavement breakers, to reduce construction and demolition noise. Require operators to lift rather than drag materials wherever feasible.

B-50 Construction in MPR subphases directly adjacent to the Roslyn Memorial Gardens Cemetery shall be scheduled so as to abstain from construction tasks during burials and any scheduled memorial events.

**Mine Hazards.** The EIS discusses adverse impacts related to mine hazards and identifies mitigation measures that should be implemented. Pursuant to Kittitas County SEPA Ordinance Section 15.04.200(d), Comprehensive Plan Policies GPO 2.186-2.187 and GPO 2.81-2.83, and KCC 17A.06.030, the following mitigation measures will be required.

B-51 Mine entries, adits, shafts and existing sinkholes shall be permanently sealed using a controlled backfill and/or grouting, or an approved engineered seal.

B-52 Shallow prospect pits shall be backfilled to the surface using controlled backfill. Surface drainage shall be diverted away from existing sinkholes and prospects.

B-53 Prior to any development in areas identified as high coal mine hazards, sites shall be evaluated by direct subsurface exploration to demonstrate that mine workings either do not exist, or that the workings have fully collapsed so that there is no remaining potential for sinkhole development. Alternatively, a geotechnical report, prepared by a licensed geologist/engineer, may demonstrate that the hazards associated with any voids can be fully mitigated by backfilling, grouting, or other approved means such that the potential for sinkhole development is eliminated.

B-54 No development shall be permitted over workings where surface or subsurface studies indicate the presence of combustion in the underlying seam or seams.

B-55 Prior to development in low coal mine hazard areas, additional geotechnical study shall be conducted to evaluate the effects of regional ground subsidence, including vertical subsidence,

ground tilt, and ground strain. Buildings, roadways, storm drainage systems, and underground utilities could be designed and constructed to accommodate the maximum tilts and strains expected.

B-56 Existing piles of mine waste rock shall remain undisturbed. No structures shall be constructed on areas of mine rock fill.

### C. BUILT ENVIRONMENT

**Land Use.** See Conditions under the heading MountainStar Resort Conceptual Master Plan/Land Use.

**Transportation.** The EIS discusses adverse impacts to transportation facilities and identifies mitigation measures that should be implemented. Pursuant to Kittitas County SEPA Ordinance Section 15.04.200(d), Comprehensive Plan Policies 2.217-2.221, Comprehensive Plan sections 4.3, 4.4 and 4.8, and Kittitas County Code Title 12 road standards, the following mitigation measures will be required. In addition, because of the lengthy build out of the proposed resort and the limitations on precise traffic impact predictions when dealing with such long time frames, the mitigation measures include ongoing traffic monitoring requirements ~~throughout the life of the project~~ to be set out in a Transportation Monitoring Program, presently dated May 3, 2005 (for purposes of this Transportation Section only, the "Effective Date" as used in this Section) as amended from time to time (the "TMP") to better evaluate the predictions made in the EIS and to provide for adjustments to required mitigation and/or its timing, or possible new mitigation measures, if determined necessary to mitigate probable significant adverse impacts of the resort development identified in that subsequent monitoring.

**C-1 On-site Transportation Improvements.** The applicant shall be responsible for all of the costs associated with the design and construction of all of the on-site transportation improvements necessary to serve the MPR development. Those specific improvements required to serve any particular phase or subphase shall be imposed as conditions of approval of the site development plan and/or preliminary plat for that particular phase or subphase and shall be constructed prior to final plat approval of any phase or subphase or occupancy, whichever is applicable and occurs first. All on-site roads shall be approved by Kittitas County, privately constructed to Kittitas County road standards, as specifically modified by the approved Development Agreement Exhibit J and shall be maintained by the applicant. The applicant shall identify one or more entities (e.g., corporation, homeowners association or other entity) that shall be legally and financially responsible for maintenance of on-site roads. The applicant shall remain responsible until the applicant proposes and the County approves an alternative entity as described in the transfer of obligations section of the Development Agreement.

**C-2 MPR Access Improvements.** The applicant shall be responsible for all of the costs associated with construction of new intersections with existing County, state and private roads that are constructed for the purposes of providing access to the resort, including, but not limited to any signage or signalization at those accesses, if determined necessary based on the results of traffic monitoring. All such accesses shall include left turn lanes, if warranted. Right turn radii



and taper improvements shall be incorporated in the initial design of these entrances to anticipate future needs. ~~Left and right turn channelization at the main entrance off Bullfrog Road shall be a condition of site development plan and/or preliminary plat approval of the first phase or subphase and constructed prior to final plat approval of any phase or subphase or occupancy, whichever is applicable and occurs first.~~ Other MPR access improvements as shown on the MountainStar Resort Conceptual Master Plan approval shall be constructed consistent with Exhibit J of the Development Agreement, as amended, and imposed as conditions of approval of the site development plan and/or preliminary plat for that particular phase or subphase requiring the access.

C-3 Signal at Bullfrog Entrance. ~~The applicant shall install a traffic signal on Bullfrog Road at the main MPR entrance when warranted by traffic conditions. If the warrant for the signal is based in part on future development of the UGA property and if the UGA property shares this access point to Bullfrog Road, then the costs of such signal may be shared with the UGA development. If a signal is warranted solely based on MPR development and the background growth described in Condition C 5, then the cost of the signal shall be fully borne by the applicant.~~(Intentionally deleted)

C-4 Bullfrog/SR 903 Intersection. ~~The applicant shall be responsible for all of the costs associated with the realignment of the Bullfrog Road/SR 903 intersection described as follows:~~

~~Realignment of Bullfrog Road northbound approach to meet SR 903 at approximately a right angle and providing for northbound left and right turn lanes, an eastbound right turn lane or right turn taper, and a westbound left turn lane. The applicant shall design the improvements consistent with Kittitas County Road Standards and WSDOT standards, as amended. If there is a conflict, the state standards shall control. Any additional right of way to construct these improvements shall be the minimum reasonably necessary to construct these improvements.~~

~~These improvements shall be imposed as conditions of approval of the site development plan and/or preliminary plat for the first phase or subphase that includes any MPR Accommodation Units. The applicant shall provide the funds to construct these improvements prior to September 1, 2002. If the applicant seeks any final plat approval prior to when the applicant has provided these funds, the final plat shall include a bond for construction of these improvements within a period of time not to exceed 12 months duration. If a traffic signal is ultimately warranted at this intersection, the costs for such signal shall be covered as an off site improvement, with proportionate shares, as described in Conditions C 6 and C 8.~~(Intentionally deleted)

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C-5 Baseline Traffic Volumes and Initial Annual Background Growth Rate Assumption. The applicant shall conduct traffic volume monitoring on August 25 through September 4, 2000, to determine a baseline traffic volume for purposes of calculating proportionate share. Once this baseline traffic volume data has been collected, it shall be compared to the traffic volume data from the MPR-FEIS, collected in 1997, to determine an the Initial Annual Background Growth Rate Assumption, which will be used in calculating proportionate shares for all traffic impact mitigation assessed on site development plans and/or preliminary plat applications filed within 5 years of the date of this MPR approval, the "Effective Date," as defined in the Development

Agreement. The Initial Annual Background Growth Rate Assumption (“IBG”) shall be calculated as follows:

$$RBG = \left( \sqrt[3]{\frac{TV_{2000}}{TV_{1997}}} - 1 \right) \times 100\%$$

*RBG* = initial background growth rate

*RBG<sub>rev</sub>* = revised background growth rate after year 5

*TV<sub>x</sub>* = total volume in year *x*

*BV<sub>x</sub>* = background volume in year *x*, defined as *TV<sub>x</sub>* – *MPRV<sub>x</sub>*

*MPRV<sub>x</sub>* = master planned resort volume in year *x*

If the resulting Initial Annual Background Growth Rate Assumption is substantially different than that identified in the MPR-FEIS, then additional evaluation of an appropriate Initial Annual Background Growth Rate Assumption shall be completed by the County for determining proportionate shares.

**C-5A Revised Annual Background Growth Rate Assumption.** After the first five years of traffic impact mitigation proportionate share calculations based on the Initial Annual Background Growth Rate Assumption determined in Condition C-5, the annual background growth rate assumption shall be revised based on information provided in the monitoring reports required pursuant to Condition C-17. This revised rate shall be calculated for each intersection or road segment monitored based on the change in background traffic at that location over the previous 5 years. The Revised Annual Background Growth Rate (“RBG”) shall be recalculated as follows:

$$RBG_{rev} = \left[ \frac{1}{5} \sum_{x=1}^5 \left( \frac{BV_{x-1}}{BV_x} \right) - 1 \right] \times 100\%$$

This Revised Annual Background Growth Rate Assumption shall then be applied to determine the County’s share of any off-site traffic mitigation required as conditions of approval of any site development plan and/or preliminary plat application filed after the first five-year period.

**C-6 Proportionate Share.** The applicant shall be responsible for its proportionate share of any off-site traffic improvements described in Condition C-9, including any additional mitigation measures for off-site improvements identified through the monitoring program described in Condition C-17. Proportionate Share shall be calculated as follows:

- a. First, the Projected Added Traffic Volume for the intersection or road segment shall be calculated by subtracting the baseline traffic volume determined by the traffic counts required by Condition C-5 from the total amount of traffic that is projected to be using the road segment or intersection when the proposed phase or sub phase of the resort development has been constructed and occupied. This projection must include both any Background Growth projected as well as any traffic projections from the proposed phase

or sub phase of development based on the method of traffic projection in the EIS as may be modified based on the results of monitoring. Summer weekend PM peak hour (Friday afternoon through Sunday evening) shall be the time period used for measuring and projecting traffic volumes.

