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AND WHEN RECORDED MAIL TO:

TOWN OF MAMMOTH LAKES  
P. O. Box 1609  
Mammoth Lakes, CA 93546

Attention: Anita Hatter, Town Clerk

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(Space Above For Recorder's Use)

**DEVELOPMENT AGREEMENT**

**By And Among**

**Town of Mammoth Lakes**

**And**

**Intrawest Affiliates**

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**DEVELOPMENT AGREEMENT  
BY AND AMONG  
TOWN OF MAMMOTH LAKES  
AND  
INTRA WEST AFFILIATES**

This DEVELOPMENT AGREEMENT ("Agreement"), effective as of February 15, 2002("Effective Date"), is entered into by and between (1) the TOWN OF MAMMOTH LAKES, a municipal corporation ("Town"), and (2) INTRA WEST CALIFORNIA HOLDINGS, INC., a California corporation, MINARET DEVELOPMENT I CORP., a California corporation, SIERRA STAR SIXTEEN DEVELOPMENT CORP., a California corporation, JUNIPER PROPERTIES, INC., a California corporation, and DEER CREEK LANDS CORPORATION, a California corporation (collectively, the "Developers" and each individually, a "Developer"), with reference to the following facts and intentions:

R E C I T A L S :

A. In order to strengthen the public planning process, encourage private participation in comprehensive planning, and reduce the economic costs and risk of development, the Legislature of the State of California enacted Government Code Section 65864, et seq. ("Development Agreement Statute"). The Development Agreement Statute authorizes the Town to enter into binding development agreements with developers having a legal or equitable interest in real property, establishing certain development rights in such property.

B. Pursuant to the Development Agreement Statute, the Town has adopted the Development Agreement Ordinance (defined below), which sets forth rules and regulations establishing procedures and requirements for processing and approval of development agreements. This Agreement has been processed and approved in accordance with the Development Agreement Ordinance.

C. Developers own the following development projects ("Projects") which are affected by the terms of this Agreement.

- (1) "Sierra Star";
- (2) "The Village at Mammoth";
- (3) "The Crest Parcel";
- (4) "The Bridges Parcel";
- (5) "Canyon Lodge Parcel"; and
- (6) "Twin Lakes Court Parcel".

The real property owned by Developers and included in each Project is collectively referred to herein as the "Property". Legal descriptions and plat maps of each Project are attached hereto, collectively, as Exhibit A.

D. The Town and Developers have determined that a Development Agreement is appropriate for the Projects. The complexity, magnitude, and multi-use nature of the Projects, and the substantial financial investment associated with development of the Projects, justify the Town's agreement to provide a degree of certainty in the land use regulatory process. Pursuant to this Agreement, the Town will provide assurances to the Developers that they will have the right to develop and use the Projects during the term of this Agreement in accordance with the terms and conditions set forth herein.

E. The Town Council has determined that the Town will receive substantial benefits from the Projects by entering into this Agreement. This Agreement will facilitate orderly growth and quality development of the Projects in conformance with the goals and policies of the Town's General Plan. The Town anticipates that the Projects will provide substantial revenues to the Town, in the form of property taxes, sales and use taxes, transit occupancy taxes, fees and other revenues. Additional benefits will be provided to the Town and its citizens as set forth in Exhibit E to this Agreement.

F. Developers would not enter into this Agreement without the Town's assurances set forth in this Agreement. The Developers will invest substantial money and effort in reliance upon the Town's assurances as set forth in this Agreement. Developers acknowledge that the Town would not enter into this Agreement without the Developers' assurances set forth in this Agreement and the anticipated benefits to be provided in connection with development of the Projects, described in Exhibit E.

G. The Town Council has determined that no subsequent or supplemental environmental assessment is necessary for this Agreement, as further described in Town Council Resolution No. 02-01.

H. The Town Council has given the required notice of its intention to adopt this Agreement and has conducted public hearings thereon pursuant to Government Code Section 65867. As required by Government Code Section 65867.5, the Town Council has found that the provisions of this Agreement and its purposes are consistent with the goals, policies, standards and land use designations specified in the Town's General Plan (and the applicable Specific Plan and Master Plans) and will provide for an orderly development of the Projects in accordance with the objectives set forth in the General Plan and the Code, as amended as of the Effective Date.

I. The terms and conditions of this Agreement have undergone extensive review by the Town staff, the Planning Commission and the Town Council at publicly noticed meetings and have been found to be fair, just, and reasonable and in conformance with the Town's General Plan. Further, the Town Council finds that the interests of the Town and the public health, safety and welfare of the Mammoth Lakes community will be served by entering into this Agreement.

J. On January 16, 2002, the Town Council adopted the Approving Ordinance (defined below) approving this Agreement and authorizing its execution, and that Ordinance became effective on February 15, 2002. Prior to approval of this Agreement, the Town Council has made certain findings, as set forth in the Approving Ordinance, including the following specific findings pursuant to Section 17.48.070 of the Development Agreement Ordinance:

- (1) That this Agreement is consistent with the goals, policies, general land uses and programs specified in the Town's General Plan;
- (2) That this Agreement and the development plans for the Property are compatible with the uses authorized in, and the performance and development standards prescribed for, the zone classifications in which the Property is located;
- (3) That this Agreement is in conformity with and will promote public convenience, the general welfare and good land use and development practices; and
- (4) That this Agreement is shown to be of greater benefit to the community than development under the present zoning alone.

NOW, THEREFORE, in consideration of the above Recitals and the mutual covenants set forth herein, the Town and Developers agree as follows:

## **ARTICLE 1 DEFINITIONS**

For purposes of this Agreement, except as otherwise expressly provided, capitalized terms shall have the following meanings:

- 1.1 **"ADP Procedures"** means the Advisory Design Panel Procedures established by the Town and Master Developer and applicable to The Village at Mammoth Project, approved by the Planning Commission on August 23, 2000.
- 1.2 **"Affordable Housing Mitigation Regulations"** means Chapter 17.36 of the Code, as in effect as of the Effective Date.
- 1.3 **"Agreement"** means this Development Agreement.
- 1.4 **"Approving Ordinance"** means Ordinance No. 02-01 of the Town Council, adopted on January 16, 2002, approving execution of this Agreement.
- 1.5 **"Assignment Agreement"** is defined in Section 8.1 and a form is attached as Exhibit L.
- 1.6 **"The Bridges Parcel"** is one of the Projects and is listed in Recital C and legally described and depicted in Exhibit A-4.
- 1.7 **"Canyon Boulevard Site"** is legally described and depicted in Exhibit G.

1.8 **"Canyon Lodge Parcel"** is one of the Projects and is listed in Recital C and legally described and depicted on Exhibit A-5.

1.9 **"CFD"** means Community Facilities District No. 2001-01 [North Village Area], established by Town Council Resolution No. 01-26 approved on July 11, 2001.

1.10 **"CFD Facilities"** means those public improvements proposed for funding and construction by the CFD, as set forth in Exhibit C.

1.11 **"Code"** means the Town of Mammoth Lakes Municipal Code, as amended as of the Effective Date.

1.12 **"Community Development Director"** means the person so designated by the Town of Mammoth Lakes.

1.13 **"Consumer Price Index"** means the Consumer Price Index for all Urban Consumers (CPI-U)(Base Year 1982-84), published by the Bureau of Labor Statistics for the Los Angeles--Anaheim--Riverside, CA area.

1.14 **"The Crest Parcel"** is one of the Projects and is listed in Recital C and legally described and depicted in Exhibit A-3.

1.15 **"County"** means Mono County, California.

1.16 **"Developer"** means, individually, and "Developers" means, collectively, the Parties who have signed this Agreement as Developer, and, subject to the restrictions on assignment set forth herein, successor Owners.

1.17 **"Development Agreement Statute"** means Government Code Section 65864, et seq.

1.18 **"Development Agreement Ordinance"** means Code Section 17.48, et seq.

1.19 **"Development Impact Fees"** means Development Impact Mitigation Fees as defined in the DIF Ordinance.

1.20 **"DIF Ordinance"** means, collectively, Article II, Section 15.16.080 et seq. of the Code and Town Council Resolution 98-06 implementing the foregoing, as in effect as of the Effective Date.

1.21 **"Effective Date"** means the effective date of this Agreement and commencement of the Term, which is the date the Approving Ordinance becomes effective.

1.22 **"Fiscal Year"** means each fiscal year of the Town (July 1 through June 30), beginning with the fiscal year in which the Effective Date of this Agreement occurs.

1.23 **"General Plan"** means the Town of Mammoth Lakes General Plan (originally adopted in 1987), as amended as of the Effective Date.

1.24 **"Housing Foundation"** or "Mammoth Community Housing Foundation" means any non-profit association or organization created or sponsored by the Town of Mammoth Lakes for the purpose of addressing affordable housing needs for the community.