- b. Second, the Added Traffic Volumes shall be divided into an MPR share and a County share. The County's (or public) share shall be the Annual Background Growth Rate Assumption described in Conditions C-5 and C-5A, multiplied by the number of years between the date of this MPR approval (the "Effective Date", as defined in the Development Agreement) and the year in which the particular traffic improvement is projected to be necessary to maintain the required level of service described in Condition C-14. That Annual Background Growth Rate Assumption shall be determined as described in Conditions C-5 and C-5A. The applicant's share shall be the difference between the County share and the Total Added Traffic Volume.
- c. Third, these resulting percentages for the County and the Applicant shall then be applied to the total cost of the necessary improvements, including all costs to plan, design, review, permit, obtain funding, inspect and construct the improvement. All identified off-site traffic improvements for which there is identified a public share shall be incorporated, whenever possible, into the County's Six-Year Transportation Improvement Program to prioritize improvements generally consistent with projected growth and proposed development of the MPR and to make use of available public funding sources. The MPR proportionate share shall be calculated as follows (see also Table A for illustrative purposes only):

$$MPR_{share} = \left( \frac{MPRV_x - MPRV_{x-1}}{TV_x - TV_{x-1}} \right) \times 100\%$$

if  $TV_x - TV_{x-1} \leq 0$ , then  $MPR_{share} = 100\%$

**C-7 Concurrency.** If the existing and projected traffic from a particular phase or subphase of development being reviewed for site development plan or preliminary plat approval will cause the level of service on affected intersections or road segments to fall below the accepted level of service described in Condition C-14, and if the necessary improvement is one for which the applicant is only required to pay a proportionate share, as opposed to the full share, and if at the time the applicant proposes to construct and occupy the phase or subphase of development, there is not sufficient public funds available to provide the required public share, the applicant may elect to pursue one of two options:

- a. either the applicant can agree to wait to construct the phase or subphase until public funds are available for the public share of the required transportation improvements; or
- b. the applicant can elect to pay the public share of required transportation improvement and proceed with the phase or subphase. If this option is selected, the County agrees to then consider adoption of such procedures as are legally available to develop a reimbursement mechanism, such as Local Improvement District, latecomers' agreement, or other legal reimbursement mechanism whereby other property owners who develop their property beyond existing uses and benefit from such improvements at a later date will be charged

a fair pro-rata share of the cost of such improvements from which they are then benefiting and from which the applicant can then be reimbursed for its payment of the public share of such improvement. Nothing in this section shall be construed to require the County to agree to the establishment of an LID, a latecomer's reimbursement or other legal reimbursement mechanism unless and until the County has complied with all of the constitutional and statutory requirements for consideration of such mechanisms, and then only if the County determines, in its sole discretion, that establishment of the reimbursement mechanism is consistent with those requirements.

- c. If the applicant provides the County with a proposed schedule of MPR development and the resulting offsite traffic mitigation measures for which they expect there to be a County share, The Public Works Department shall include all projected County shares of those off-site traffic improvements in its proposed 6-year capital improvement program, so that the County can plan for funding within that 6-year timeframe.

C-8 Grants and Local Match. Any portion of the improvement costs that may be funded by federal and/or state grants shall be applied to the County's share of the improvement first. The applicant's share of the improvement cost (or a portion thereof) shall be used to pay the "local match" portion of any grants. If the total grant amount exceeds the County's proportionate share of the improvement cost, that excess portion of the grant shall be applied to reduce the applicant's proportionate share of the improvement cost.

C-9 Offsite Improvements. Subject to the provisions of Condition C-6, Proportionate Shares, the following offsite traffic improvements shall be required, at approximately the thresholds of development indicated. These improvements shall be imposed as conditions of approval of the site development plan and/or preliminary plat or binding site plan for that particular phase or subphase that includes the threshold of development indicated for the particular improvement and shall be constructed prior to final plat or binding site plan approval or occupancy, whichever is applicable and occurs first. As described in more detail in Condition C-17, based on the results of the monitoring program, the County may modify traffic improvement mitigation measures at these or other intersections or road segments or may adjust the timing of these offsite mitigation measures if the results of the monitoring justify such changes.

- a. First and Oakes. As a condition of the approval that contains the 1,000<sup>th</sup> MPR Accommodation Unit, install northbound and southbound left turn pockets on Oakes Street at its intersection with First. The need and timing for a traffic signal at this intersection shall be determined through the monitoring program described in Condition C-17. The parties contemplate that construction of this improvement will require cooperative implementation between Kittitas County, the City of Cle Elum and the applicant.
- b. I-90 EB Ramps and SR 970. As a condition of the approval that contains the 2200<sup>th</sup> MPR Accommodation Unit, convert the eastbound stop to a southbound stop or all-way stop. The parties contemplate that construction of this improvement will require cooperative implementation between Kittitas County, WSDOT and the applicant.
- c. Traffic Signal at Bullfrog and SR 903. The need and timing for a traffic signal shall be determined through the monitoring program described in Condition No. C-17. The

parties contemplate that construction of this improvement will require cooperative implementation between Kittitas County, WSDOT and the applicant.

C-10 County Review Costs. All County Public Works Department costs for labor, equipment, materials and overhead, including any costs associated with additional staff and/or outside consultants (including development review, in-house design, construction inspection, etc.) shall be included in determining the total cost of the particular improvement. These costs shall either be paid 100% by the applicant, if related to the improvements for which the applicant is fully responsible or paid by the County and the applicant based on the proportionate shares of the improvement determined as described in Condition C-6. The County Public Works department shall, for each improvement, provide the applicant with information that identifies the expected hourly rates and other costs that are anticipated for the particular improvement as part of the Department's comments on the particular site development plan or preliminary plat application.

C-11 Mapping and Addressing. The applicant shall provide to the County all mapping and addressing of the MPR development in a form consistent with the County's existing addressing system and in such GIS or other database format requested by the Public Works Department, consistent with how such information is maintained by the Department. Applicant shall provide City and zip code information for the entire MPR site before final approval of the first phase or subphase.

C-12 Public Use of On-Site Trail and Road System. The MPR trail and road systems are private facilities, a portion of which the applicant will invite the public to use on a limited basis. These trail and road systems may be designed to connect to existing off-site public trails and roads where appropriate. The design of roads shall include necessary safety measures to address trail crossings and road intersections of County, State, and private roads, in conformity with Attachment J of the Development Agreement. In keeping with the general character of a Master Plan Resort, access to those portions of the resort that include visitor oriented amenities and recreational opportunities will be generally open to public access. Other portions of the resort property, however, may be permanently restricted from general access. Nothing in this Condition is intended to constitute a grant or dedication of rights to the public. The applicant may make and enforce reasonable regulations and restrictions relating to the use of the MPR's trails and roads, including, but not limited to, the following purposes:

- a) To ensure an atmosphere compatible with the purpose of a destination resort;
- b) To protect usage rights and property rights of resort guests and property owners;
- c) To promote orderly management and use of the resort property;
- d) To protect habitat, wildlife and the natural features of the property;
- e) To assure conformity with the conditions of the MPR approvals, stewardship plan, and all other resort management plans and governing documents;
- f) To ensure public safety;
- g) To prevent prescriptive easements;
- h) To satisfy pre-existing easements or access rights.

These regulations may also include closures, restrictions and requirements on access consistent with the operation of a Master Planned Resort. Any closures or restriction shall not prevent or

hinder access necessary for emergency vehicles and shall be equipped with compatible OPTICOM or equivalent emergency vehicle access devices.

All public use may be structured by the applicant as a limited license to use certain MPR trails and roads subject to resort regulations. The applicant, as property owner, shall continue to have the right to enforce its regulations in a reasonable manner; and, at its sole discretion, determine cases of revocation of this limited license to use its property.

The applicant shall observe all valid, pre-existing easements and access rights and may provide alternate routes or entry points for pre-existing access rights, all as otherwise allowed by law.

If monitoring of off resort recreation impacts by resort guests indicates a need for mitigation, credit shall be given for the recreational usage on the resort so long as it is made available to the public.

The County Public Works Director shall review the MPR road system and any restrictive gates at the time of subdivision application and shall determine the conformity of such application with the above Conditions, Attachment J of the Development Agreement, and public safety requirements.

C-13 Snowmobile Use. The applicant may allow snowmobile use for limited purposes on selected routes within the MPR. These routes will be selected and identified only to allow guests and residents of the MPR to exit the property at certain points to off-site snowmobile trails and roads. The equestrian center located in planning area 7 may serve as a snowmobile staging area and/or snow park and an access to off-site areas where snowmobile recreational use is allowed. It is generally the intent of the applicant not to allow on-site snowmobile use, and the applicant shall have the right to implement rules and regulations to control or prohibit snowmobile use consistent with this Condition.

The applicant will co-operate with local and state and federal agencies and organizations to identify a mutually acceptable route to connect to snowmobile areas of the Teanaway and Cle Elum ridge with the areas of Easton Ridge west of the MPR property.

To the extent snowmobiles are allowed to be used on MPR property, they shall be required to be appropriately muffled and licensed and be operated in a safe manner. Speed limits for snowmobiles shall be in effect and appropriately signed and noticed. Snowmobile use shall be prohibited on road surfaces used for vehicular traffic.

C-14 Level of Service. For purposes of determining when traffic improvements are necessary to mitigate a significant impact to level of service, all traffic Conditions, traffic monitoring and future traffic assessments shall use the summer weekend PM peak hour volumes and, at intersections, shall evaluate both the average intersection level of service drop and the worst lane or movement level of service drop to determine if improvements are required. The County shall use the LOS standard from the 1998 Kittitas Comprehensive Plan (LOS D for urban areas and LOS C for rural areas) for all subsequent actions. Bullfrog Road is currently classified as a rural major collector, requiring LOS C.