1.25 **"Intrawest Affiliate"** means an entity controlled by, controlling, or under common control with Intrawest California Holdings, Inc., the Master Developer defined herein. For purposes of this definition, "control" means the possession, directly or indirectly, of (a) an ownership in the applicable entity and (b) power to direct or cause the direction of the management and policies of such entity. As of the Effective Date, each Developer is an Intrawest Affiliate.

1.26 **"Intrawest Resort Projects"** means the following projects which have been developed, or are proposed to be developed, by Intrawest Affiliates generally for resort-related development: The Village at Mammoth, Sierra Star, The Crest Parcel, and the Previously Developed Projects.

1.27 **"Lodestar Master Plan"** is defined in Section 3.2.1(a).

1.28 **"Lot"** shall mean any legally subdivided lot or parcel within the Property, from time to time.

1.29 **"Maintenance District"** is defined in Section 6.6.

1.30 **"Master Developer"** means Intrawest California Holdings, Inc., a California corporation.

1.31 **"MMSA"** means the Mammoth Mountain Ski Area.

1.32 **"Mortgagee"** means a mortgagee under any mortgage or a beneficiary under a deed of trust affecting any portion of the Property.

1.33 **"North Village Specific Plan"** means the specific plan approved for the North Village area which includes The Village at Mammoth as amended as of the Effective Date.

1.34 **"Official Records"** means the official records maintained in the Recorder's Office of Mono County, California.

1.35 **"Operating Memorandum"** is defined in Section 7.1.

1.36 **"Owner"** means each owner of record fee title to all or any portion of a Project, during the time such party holds the requisite ownership interest. As of the Effective Date, each Developer (including Master Developer) is an Owner.

1.37 **"Party"** means, individually, and "Parties" means, collectively, the parties to this Agreement, consisting of the Town (and its successors and assigns hereunder) and the

Developers (including, subject to the restrictions on assignment set forth herein, successor Owners).

1.38 **"Person"** means any individual or legal entity.

1.39 **"Previously Developed Projects"** means, collectively, the development projects developed by Intrawest Affiliates prior to the Effective Date, which are legally described and depicted in Exhibit B and commonly known as "Eagle Run," "Sunstone," "Juniper Springs Lodge," "Mammoth Green," and "Timbers".

1.40 **"Project"** means, individually, and "Projects" means, collectively, the development projects identified in Recital C, which are to be developed on the Property as anticipated by the Project Approvals.

1.41 **"Project Approvals"** means the Town approvals (including the conditions to such approvals) governing development of each Project described in Section 3.2, any Subsequent Permits granted for one or more of the Projects during the Term in conformance with Article 5, the Development Agreement Ordinance, and all environmental approvals, determinations and certifications relating to the foregoing.

1.42 **"Property"** means the real property covered by this Agreement, as legally described in Exhibit A.

1.43 **"Public Improvements"** means the public facilities, infrastructure and improvements constructed by Developers in connection with the Projects, including the CFD Facilities.

1.44 **"Resort Condominium Lodge"** is defined in Section 4.4.

1.45 **"Sierra Star"** is one of the Projects and is listed in Recital C and legally described and depicted in Exhibit A-1. Exhibit A-1 includes only the undeveloped portions of the original Sierra Star project and does not include The Timbers, Mammoth Green, the golf course and Starwood.

1.46 **"Ski-Back Parcel"** means Parcel A of Parcel Map No. 36-190 recorded on March 3, 2000 in the Official Records, on which the portion of the ski-back trail located immediately north of the ski-back bridge over Forest Trail will be situated.

1.47 **"State MOU"** is defined in Section 5.6.2.

1.48 **"Subordination Agreement"** is defined in Section 8.2.1 and a form is attached as Exhibit M.

1.49 **"Subsequent Permits"** is defined in Section 5.1.1.

1.50 **"Surface Parking Site"** is legally described in Exhibit F.

1.51 **"Term"** means the term of this Agreement, as defined in Section 2.2.

1.52 **"Town"** means the Town of Mammoth Lakes and its successors and assigns.

1.53 **"Town Council"** means the Town Council of the Town of Mammoth Lakes, its governing body.

1.54 **"Town Manager"** means the person so designated by the Town of Mammoth Lakes pursuant to the Code.

1.55 **"Twin Lakes Court Parcel"** is one of the Projects and is legally described and depicted in Exhibit A-6.

1.56 **"Unavoidable Events"** as defined in Section 11.15.

1.57 **"Vested Rules"** are defined in Section 3.1.