C-15 Traffic Signals and Fire/EMS Service. At the point that the LOS requires adding a traffic signal or signals in the Upper Kittitas County, the applicant shall outfit the Fire/EMS vehicles that respond to the MPR and shall equip the traffic signal(s) with appropriate OPTICOM, or other similar equipment or system that is determined appropriate by the County for the safe movement of Fire/EMS equipment through congested intersections.

C-16 Construction Impacts. Prior to commencement of any clearing, grading or other construction activity on the site, the applicant shall provide a video inventory of the existing condition of all transportation routes anticipated to be used by MPR construction traffic, including those located within municipal corporate limits. In conjunction with the site development plan for each phase and subphase of MPR development the applicant shall prepare and submit a construction traffic management plan to the County Road Engineer for approval. This plan shall include, at a minimum, the following:

- a. an update of the video inventory of existing road conditions, if necessary;
- b. the projected number of daily truck trips over 40,000 pounds gross vehicle weight (GVW);
- c. the route between the MPR and local origins/destinations or Interstate 90 to be taken by these construction vehicles making multiple trips for the same purpose;
- d. the type, quantity and duration of temporary traffic controls proposed to ensure that employee and construction truck and equipment traffic is directed on routes and to site entrances that are consistent with any adopted truck haul routes and that otherwise minimizes impacts to existing traffic, road facilities and MPR visitors and residents;
- e. the proposed method to evaluate road conditions shall be consistent with the County's pavement management system after completion of construction to identify any construction-related repairs that must be provided;
- f. any other information the Public Works Department reasonably deems necessary to meet County standards for construction activities on public roads.

A copy of these construction traffic management plans shall be provided to WSDOT and any City or Town through which construction traffic is proposed to be routed for review and comment prior to County approval. The County shall make a decision on appropriate construction traffic management and mitigation based on any input received from WSDOT and any City or Town. Restoration shall be in accordance with Kittitas County Code, as amended.

C-17 Monitoring Program. On or before June 1, 2001, the applicant shall submit for approval by the County a comprehensive transportation monitoring program to document MPR-generated traffic, background growth-generated traffic and any cumulative traffic impacts from UGA or other significant development and to provide regular and current traffic condition information upon which to base traffic mitigation requirements for all future development approvals for the MPR. This monitoring plan must be approved by the Public Works Department prior to any additional site development plan approvals, or plat approvals after the June 1, 2001 submittal. The monitoring program is intended to provide information both to confirm the appropriate timing and scope of those traffic mitigation measures identified specifically in these Conditions, as well as to establish a mechanism to identify any other unforeseen MPR traffic related impacts that require additional mitigation.

- a. The monitoring program shall provide for annual monitoring, unless the Director of Public Works and the applicant approve an alternate frequency for some or portions of the monitoring requirements.
- b. The monitoring program shall include some method of phasing site development approvals and/or preliminary plat approvals such that any additional mitigation measures determined necessary based on this monitoring program can be imposed as conditions of approval of subsequent phases or subphases of site development plans or preliminary plats.
- c. All costs associated with preparation of the monitoring program, as well as its implementation and data assessment, including but not limited to the costs incurred by the County to review and analyze the monitoring information shall be borne in full by the applicant.
- d. The applicant and the County shall solicit comments from WSDOT, the Town of Roslyn, the Town of South Cle Elum and the City of Cle Elum (hereinafter, "WSDOT and the Cities") on the scope of the monitoring program prior to its approval by the County and its implementation. The County will make a decision on the scope of the monitoring based on any input received.
- e. At a minimum, the monitoring program shall include documentation of traffic volumes for Labor Day weekend and the week and weekend prior to Labor Day at the following locations:
  - i. all proposed MPR accesses to public roads
  - ii. Bullfrog Road/I-90 interchange, including evaluation of queues exiting I-90
  - iii. Bullfrog Road south of its intersection with SR 903
  - iv. Bullfrog Road north of its intersection with the I-90 westbound ramps
  - v. SR 903 east and west of the intersection at Bullfrog Road.
  - vi. The intersection of SR 903 and Pennsylvania Avenue in Roslyn.
  - vii. The intersection of First and Oakes in Cle Elum
  - viii. The intersection of First and South Cle Elum Way in Cle Elum
  - ix. The intersection of Second (SR 903) and South Cle Elum Way in Cle Elum.
  - x. Such other intersections or road segments that the Public Works Department can demonstrate are expected to experience or are experiencing a potential significant increase in traffic volumes above year 2000 baseline volumes identified in Condition C-5.
- f. The scope shall also include monitoring of non-holiday summer weekend parking demand in Roslyn and Cle Elum. In addition, local travel patterns of MPR guests will be documented through periodic origin/destination surveys. MPR trips shall be identified as those trips that cross an MPR boundary.
- g. The monitoring program shall also include a method to reevaluate the background growth assumptions as described in Conditions C-5 and C-5A.
- h. In addition to the traffic volume monitoring described in subsection (e), the monitoring program shall also include proposed methods to monitor the following potential traffic-related impacts:
  - i. a comparison of the historic road operation and maintenance needs and associated costs prior to MPR construction and development as compared to current road operation and maintenance needs and associated costs (including methods such as review of pre- and post-development pavement management system costs) and the

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extent to which projected increased revenues from the MPR development are sufficient to cover such increased costs. This assessment may be included either as part of the traffic monitoring program, or as part of a separate fiscal impact monitoring program conducted for government facilities and services more generally;

- ii. an evaluation, based on accepted guardrail warrant and/or other safety standards, of whether the increased traffic volumes warrant installation of guardrails and/or other safety improvements along portions of Bullfrog road;
- iii. the need for road segment capacity improvements or new road segments related to MPR traffic at locations other than the intersections previously identified.
- iv. whether increased traffic volumes or the size or amount of construction traffic related to the MPR development requires improvements to the Cle Elum River Bridge on Bullfrog Road, based on accepted bridge rating standards.
- v. the increase in airplane use of existing airport facilities (Bowers Field and the Cle Elum airport) by MPR visitors to determine whether MPR visitors are generating a need for facility improvements to accommodate increased aircraft use.

i. The monitoring program shall also include a periodic assessment of the pedestrian and vehicular safety at the Cle Elum-Roslyn School campus on SR 903, and shall require mitigation if determined necessary to meet accepted school safety standards. This assessment shall include input from the School District on both the methodology and the results.

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j. The baseline monitoring information described in Condition C-5 shall be collected on August 25 through September 4, 2000. Subsequent deadlines for monitoring shall be established in the comprehensive traffic monitoring program to be adopted by the County.

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k. Each required monitoring report shall include, at a minimum, the following information:

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- i. results of any traffic counts
- ii. development status of the MPR (approved units and occupancy)
- iii. comparison of MPR development and traffic counts to MPR-FEIS forecasts
- iv. identification of completed and planned road improvements
- v. identification of intersections or road segments that are approaching Kittitas County LOS standards
- vi. the results of any of the other monitoring elements beyond traffic volumes that are identified in this Condition or required by the approved monitoring plan
- vii. recommendations on any changes to the timing or type of traffic mitigation proposed, to maintain acceptable LOS, consistent with accepted transportation planning and engineering practices.
- viii. Additional information as may be required by Director of Public Works, based on the results and recommendations of previous monitoring reports.

l. Trendwest, WSDOT and/or the Cities shall receive a copy of any monitoring report that addresses traffic within their jurisdiction and be provided an opportunity to comment. The County shall make a decision on the results of the monitoring program, including any decision to modify any of the traffic mitigation after consideration of input received.

C-18 SR 903 Study. On or before September 30, 2002, the applicant shall study the traffic operations for the segment of SR 903 between Bullfrog Road and Morrel Road, just west of Ronald. The focus of this would be to identify potential improvements to this road segment consistent with goals identified in a community planning process. The scope of this analysis shall first be submitted to WSDOT and the City of Roslyn for review and comment, and opportunity should be given for public comment on this scope prior to commencement of the study or implementation of any recommendations.

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C-19 Evaluation of Shuttle Service. Not later than occupancy of 2500 MPR units, the applicant shall investigate the feasibility of operating a shuttle service between Roslyn, Cle Elum and the MPR as a means to reduce MPR generated traffic. This feasibility study shall include an opportunity for public comment on any such proposal, and shall address realistic funding sources. Requirements for traffic improvements will be reconsidered and may be reduced, if this study results in operation of a shuttle program that produces traffic reductions sufficient to support reductions in mitigation requirements.

C-20 Roslyn/MPR Trail Connection. To reduce off-site traffic and parking demand in Roslyn, the applicant may be required to provide a trail linking the MPR trail system to the Roslyn street system. A parking lot sized to accommodate demand may also be required at a trailhead within the MPR to facilitate this pedestrian connection.

C-20A Utility Franchises. No utilities may be installed within public rights of way, except pursuant to the terms of an approved Utility Franchise Agreement and with necessary right of way permits from the County or respective City whose right-of-way is being impacted.

C-20B Right of Way. The applicant shall be required to dedicate without any cost to the County any additional right of way owned by the applicant that is necessary for any of the required access or off-site traffic mitigation improvements that are to be transferred to County ownership. If the necessary right of way is not owned by the applicant, then condemnation costs shall be allocated according to the proportionate share calculations for the particular improvement.

**Cultural Resources.** The EIS discusses adverse impacts to cultural resources and identifies mitigation measures that should be implemented. Pursuant to Kittitas County SEPA Ordinance Section 15.04.200(d), Comprehensive Plan Policy GPO 2.196, Section 2.2(C) and Policy 2.38, and Shoreline Master Program goals, policies, use regulations and environment designations, the following mitigation measures will be required.