1.58 **"The Village at Mammoth"** is one of the Projects and is legally described and depicted in Exhibit A-2.

## ARTICLE 2 GENERAL PROVISIONS

2.1 Property Subject to This Development Agreement. This Agreement shall benefit and encumber the Property which is legally described in Exhibit A attached hereto, to the extent and on the terms set forth herein. The Developer which is the Owner of each portion of the Property as of the Effective Date is identified as a Developer herein. The Property includes the development Projects identified in Recital C. A plat map indicating the location of each Project is also attached as part of Exhibit A.

2.2 Term of Agreement. The Term of this Agreement shall commence upon the Effective Date and shall continue in full force and effect for twenty (20) years thereafter unless extended or earlier terminated as provided herein. The Term has been established by the Parties as a reasonable estimate of the time required to develop the Projects and obtain the public benefit of the Projects. Pursuant to Section 17.48.060 of the Development Agreement Ordinance, the Town Council has made specific findings, incorporated in the Approving Ordinance, that exceptional circumstances exist to justify this Term. In establishing and agreeing to such Term, the Town has determined that the Vested Rules, the Project Approvals, the vested right to develop, and the other terms of this Agreement incorporate sufficient provisions to permit the Town to adequately monitor and respond to changed circumstances and conditions in granting permits and approvals and undertaking actions to carry out the Projects.

## ARTICLE 3 APPLICABLE RULES, REGULATIONS AND POLICIES

3.1 Vested Rules. The "Vested Rules" means, collectively, the ordinances, resolutions, rules, regulations, requirements and official policies of the Town in effect as of the Effective Date, whether set forth in the General Plan, the Code or otherwise, which govern the following, to the extent applicable to the Property: development agreements; permitted uses;

density and building intensity; growth control; zoning designations and regulations; subdivision, improvement, grading, landscaping and signage; design, development, improvement and construction standards and specifications; standards and requirements for public reservations and dedications, public improvements and facilities, transit, parking, open space, employee housing and affordable housing; standards and requirements for processing of Subsequent Permits (as defined in Section 5.1.1); and the Project Approvals described in Section 3.2. The Vested Rules do not include uniform building codes or standards, or changes thereto from time to time. A list of the Vested Rules as of the Effective Date is attached hereto as Exhibit D. A compilation of complete copies of the Vested Rules as of the Effective Date has been prepared by the Town and the Developers, and they are contained in a binder with the title "Intrawest Mammoth Development Agreement—Vested Rules" on file in the offices of the Town Clerk of the Town and in the Master Developer's office in Mammoth Lakes, California. Various Subsequent Permits, such as tentative subdivision maps and use permits, are required in order to implement the development of the Projects under the terms of the Vested Rules. In addition, Subsequent Permits, such as a change in zoning standards, may be desirable due to changes in development products or standards or for other reasons during the Term of this Agreement. This Agreement and the vested right to develop are not intended to preclude changes or additions to the Vested Rules which are mutually acceptable.

3.2 Changes to the Vested Rules. All Subsequent Permits shall be processed in accordance with the procedures, standards and requirements set forth in the Vested Rules, except to the extent changes to the Vested Rules are proposed by the Subsequent Permit. In that case, the processing of the Subsequent Permit shall not be subject to the Vested Rules. Any approved Subsequent Permit shall be incorporated into (and amend or supplement, as appropriate) the Vested Rules upon adoption by the Town and approval by the affected Developer(s). If a Developer proposes any amendment or addition to the Vested Rules, the application therefore shall clearly indicate such request, and, if the application is approved by the Town on terms and conditions approved in writing by the affected Developer(s), then the Town's action shall clearly state that the Vested Rules have been amended or supplemented. If an amendment or supplement to the Vested Rules is adopted by the Town other than pursuant to an application by a Developer, then it shall amend or supplement the Vested Rules only if the affected Developer(s) approved the same in writing.

3.3 Project Approvals. The "Project Approvals" means: (a) the existing Town permits, approvals and entitlements for the Projects set forth below in this Section 3.3; plus (b) any amendments or additions to the Project Approvals and any Subsequent Permits (as defined in Section 5.1.1) which are subsequently issued by the Town and approved by the Developer(s) of the affected Projects or portion thereof, in accordance with the procedures described in Section 3.1. The Project Approvals are included in the Vested Rules.

3.3.1 Sierra Star. The existing Project Approvals approved by the Town for the Sierra Star Project, are the following:

- (a) The Lodestar Master Plan, approved in May, 1991, as amended in November, 1992 and February, 2001 ("Lodestar Master Plan"). Permitted uses for the Project are set forth in the Lodestar Master Plan.