C-21 Mitigation measures available to ensure protection of all significant cultural resources on the MPR site, as identified in the EIS, and the traditional cultural property, include: (1) avoidance; (2) limited testing to determine the significance and extent of properties deemed potentially significant to the National Register of Historic Places; and (3) using approved cultural resources plan, the placement of a protective overburden may be placed on top of known significant properties creating an undisturbed barrier between the resource and development activity; and (4) excavation to recover significant cultural information prior to negatively impacting any National Register eligible properties. Avoidance of impacts to all previously identified significant cultural resources can be obtained by establishing a 150-foot buffer around

known resource areas. If it is determined that avoidance of a resource area is not possible, proposed construction or landscape alteration that intrudes into the prescribed buffer area shall be conditioned on the applicant conducting archaeological subsurface testing. This testing will be completed prior to any disturbance to adequately document the extent and potential of the cultural resources for nomination to the National Register of Historic Places. The applicant shall consult with the Washington Office of Archaeology and Historic Preservation (OAHP) and the Yakama Nation to determine whether additional mitigation measures are necessary. The applicant shall notify Kittitas County of the results of such investigation and consultation.

C-22 Prior to any disturbance to known significant resources areas, as identified in the Draft and Final EIS Cultural Resources information, an archaeological permit must be requested from OAHP, State permission granted, and archaeological testing conducted to determine the significance and extent of the cultural resource. Necessary mitigation measures are determined after testing in consultation with the State OAHP and the Yakama Nation.

C-23 Prior to any land disturbing activities within identified cultural constraint areas steps will be taken to ensure the protection of all potentially significant buried cultural resources. These steps include: (1) a series of subsurface test probes shall be completed to ensure the identification and protection of all significant buried cultural resources; or (2) using an approved cultural resources plan, a protective overburden shall be placed on top of the cultural constraint area creating an undisturbed barrier between any potential buried cultural resources and proposed land disturbing activities. All cultural resources identified through such testing shall be protected as outlined in Conditions C-21 and C-22 above.

**Aesthetics, Light and Glare.** The EIS discusses adverse impacts to aesthetics, light and glare and identifies mitigation measures that should be implemented. Pursuant to Kittitas County SEPA Ordinance Section 15.04.200(d), Comprehensive Plan Policies GPO 2.190, 2.191, 2.192, 2.194, 2.196 and 2.197, and the goals, policies, use regulations and environment designations of the Shoreline Master Program, the following mitigation measures will be required.

C-24 Proposed building materials, design and other architectural and landscape features of the MPR, including signage and lighting, shall be designed to help structures fit within the visual setting. The developer shall in consideration of building design and materials address the need for fire resistivity in construction. Wildfires are spread via the radiant heat that is produced. The use of fire resistive materials lessens the chance of wildfire spread. The MPR is in a high fire danger area.

C-25 The applicant shall prepare, and submit to Kittitas County for approval, proposed covenants, conditions and restrictions (CC&Rs) applicable to privately owned residential units/buildings within the MPR. The CC&Rs shall address, at a minimum, the following concerns: building material, color and design; limits on clearing open space portions of individual lots; accessory buildings; landscaping requirements and limitations; lighting; policies regarding domestic pets; storage and use of toxic or hazardous materials (e.g. pesticides, herbicides); and maintenance. Some of these elements are expressly addressed in Exhibit J to the Development Agreement. All CC&Rs shall be consistent with such Exhibit J. In addition, the County shall ensure consistency of these elements of the CC&Rs with applicable policies in its

Comprehensive Plan; other elements of the CC&Rs are not subject to review by the County. The applicant and County may address the above mentioned standards in the MPR Development Agreement. The applicant shall add to the covenants list the following items:

(a) All building including private SFR single family residence, MFR multi family residence and buildings required under the most current building code adopted, shall have approved fire sprinklers installed, tested and maintained as listed in National Fire Protection Association sections 13, 13D, 13R.

(b) All buildings shall have a defensible space requirement around each structure. Defensible spaces shall be determined by application of formulas found in “Recommendations for Fire Safety and Prevention”, dated March 1999, copies of which are available in the office of the Kittitas County Fire Marshal. Defensible space around structures does not constitute a portion of the developed area of a lot or parcel, and shall not be counted against any applicable lot coverage restrictions.

(c) The Wildfire Hazard Severity Rating shall have the following additional adjustment factors”

- Fire sprinklers in structures – subtract three (3) points; and
- External underground sprinklers – subtract one (1) point.

(d) Overall wildfire rating for the MPR:

<b>Point Totals</b>	<b>Defensible space distance from structures</b>
Low = 0-15 points	10 feet
Moderate = 15-30 points	20 feet
High = 30-45 points	25 feet
Extreme = 45+ points	30 feet +

C-26 Concurrent with submittal of the first site development plan, the applicant shall prepare and submit to Kittitas County, a lighting plan for the MPR. The plan shall incorporate the following standards:

- a) Use of full-cutoff shielding on outdoor light fixtures;
- b) Mounting of light fixture luminaries at a height of not greater than 30 feet;
- c) Establishment of roadway lighting standards based on needed light distribution and the luminance of roadway surfaces;
- d) Use of ~~high~~low-pressure sodium (LPS) outdoor lights;
- e) Use of timer controls to regulate when and where lighting would occur;
- f) Avoiding unnecessary lighting of building facades; and
- g) adoption of standards/recommendations for exterior lighting intensity determined by the Illuminating Engineering Society of North America (IESNA).

The applicant and County may address the above mentioned standards in the MPR Development Agreement.

**Recreation.** The EIS discusses adverse impacts to recreation and identifies mitigation measures that should be implemented. Pursuant to Kittitas County SEPA Ordinance Section 15.04.200(d),

Comprehensive Plan Policies GPO 2.187, 2.198-2.201, and the goals, policies, use regulations and environment designations of the Shoreline Master Program, the following mitigation measures will be required.

C-27 All on-site trails shall be clearly marked to indicate intended trail uses, and to minimize the potential for user conflicts. Coordinate with neighboring landowners, public and private, to coordinate access management and prevent trespass problems with neighbors.

C-28 Public information such as signs, maps or brochures shall be developed, in coordination with public agencies where possible and provided on the site to describe on- and off-site recreational resources and associated rules.

C-29 The applicant shall conduct periodic surveys of guests and residents to identify on-site and off-site recreational activity patterns. The applicant shall share this information with recreation providers to assist them to monitor use patterns at recreation resources considered to be sensitive and/or subject to use pressures. Modification of on-site recreational programs or facilities shall be considered, if warranted, if excessive off-site recreational use by MPR visitors occurs.

**Public Services.** The EIS discusses adverse impacts to public services and identifies mitigation measures that should be implemented. Pursuant to Kittitas County SEPA Ordinance Section 15.04.200(d), and Comprehensive Plan Policies 2.209-2.215, the following mitigation measures will be required.

C-30 Required conditions for public services are based, in large part, on assumptions and analyses of costs and revenues to Kittitas County and other service providers identified in the Final EIS. The applicant shall verify, monitor and report on costs and revenues accruing to Kittitas County, the Cities of Cle Elum, South Cle Elum, and Roslyn and any other service providers periodically throughout development of the MPR. Such reports shall be submitted at the end of Year 1, Year 3, Year 5, Year 7, Year 10, and thereafter in 5-year increments until full buildout. The Conditions herein shall be modified, as appropriate, to reflect changes in MPR construction plans or operations that result in significant modifications to expected revenues and costs.

#### Law Enforcement

C-31 The applicant shall establish an in-house security-EMS-fire response force that provides 24-hour, service on site.

C-32 The applicant shall provide private security personnel, vehicles, and equipment on or near the Trendwest Property to serve the Resort. Prior to the issuance of the final certificate of occupancy for the Suncadia Lodge, the applicant shall provide facilities to Fire District #7 as set forth in C-36 and consistent with County Resolution 2007-11. The applicant shall provide space on-site, or in the immediate vicinity, to the Kittitas County Sheriff for a "substation" and for storage of emergency equipment (such as snow machines and a boat) on a schedule and at location(s) to be agreed upon by the applicant and the Sheriff. The applicant shall provide funding to Kittcom according to the Cooperative Agreement dated June 8, 2000 and attached to

~~these Conditions construct an on-site multi-purpose building for security personnel, vehicles, equipment, deputy sheriff and Washington State Patrol satellite office, and emergency communications within 5 years of approval, or when MPR population and activity levels justify the need for such a facility, whichever occurs first.~~

~~C-33 The applicant shall provide support, through funding and/or in-kind contributions, for monitoring and reporting of Cle Elum and Roslyn responses to MPR related police calls as a result of mutual aid provisions. Reports shall be submitted to Kittitas County and the Cities of Cle Elum, South Cle Elum, and Roslyn in Years 1, 3, 5, 7 and 10 and thereafter in 5 year increments until buildout. (Intentionally deleted)~~

~~C-34 The Kittitas County Sheriffs Department has identified a need for Trendwest to directly mitigate impacts to law enforcement level of service. Trendwest shall enter into an agreement with the Kittitas County Sheriffs Department to provide the following measures to insure proper mitigation to level of service impacts. (Intentionally deleted)~~

First Deputy

~~Year: 2001 Proposed Month of Hire: June~~

~~Justification: Construction to begin or has begun by June 2001 or prior at site. Based on time issues surrounding the training issues, appropriate to hire to allow for Academy start in March for an August 2001 graduation. Field training would occur August 01 through Dec. 01~~

~~Additional equipment: One time payment of \$2,000.00 to support initial equipment. Vehicle and emergency vehicle equipment funded through the County.~~

Second Deputy

~~Year: 2002 Proposed Month of Hire: January~~

~~Justification: Hotel opens or close to open, with additional construction likely to be occurring. First deputy hired solo by this point and able to assist with increases in coverage and service. Second Deputy hire of January 2002 would enable this new hire to attend training, graduate and complete Field Training and reviews such that s/he would be solo by October / November 2002.~~

~~Additional equipment: One time payment of \$2000.00 to cover initial equipment. Vehicle and vehicle emergency equipment provided by the County~~

**Funding periods** \_\_\_\_\_

**First Deputy**

~~June 2001 through December 31<sup>st</sup> 2002 Fully Trendwest Funded  
January 1<sup>st</sup> 2003 through December 31<sup>st</sup> 2003 66% Trendwest funded  
January 1<sup>st</sup> 2004 through December 31<sup>st</sup> 2004 33% Trendwest funded  
January 1<sup>st</sup> 2005.....Fully County Funded position.~~

~~(Entry level Deputy salary of \$2575 month plus benefits @28%)~~

~~Additional equipment: One time payment of \$2,000 upon hiring to support equipment~~

.....  
Second Deputy

January 1<sup>st</sup> 2002 through December 31<sup>st</sup> 2003 — Fully Trendwest funded  
January 1<sup>st</sup> 2004 through December 31<sup>st</sup> 2004 — 66% Trendwest funded  
January 1<sup>st</sup> 2005 through December 31<sup>st</sup> 2005 — 33 % Trendwest funded  
January 1<sup>st</sup> 2006 — ..... Fully County funded

(2002 represents first year of new contract period, and it is expected that the deputies would receive between a 3% and 6% increase from the prior salary figure.)

Additional equipment: — One time payment of \$2000.00 to support equipment, vehicle funded by the County.

— Trendwest may petition the Kittitas County Commissioners for relief from, or exception to, this agreement for Deputy Funding. Such Relief or Exception may only begin in September of 2002 for the first deputy, and/or January 2003 for the second deputy, as based on the criteria below.

Such request by Trendwest shall be based on actual, documented increases in tax revenues, this documentation being in a format accepted by both Trendwest and the County, showing convincingly that such increases in revenues would be sufficient so as to allow the County to continue supporting the new positions without further Trendwest funding.

Acceptance of, or denial of the Trendwest request shall be pursuant to a vote of the Kittitas County Commissioners following the provision of relevant documents, information, and/or testimony related to this agreement to support additional Deputies, and shall be made during an open, regular public Commissioners meeting.

Should income from Trendwest not meet expectations, Kittitas County may seek continued full funding for the Deputy positions from Trendwest during those years when the intended Trendwest percentage had reduced (post 2002 for the first Deputy and post 2003 for the second Deputy). Such financial support and maintenance for the position(s) may be for determined periods as agreed upon by Trendwest and Kittitas County.

C-35 Deleted.

Fire Protection

C-36 The applicant shall establish an in-house, multi-service security/fire/EMS unit, appropriately trained and equipped to respond as an initial-attack fire force. The persons in this unit shall be affiliated to each parent organization. Fire District No. 7 and the applicant have entered into an agreement dated July 25, 2006, as approved by the County under Resolution 2007-11, which shall govern the obligations of each~~shall require membership to its fire department.~~ KCHD #2 will require the affiliation to an EMS service within Kittitas County to allow pre-hospital care as directed by the Medical Program Director.

C-37 All principal MPR structures with assembly, business, mercantile, residential, storage, and mixed use occupancies, shall be equipped with automatic fire sprinkler systems designed and installed in accordance with applicable codes and standards. The Kittitas County Fire Marshal shall determine whether additional buildings, not described previously, shall also be required to be sprinklered.

C-38 Trendwest shall establish suitable operating protocols with KITTCOM, the County Sheriff's Office, and the Washington State Patrol, the Kittitas County Search and Rescue Council, and the Roslyn and Cle Elum Police Departments, concerning the pathway for automatic alarms, telephoned alarms, dispatch, radio transmission and related issues relating to MPR emergencies. A UL approved site shall monitor all fire suppression and fire alarm detection automatic alarms. This is required by nationally recognized Fire Sprinkler codes, NFPA 13, 13D & 13R

C-39 The applicant shall prepare and disseminate a comprehensive, all-hazards emergency action plan for the MPR. The plan, which shall be available by the commencement of construction, shall be incorporated into an employee orientation and training program.

~~C-40 The applicant shall provide support, through funding and/or in kind contributions, for monitoring and reporting of Fire District 6, Fire District 7, Cle Elum, South Cle Elum and Roslyn responses to MPR related fire service/EMS calls as a result of mutual aid provisions. Reports shall be submitted to Kittitas County at the conclusion of Years 1, 3, 5, 7 and 10 and thereafter in 5 year increments until buildout. Trendwest shall agree to enter into a Cooperative Agreement with Kittitas County Fire District No. 7, similar to that attached hereto. (Intentionally deleted)~~

~~C-41 The applicant shall initiate discussions with Fire District 7 regarding a funding/compensation agreement for MPR fire protection. As appropriate, based on monitoring costs and revenues as identified in Condition C 30, in the event of any shortfall, the applicant shall provide contributions to District 7, to supplement expected tax revenues, the additional staff and equipment deployed by District 7 to serve the MPR. Trendwest shall agree to enter into a Cooperative Agreement with Kittitas County Fire District No. 7, similar to that attached hereto. (Intentionally deleted)~~

~~C-42 As an alternative to the preceding Condition (C 41), the applicant may make available a site and/or a proportionate share of funding, for a new fire station operated by District 7 on or adjacent to the MPR site. Trendwest shall agree to enter into a Cooperative Agreement with Kittitas County Fire District No. 7, similar to that attached hereto. (Intentionally deleted)~~

~~C-43 Recycling of wood building products will be a major issue. The recycle will allow waste to be used in a positive manner, the waste streams not increased, and the contractors not burning the products. Waste shall be controlled in a fire safe manner. All CDL wood waste shall be disposed of as called for in the Kittitas County Solid Waste Plan and as amended by the MountainStar Solid Waste Plan. (Intentionally deleted)~~



~~C-44 The chipping and grinding of all forest debris, not considered as merchantable timbers, shall be considered as an alternative to large forest silvicultural fires. This large amount of wood product can and should be used in the trail system and the re-vegetating of the disturbed open areas. All CDL wood waste shall be disposed of as called for in the Kittitas County Solid Waste Plan. There shall be no outdoor burning of forest debris or other material by any owner of an individual residential lot.~~(Intentionally deleted)

#### Emergency Response/Aid Services

~~C-45 The applicant shall, pursuant to a mitigation agreement with Hospital District 2, agree to acquire, equip and contribute an ALS ambulance to the district to ensure timely EMS capability to the MPR. The mitigation agreement shall address the timing of the mitigation plan. Alternatives to such purchase which may be pursued in cooperation with the District may include equipping the Cle Elm BLS ambulance to satisfy ALS requirements and arranging transport privileges that would allow an MPR paramedic to continue to provide ALS services during transport; or establishing protocols for automatically recalling and placing in service a back up ambulance crew using the Hospital District 2 ambulance.~~(Intentionally deleted)

~~C-46 In cooperation with Hospital Districts 1 and 2, the applicant shall monitor the frequency of MPR related demands for un reimbursed emergency medical and hospital services generated by the MPR. Reports shall be submitted to Kittitas County Years 1, 3, 5, 7 and 10 and thereafter in 5 year increments until buildout.~~(Intentionally deleted)

~~C-47. Trendwest (a) shall provide funding to KITTCOM to be used to hire an additional dispatcher six months prior to occupancy of the proposed hotel and (b), working with KITTCOM, shall monitor and report annually on the patterns of MPR related revenues and service demands, both in accordance with the Cooperative Agreement attached hereto.~~(Intentionally deleted)

**Utilities.** The EIS discusses adverse impacts to utilities and identifies mitigation measures that should be implemented. Pursuant to Kittitas County SEPA Ordinance Section 15.04.200(d), Comprehensive Plan Policies 2.210-2.214, the following mitigation measures will be required.

~~C-48 In coordination with Kittitas County's Solid Waste Department and the Department of Ecology, the applicant shall develop and implement a solid waste management plan for the MPR (the "Plan"). The pPlan, as amended, shall address expected waste volumes, waste reduction, recycling and handling considerations for all types of wastes. The pPlan shall include a recycling program to reduce solid waste volumes needed for disposal. The pPlan shall be submitted in accordance with the 1997 Kittitas County Solid Waste Management Plan, as amended, for consideration as a project specific amendment. The pPlan shall complete the approval process in accordance with the 1997 Kittitas County Solid Waste Management Plan, as amended, and, upon approval by the County Commissioners in accordance with the appropriate process, shall become an MPR condition of approval. Any changes to the Plan shall be incorporated as MPR conditions of approval.~~

C49 The following Conditions are necessary to mitigate impacts related to the Upper Kittitas County Transfer Station. The applicant shall be responsible for its fair share of costs associated

with improvements required to mitigate identified adverse impacts attributable to the proposal. The applicant's fair share contribution is 54% of the total costs for engineering and construction of a new transfer station facility, provided that in the event any future development (including any upper county urban growth area) is required to provide for SEPA mitigation, impact fees, or similar fees to pay for all or a portion of the cost of the new transfer station, then the applicant shall be entitled to a fair share contribution adjustment (including reimbursement, if applicable) of such cost contribution. ~~Engineering to be completed prior to January 1, 2002, construction to be completed prior to January 1, 2003.~~

~~Until the Upper Kittitas County Transfer Station is upgraded, residents and guests wishing to self-haul will utilize central dumpsters provided by the Resort on resort property.~~

~~Until the Upper Kittitas County Transfer Station is upgraded, Trendwest's agreement with the waste hauling service company will provide for hauling to the transfer station on non-peak use days (i.e., Wednesday and/or Thursday).~~

~~C-50 The following Conditions are necessary to mitigate impacts related to Hazardous/Moderate Risk Wastes:~~

- ~~(a) The applicant shall reimburse Kittitas County Solid Waste 54% of the total cost for holding up to two Household Hazardous Waste turn in events, per year, in Upper Kittitas County.~~
- ~~(b) The applicant shall provide, at a minimum, two (2) volunteers with 40 hour HAZMAT certification plus five (5) or more volunteers for assistance at each turn in event.~~
- ~~(c) The applicant shall develop a public education program that addresses both permanent residents and resort guests. The program shall be approved by the Kittitas County Solid Waste Department prior to occupancy.~~
- ~~(d) When volumes exceed turn in capacity, the applicant shall provide monetary support for a permanent, year-round Moderate Risk Waste Facility in Upper Kittitas County. Monetary support amount shall be negotiated with the Kittitas County Solid Waste Department based on a fair share of volume. (Intentionally deleted)~~

~~C-51 The following Conditions are necessary to mitigate impacts related to recycling.~~

- ~~(a) As provided in the Plan, ~~the applicant shall establish recycle bins at each central dumpster location and three (3) residential recycling stations, one in each project phase area (1, 2 and 3). These stations shall receive aluminum, tin, newspaper, cardboard, magazines, glass, plastic pop bottles and milk jugs. Establishment of each recycling facility shall be implemented prior to occupancy of each project phase. The applicant shall obtain any required permits from Kittitas County recycling facilities as provided in the Plan.~~~~
- ~~(b) The applicant shall provide an informational pamphlet on the recycling programs in each rental or fractional unit to encourage recycling and providing a map of recycle bin locations prior to occupancy of each project phase.~~
- ~~(c) The applicant shall develop a public education program that addresses both permanent residents and resort guests. The program shall be approved by the Kittitas County Solid Waste Department prior to occupancy of each project phase.~~

- ~~(d) The applicant shall report yearly recycling tonnage, by commodity, to the Kittitas County Solid Waste Department by February 15<sup>th</sup> for each preceding year.~~
- ~~(e) The applicant shall establish a 50% long term recycling rate goal for this development.~~

~~C-52 The following Conditions are necessary to mitigate impacts related to yard waste.~~

- ~~(a) The applicant shall establish centralized drop box areas for yard waste collection. Residents are required to haul all yard wastes to the centralized areas. Yard wastes will then be hauled to the Ellensburg Transfer Station for processing. Yard wastes from the Resort will not be accepted at the Cle Elum Transfer Station. Service providers may haul to the centralized yard waste areas for disposal. The applicant shall obtain any required permits from Kittitas County.~~
- ~~(b) Pine needles and evergreen trimmings will be segregated and incinerated on the resort or hauled to a permitted facility for disposal.~~
- ~~(c) Drop box areas shall be established for each phase prior to occupancy of that phase. The applicant will pay all costs associated with this program. (Intentionally deleted)~~

~~C-53 The following Conditions are necessary to mitigate impacts related to Inert/Demolition Debris Waste (IDDW):~~

- ~~(a) The applicant shall develop an IDDW recycling program that requires participation of all contractors working on the resort property. The program shall be approved by the Kittitas County Solid Waste Department prior to any construction.~~
- ~~(b) Inert Construction Wastes shall be collected on site and hauled directly to the Kittitas County IDDW Landfill at Ryegrass. No Inert Construction Wastes will be accepted at the County owned transfer stations.~~
- ~~(c) Non Inert Construction Wastes shall be collected on site and hauled to the Cle Elum Transfer Station for disposal. (Intentionally deleted)~~

~~C-54 The following Condition is necessary to mitigate impacts related to septage.~~

- ~~(a) The applicant shall install no more than six (6) trailside comfort stations, four (4) golf course comfort stations and a sales office served by septic systems. Pumped septage shall be hauled directly to the Ryegrass Septage Lagoons for final disposal.~~

~~C-55 The following Condition is necessary to mitigate impacts related to land clearing debris.~~

- ~~(a) The applicant shall not send land clearing debris through the County owned transfer stations. Land Clearing Debris shall be given away free, chipped to be used in the equestrian facility, marketed as pulp, used on MPR trails or burned on site as conditioned by WAC 173-425-030 or as permitted by the County approved Land Stewardship Plan. (Intentionally deleted)~~

~~C-56 The following Condition is necessary to mitigate impacts related to equestrian wastes.~~

- ~~(a) The applicant shall not send equestrian wastes through the County owned transfer stations. Used bedding and horse manure shall be disposed of in accordance with WAC 246-203 and Board of Health Ordinance #1999-01. All such materials shall be hauled off-site for disposal.~~

C-57 Trendwest shall ensure that all solid waste generated from resort properties is handled in accordance with Kittitas County Board of Health Regulations 99-01 or as amended regarding solid waste.

**Housing.** The EIS discusses adverse impacts to housing and identifies mitigation measures that should be implemented. Pursuant to Kittitas County SEPA Ordinance Section 15.04.200, Comprehensive Plan Policy 2.205 and Policies 3.1-3.20, the following mitigation measures will be required.

C-58 Trendwest shall develop and implement a program to mitigate MPR housing impacts, as described below. The program shall include a combination of activities that will provide and/or encourage the development of housing to address the demand created by the MPR.

#### Direct Actions

C-59 Monitoring Program. The applicant -- in cooperation with Kittitas County, and the cities of Cle Elum, South Cle Elum, Roslyn, Kittitas and Ellensburg – shall establish a monitoring program. The program will compile public and private information about population, employment, housing, land supply and development activity. It will be used to assess how much housing is available, being produced in the area and/or required to meet anticipated demand. Monitoring shall, at a minimum, address the following elements:

- a) MPR employee demographic information;
- b) land use, population and housing information (population and housing projections, zoned land available for housing, recent sales/rentals, housing vacancy rates, housing cost;
- c) number of housing units in the development pipeline (approved but unbuilt, approved preliminary plats, vested applications, etc.).

The participants shall establish benchmarks to help identify changes attributable to MPR employment, and the thresholds that will trigger housing actions identified in these Conditions.

Monitoring shall commence with approval of the first site development plan for the MPR, and shall proceed in yearly increments through Year 10 (or approximately 2,400 units, 500 hotel rooms, 36 holes of golf, and 150,000 sf of commercial use) after which time a revised schedule will be adopted. Housing monitoring reports shall be prepared semi-annually, or at some other frequency acceptable to the participants, to document housing supply and demand. Reports will be made available to the public.

C-60 Housing Production. To the extent that such housing is not produced in a timely manner by private housing developers, and using the tools identified in Condition No. C-61, Trendwest shall directly provide, as necessary, the amount, type and cost of housing necessary to mitigate direct impacts associated with MPR operations and construction employment. If the supply of new housing, as identified in the monitoring program, lags behind anticipated need -- as identified in the Final EIS, or in future adjustments of the data in the EIS -- then the applicant shall develop, directly or through joint venture, or will cause to be developed, sufficient housing

to meet the anticipated need. This housing may be provided on-site or off-site, as permitted by Kittitas County Comprehensive Plan policies.

C-61 The applicant shall prepare and implement a program providing incentives designed to facilitate the planning, financing and development of housing to meet needs created by the MPR. The program shall be developed with input from the county and nearby cities, and shall be submitted to Kittitas County concurrent with submittal of an initial application for development of the MPR. The housing program shall consider and propose one or more of the following elements, as necessary to meet demand:

- (a) low interest loans to employees (subject to credit and employment criteria), guarantees of leases for an agreed-upon percentage of multi-family units built by local developers, and land subordination for construction loans obtained by local builders;
- (b) financial and other support for ongoing planning in local jurisdictions to encourage sufficient, well-planned and designed housing, including support for design guidelines for new housing that is consistent with local character.
- (c) identification of sites on the MPR property that could be used on an interim basis for RV units for construction workers. Such area(s) shall be adequately separated and screened from adjacent neighborhoods.
- (d) master leasing of existing local RV spaces for MPR construction workers;
- (e) issuance of requests for proposals (RFPs) to builders offering incentives (such as construction loan guarantees, master lease agreements for blocks of units and/or participation in land purchases);
- (f) preparation and dissemination of market studies, to help identify the market for local housing production;
- (g) creation of a centralized clearinghouse of information about land supply and demand in the local area, local permitting requirements and similar information.
- (h) appointment of a housing coordinator/manager, to provide housing information to employees and coordinate housing programs with local governments, builders, non-profit organizations and financial institutions. The housing coordinator/manager could also coordinate with the Kittitas County Action Council and Kittitas County Housing Authority to support below-market-rate housing programs and explore the availability of subsidies for low income housing.

**Fiscal Conditions.** The EIS discusses adverse impacts to fiscal conditions and identifies mitigation measures that should be implemented. Pursuant to Kittitas County SEPA Ordinance Section 15.04.200, and Comprehensive Plan Policies GPO 2.209-2.221, the following mitigation measures will be required.

C-62 Based on analysis in the Final EIS, the MPR is expected to generate a net fiscal surplus to Kittitas County, local cities, the school district, and the State of Washington. No conditions are, therefore, necessary in respect to these service providers at this time. However, the proponent shall verify, monitor, and report on costs and revenues accruing to Kittitas County, local cities, the school district, and the State of Washington periodically throughout development of the MPR. Such reports shall be submitted at the end of Year 1, Year 3, Year 5, Year 7, Year 10, and thereafter in 5-year increments until full buildout.

C-63 The applicant shall support and participate in a program to monitor MPR-related demands for law enforcement, fire protection, emergency medical and hospital services, the response pattern to those service demands by local government service providers, and the costs associated with the respective jurisdictions' responses. The jurisdictions to be included in this program would include Kittitas County agencies, Fire Districts 6 and 7, Hospital Districts 1 and 2, and the municipalities of Cle Elum, South Cle Elum and Roslyn. The applicant will facilitate mutual aid agreements among service providers where appropriate.

C-64 The following measures shall be implemented by the applicant if necessary to ensure that revenue lags to service providers, if any, are identified and mitigated:

- (a) coordinate with School District 404 to monitor MPR population trends, including construction worker and operations employee components, and periodically forecast the school enrollment and associated service costs generated by the MPR and enter into appropriate shortfall mitigation agreements.
- (b) provide funding to the Fire District 7 if necessary to supplement the increased tax revenues available to support the increased service costs.
- (c) in coordination with Hospital District 1 and Hospital District 2, monitor MPR-related revenues and costs to the Districts. The applicant shall reimburse the Districts for any shortfalls between MPR-generated revenues (including fee reimbursements from patients) and costs.
- (d) provide funding to KITTCOM for an additional dispatcher six months prior to occupancy of the proposed hotel in accordance with the attached Cooperative Agreement.

**D. HEALTH AND SANITATION CONDITIONS.** Kittitas County has identified the following Conditions necessary to properly mitigate impacts related to public health and sanitation.

D-1 Trendwest shall submit for on-site sewage permits, as limited in Condition No. C-54 above, only for the sales building, trailhead, and golf course comfort stations in accordance with 246-272 WAC or as amended. All other structures shall be connected to the sewer treatment plant system.

D-2 Trendwest shall comply with 246-215 WAC or as amended regarding food service establishments.

D-3 Trendwest shall comply with 246-260, 262 WAC or as amended regarding pool and spa regulations.

D-4 Trendwest shall comply with 246- 376 WAC or as amended regarding Camps and Parks for development of such on their properties.

**E. MONITORING REPORTS.** Kittitas County has identified the following Conditions necessary to properly monitor the MountainStar Resort.

E-1(a) The following Conditions of Approval require Trendwest to monitor impacts of the MountainStar Resort and report the results of that monitoring to the County: B-12 (water quality); C-5, C-5A, C-9, C-14, and C-17 through C-20 (transportation); C-33 (police); C-40 (fire service/EMS); C-46 (emergency medical and hospital services); C-59 (housing); C-30 (costs and revenues accruing to the County); C-38 (fire suppression); C-47 (EMS); C-62 (costs and revenues accruing to the County); C-63 (EMS); C-64(c) (costs and revenues accruing to the County); and C-64(a) (schools). Monitoring reports shall be submitted to the County by Trendwest pursuant to the timeframes identified in the referenced Conditions with copies provided by Trendwest to any “Affected Jurisdiction or Public Body” (as defined in the Development Agreement).

(b) An Affected Jurisdiction or Public Body shall have an opportunity to submit comments to the County regarding the results of the monitoring reports and the need for any review and adjustment of mitigation required under applicable Conditions of Approval in light of the monitoring results. The County shall review the monitoring reports as to completeness and conclusions, and, with the participation of Trendwest, shall determine the need for additional data or need for adjustments to the mitigation required under the Conditions of Approval based on the monitoring reports. Adjustments to the mitigation required under the Conditions of Approval may include imposing additional mitigation, reducing or eliminating mitigation requirements, or altering the timing of mitigation. The County may also determine that no adjustments to mitigation requirements under the Conditions of Approval are warranted based on the monitoring reports.

(c) The County shall notify Trendwest in writing within thirty (30) days from receipt of a monitoring report whether such report identifies a need for adjustments to mitigation required under the Conditions of Approval. Trendwest shall respond and any adjusted mitigation shall be implemented within sixty (60) days of the date of the County’s letter, unless otherwise agreed to by Kittitas County.

**F. ENFORCEMENT.** Kittitas County has identified the following Conditions necessary to properly enforce the Conditions of Approval for the MountainStar Resort.

F-1(a) In the event the County determines that Trendwest is not in compliance with a Condition of Approval, the County shall provide Trendwest with written notice of non-compliance. The written notice shall identify the specific Condition of Approval and the alleged basis for non-

compliance. Trendwest shall have ninety (90) days from the date of receiving a written notice of alleged non-compliance from the County in which to cure the alleged non-compliance. Trendwest and the County shall cooperate in good faith to informally resolve any alleged non-compliance.

(b) If Trendwest and the County are unable to resolve Trendwest's alleged non-compliance with a Condition of Approval, Trendwest may appeal the County's written determination of non-compliance to the Board of County Commissioners ("Board") pursuant to appeal procedures in the Kittitas County Code for appeals of County administrative determinations. The Board shall render a written decision regarding Trendwest's alleged non-compliance with a Condition of Approval following an appeal hearing.

(c) If a dispute continues to exist following a decision by the Board, either Kittitas County or Trendwest may give written Notice of a Demand for Mediation ("Notice of Mediation") to the other party. Within five (5) days of the receipt of a Notice of Mediation, Trendwest and the County shall select a mediator, who must be a licensed attorney with experience as a mediator or arbitrator, and with a minimum of fifteen (15) years of cumulative experience in the areas of municipal law, land use law, and commercial real estate or commercial litigation. A meeting with the mediator shall be held within fourteen (14) days from appointment of the mediator, on a date and at a time selected by the mediator after consulting with Trendwest and the County. The mediator shall work with Trendwest and the County to produce a suitable compromise. The mediator shall establish the format of the mediation meeting.

(d) The Board's decision on an appeal regarding Trendwest's alleged non-compliance with a Condition of Approval shall be appealable to Kittitas County Superior Court; provided, however, that the Board's decision shall not be final and appealable until the mediation process set forth in Condition F-1(c) is completed. The mediation process shall be deemed completed upon the later of (i) the completion of the mediation meeting or (ii) the date of issuance of a letter from the mediator terminating the mediation process.

(e) Trendwest's alleged non-compliance with a Condition of Approval is not a basis for the County to refuse to process or approve any Subsequent Action (as defined in the Development Agreement), including a Site Development Plan, unless the County reasonably determines that compliance with the disputed Condition of Approval is necessary for the County to conclude that the proposed Subsequent Action is consistent with the Conditions of Approval and the "Applicable Law" as defined in the Development Agreement.

**G. FISCAL PROGRAM.** Kittitas County has identified the following provision to provide for consistent and on going monitoring of fiscal benefits and impacts generated by the MountainStar Resort.

G-1 Trendwest has agreed to provide funding for the County to hire a fiscal expert with experience analyzing the fiscal impacts to local communities, including increased tax revenues, from new development. That expert, in conjunction with a similar expert retained by Trendwest, shall develop a Fiscal Program for analyzing the fiscal impacts of MPR development on the County, local communities and taxing districts, and other service providers



impacted by MPR development. The Fiscal Program shall include provisions for reviewing and adjusting Trendwest's financial obligations under the Conditions of Approval to reflect any changes in tax revenues as a result of MPR development. The County shall as necessary review and adjust Trendwest's financial obligations for the payment of financial mitigation under the Conditions of Approval (including, but not limited to, those provisions relating to Law Enforcement, Fire Protection, Emergency Response/Aid Services, Transportation, Schools and Housing) consistent with the findings and provisions of the Fiscal Program.

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This Attachment is intentionally deleted, and its purpose has been replaced by that certain agreement dated July 25, 2006, between Suncadia and Fire District No. 7 as approved by the County under Resolution 2007-11.

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~~Attachment~~ \_\_\_

**~~COOPERATIVE AGREEMENT  
BY AND BETWEEN~~**

**~~KITTITAS COUNTY FIRE PROTECTION DISTRICT NO. 7~~**

**~~AND~~**

**~~TRENDWEST RESORTS, INC.~~**

~~THIS COOPERATIVE AGREEMENT ("Agreement") is entered into this \_\_\_ day of \_\_\_\_\_, 2000, by and between Kittitas County Fire Protection District No. 7 ("District"), a Washington fire protection district, and Trendwest Resorts, Inc. ("Trendwest"), an Oregon corporation registered to conduct business in the state of Washington. The District and Trendwest are sometimes collectively referred to herein as the "Parties."~~

**~~RECITALS~~**

~~WHEREAS, JELD WEN, INC., ("JELD WEN"), an Oregon corporation registered to conduct business in the state of Washington, is the owner of certain real property consisting of approximately 6,200 acres located within Kittitas County (the "JELD WEN Property");~~

~~WHEREAS, Trendwest is authorized to act on behalf of JELD WEN in connection with the JELD WEN Property;~~

~~WHEREAS, Trendwest has applied to Kittitas County to develop the JELD WEN Property as the MountainStar Master Planned Resort pursuant to RCW 36.70A.360;~~

~~WHEREAS, on April 10, 2000, Kittitas County published a final environmental impact statement (the "MountainStar EIS") pursuant to the State Environmental Policy Act ("SEPA"), Ch. 43.21C RCW, analyzing the potential environmental impacts of the MountainStar Master Planned Resort Conceptual Master Plan;~~

~~WHEREAS, the District provides fire protection serves to the upper Kittitas County area, including the JELD WEN Property; and~~

~~WHEREAS, the Parties acknowledge that the probable significant adverse impacts to the District from development of the MountainStar Master Planned Resort are reasonably analyzed in the MountainStar EIS but that appropriate mitigation has not yet been determined.~~

Consequently, the Parties recognize that the purpose of this Agreement is to have Trendwest and the District agree to appropriate mitigation conditions in order to mitigate potential adverse impacts to the District associated with development of the MountainStar Master Planned Resort;

— NOW, THEREFORE, in consideration of the promises, covenants, and provisions set forth herein, the Parties agree as follows:

## AGREEMENT

— **1. Trendwest's Commitments.** In consideration for the District's commitments set forth in Section 2, below, Trendwest agrees to implement, as part of its anticipated development of the MountainStar Master Planned Resort, the mitigation conditions set forth in EXHIBIT A, which is attached hereto and incorporated herein by this reference (the "Mitigation Conditions"). Trendwest shall request that the Mitigation Conditions be imposed as part of any approvals granted by Kittitas County to Trendwest related to the development of the MountainStar Master Planned Resort. Trendwest's commitment to implement the Mitigation Conditions is conditioned upon receiving all approvals necessary to develop the MountainStar Master Planned Resort.

— **2. District's Commitments.** In consideration for Trendwest's commitments to implement the Mitigation Conditions as set forth in Section 1, above, the District agrees to obligations set forth in EXHIBIT A, and further agrees to not oppose, appeal or request conditions be imposed on the MountainStar Master Planned Resort proposal other than those identified in EXHIBIT A.

— **3. Binding Effect.** This Agreement shall bind and inure to the benefit of the Parties and their respective successors and assigns.

— **4. Assignment.** The rights and responsibilities of Trendwest hereunder may be assigned to any individual(s) or entity(s) without restriction upon sixty (60) days written notice to the District of such proposed assignment(s).

— **5. Notices.** Notices under this Agreement must be delivered personally or by depositing the same in the U.S. mail, certified, return receipt requested, postage prepaid, properly addressed and sent to the following addresses or such other addresses as each party may from time to time designate by written notice to the other:

If to the District: \_\_\_\_\_ Fire Protection District No. 7  
\_\_\_\_\_ 24520 SE 24<sup>th</sup> St.  
\_\_\_\_\_ Sammamish, WA 98075  
\_\_\_\_\_ Attn: Ron Haworth

If to Trendwest: \_\_\_\_\_ Trendwest Resorts, Inc.  
\_\_\_\_\_ 109 S. First Street  
\_\_\_\_\_ P.O. Box 887  
\_\_\_\_\_ Roslyn, WA 98941-0887

Attn: J. Michael Moyer

With copy to: Cairncross & Hempelmann, P.S.  
70<sup>th</sup> Floor, Bank of America Tower  
701 Fifth Avenue  
Seattle, WA 98104-7016  
Attn: John W. Hempelmann

~~6. Attorneys' Fees. In any proceeding brought by either party to enforce this Agreement, or any provision hereof, the substantially prevailing party shall be entitled to the recovery of reasonable attorneys' fees, including all costs and expenses. The term "proceeding" shall mean and include arbitration, mediation, or any judicial proceeding including appeals.~~

~~7. Notice of Default/Opportunity to Cure/Dispute Resolution. In the event a Party, acting in good faith, believes the other Party has violated the terms of this Agreement, the aggrieved Party shall give the believed offending party written notice of the alleged violation by sending a detailed written statement of the alleged breach. The alleged offending Party shall have sixty (60) days from receipt of written notice in which to cure the alleged breach. This notice requirement is intended to invite and facilitate a resolution by the Parties of any dispute prior to the institution of litigation. Upon providing notice of an alleged breach, the Parties agree to meet and agree upon a process for attempting to resolve any dispute arising under this Agreement. A lawsuit to enforce the terms of this Agreement shall not be filed until the latter of (a) the end of the sixty (60) day cure period or (b) the conclusion of any dispute resolution process agreed to by the Parties.~~

~~8. Governing Law/Jurisdiction and Venue. This Agreement shall be construed and enforced in accordance with the laws of the state of Washington. Jurisdiction and venue to enforce the commitments under this Agreement shall lie exclusively in the Kittitas County Superior Court.~~

~~9. Severability. In the event that any term, conditions, provision, clause or portion of this Agreement is deemed by a court of competent jurisdiction to be unlawful, in excess of authority, void, unconstitutional, or unenforceable or in conflict with any other applicable provision, condition, clause or other portion of this Agreement, it is the intent of the parties that the remainder of this Agreement shall be unaffected and shall continue in full force and effect to carry out the intent of the parties. To this end, any disputed terms and conditions are declared by the parties to be severable from the others.~~

~~10. Authority. Each party represents and warrants to the other that the individual signing below has full power, authority and right to execute and deliver this Agreement and thereby to legally bind the party on whose behalf such person signed.~~

~~This Agreement shall become effective on the date first appearing above.~~

~~**KITTITAS COUNTY FIRE PROTECTION  
DISTRICT NO. 7 ("DISTRICT")**~~

\_\_\_\_\_  
\_\_\_\_\_  
By: \_\_\_\_\_  
Its: \_\_\_\_\_  
**TRENDWEST RESORTS, INC.**

\_\_\_\_\_  
\_\_\_\_\_  
By: \_\_\_\_\_  
Its: \_\_\_\_\_

Exhibit A

\_\_\_\_\_ Trendwest and the District agree to the following mutual promises and obligations:

**Surplus Military Vehicle**

\_\_\_\_\_ District agrees to:

- \_\_\_\_\_ Secure a surplus military chassis that can be used as a combination tender and fire suppression vehicle during the initial phase of road and first building construction for MountainStar.

Trendwest agrees to:

- \_\_\_\_\_ Pay the cost to convert the surplus military vehicle to a usable unit. Conversion will include installation of a water tank, pump, side storage compartments, emergency radio and lights, miscellaneous equipment recommended by the Fire Chief and paint the vehicle. The Parties estimate that the cost of converting the surplus military vehicle may be approximately \$20,000, which equipment will be obtained through selection of the low bid in competitive bidding process;
- \_\_\_\_\_ The converted surplus military vehicle will be an all terrain vehicle and should remain on the MountainStar property until replaced by a newer tender; and
- \_\_\_\_\_ The converted surplus military vehicle will be returned to the District when replaced by a permanent tender when it is necessary to replace it with a newer tender.

**Training**

District agrees to:

- \_\_\_\_\_ Make arrangements for training classes to train members of the District and surrounding fire department in trench rescue;
- \_\_\_\_\_ Carry the mobile trench rescue equipment on the converted surplus military tender listed above; and
- \_\_\_\_\_ Bid and purchase the equipment necessary for the trench rescue team.

Trendwest agrees to:

- \_\_\_\_\_ Reimburse the District for the cost of the trench rescue equipment in an amount estimated to be \$ \_\_\_\_\_;

- ~~Pay the cost of the instructor and necessary materials used to put on the class;~~
- ~~Have at least two of the Trendwest supervisory personnel attend the trench rescue class;~~
- ~~Training programs shall be renewed on an annual basis during the period of open trench construction; and~~
- ~~Have available on site, plywood, timbers and ropes designated only for use with the trench rescue team.~~

**Public Safety Facility**

District agrees to:

- ~~To work with Trendwest in the design of a public safety facility on the Resort property to accommodate fire personnel and equipment, medical personnel and equipment, Trendwest security personnel and equipment, communications equipment, and Sheriff personnel.~~

Trendwest agrees to:

- ~~Construct such facility so that it is available concurrently with the opening of the first Resort hotel.~~

**Triple Combination Pumper**

District agrees to:

- ~~Provide specifications for a fully equipped triple combination pumper and tender, and to purchase the vehicle. The triple combination pumper shall be purchased such that it is available on site to coincide with the opening of the first Resort hotel.~~

Trendwest agrees to:

- ~~Reimburse the District for the cost triple combination pumper;~~

**Initial Fire Fighters**

District agrees to:

- ~~The District agrees that the initial Resort security personnel will also serve and be trained to serve as first response fire fighters.~~

Trendwest agrees to:

- ~~Work with the Fire District in the hiring process and pay the cost of the personnel. The personnel shall be hired and trained prior to the opening of the hotel.~~

### **Volunteer Fire Fighting Force**

District agrees to:

- ~~Recruit and maintain as large a volunteer fire fighting force as possible in the area of the MPR.~~

Trendwest agrees to:

- ~~Pay the cost to train in fire suppression tactics those Resort employees who agree to serve as part of the volunteer fire fighting force; and~~
- ~~Trendwest employees shall be under the supervision of the Chief of the District for training and fire department activities.~~

~~The Parties understand and agree that conditions within the District as well as the MPR change from time to time. Consequently, flexibility must be maintained in this Agreement to allow for those changes. As a result, the Parties recognize that the following additional steps are necessary subsequent to the execution of this Agreement :~~

- ~~Jointly develop a plan and schedule for additional fire fighting personnel and equipment to be housed on the MPR site. This plan shall be reviewed and updated on an annual basis, and filed with the Board of Commissioners for Kittitas County.~~
- ~~At full build out the Parties anticipate that the equipment necessary for the MPR will include one (1) triple combination pumper, one (1) tender and one (1) 4 x 4 one ton or larger brush truck with skid mount tank and equipment. Providing mechanisms to ensure that this equipment is available at full build out of the Resort shall be part of the plan listed above. All fire department apparatus must meet NFPA and Washington State Department of Labor and Industries Fire Fighter Safety Standards.~~
- ~~Trendwest shall pay all costs for the firefighters and equipment on the MPR site not covered by revenues collected from within the MPR development so as not to result in any adverse financial impacts on parties outside the MPR who are served by the District.~~
- ~~The District has the right to utilize these department members in any suppression activities within the District and for mutual aid responses as they see fit.~~



- ~~The District shall negotiate the benefit these fire fighter personnel are to the entire District and pay a prorated share of the cost.~~
- ~~The response area for apparatus and personnel assigned within the MPR to incidents outside the MPR shall be determined between the District Fire Chief and reviewed by the Director of the MPR. Any dispute to this designated response area as determined by the Fire Chief shall be resolved by the Kittitas County Fire Marshal.~~