- (b) Use Permit (UPA) No. 99-6 and Tentative Tract Map (TTM) No. 36-192 for Fairway Sixteen Townhomes, approved on January 12, 2000.
- (c) Use Permit (UPA) No. 99-11 and Tentative Tract Map (TTM) No. 36-195 for the Bear Lake Lodge, approved on October 25, 2000.
- (d) Tentative Tract Map (TTM) No. 36-200 for Fairway 4 single-family lots, approved on July 25, 2001.
- (e) Grading Permit for Sierra Star Parkway, issued on August 20, 1999.
- (f) Mitigation measures adopted pursuant to environmental documentation for the Project, including the Lodestar at Mammoth Master Plan Final EIR dated May, 1991.

The permitted uses, the density or intensity of use, the zoning, the maximum height and size of buildings, the provisions for reservation and dedication of land, and the subdivision or use permit improvement requirements for the Sierra Star Project are set forth in the existing Project Approvals, as supplemented by Subsequent Permits issued in conformance with the Vested Rules.

3.3.2 The Village at Mammoth. The existing Project Approvals approved by the Town for The Village at Mammoth Project, are the following:

- (a) The North Village Specific Plan, approved in April, 1991, as amended as of the Effective Date, including the Amendment ZCA 99-1 approved on December 15, 2000 ("North Village Specific Plan"). The North Village Specific Plan replaced existing zoning regulations and constituted a new zoning ordinance governing the Specific Plan area. Permitted uses for the Project are set forth in the North Village Specific Plan.
- (b) Use Permit (UPA) No. 90-04, approved on March 27, 1991, for the gondola use at the Project.
- (c) Design Guidelines for The Village at Mammoth approved by the Planning Commission on August 23, 2000 pursuant to the North Village Specific Plan, and the ADP Procedures.
- (d) Tentative Tract Map (TTM) No. 36-193, approved on December 15, 2000 and Final Map No. 36-1934 based thereon, recorded on September 20, 2001.
- (e) Final Parcel Map No. 36-190, creating the Ski-Back Parcel as a separate legal lot, recorded on March 3, 2000.
- (f) Use Permit (UPA) No. 2000-13, approved by the Planning Commission on December 15, 2000.

(g) Mitigation measures adopted pursuant to environmental documentation for the Project, including:

- (1) The North Village Specific Plan Final EIR dated February, 1991;
- (2) The North Village Specific Plan EIR Addendum dated May, 1994; and
- (3) The Final Subsequent Program EIR for the Amendment to the North Village Specific Plan [SCH #99-092082], dated October 13, 2000.

The permitted uses, the density or intensity of use, the zoning, design standards, the maximum height and size of buildings, the provisions for reservation or dedication of land, and the subdivision or use permit improvement requirements for The Village at Mammoth Project are set forth in the existing Project Approvals, as supplemented by Subsequent Permits issued in conformance with the Vested Rules.

3.3.3 Other Projects. The permitted uses, the density or intensity of use, the zoning, development standards, the maximum height and size of buildings, the provisions for reservation or dedication of land, and the subdivision or use permit improvement requirements for The Crest Parcel, The Bridges Parcel, the Canyon Lodge Parcel, and the Twin Lakes Court Parcel are set forth in the General Plan and applicable zoning and subdivision regulations approved by the Town for the Projects as of the Effective Date, as supplemented by Subsequent Permits issued in conformance with the Vested Rules.

3.4 Vested Right to Develop. During the Term of this Agreement, with regard to the Projects listed in Recital C and the Property legally defined in Exhibit A, the Developers are assured, and the Town agrees, that the development rights, obligations, terms and conditions specified in the Project Approvals, the other Vested Rules and this Agreement are fully vested in the Developers and may not be changed or modified by the Town, whether by administrative action, legislative action, or vote of the electorate, except as may be expressly permitted by and in accordance with the terms and conditions of this Agreement, or as may be expressly consented to by the affected Developers. Each Developer shall have the vested right to develop and construct those portions of the Property owned from time to time by such Developer, and each portion thereof, in accordance with the Project Approvals, the other Vested Rules and this Agreement.

3.5 No Conflicting Enactments. Except as provided in Section 3.4 of this Agreement, during the Term of this Agreement, the Town shall not, without the prior written consent of the Developers, do any of the following:

- (a) Apply to the Property, or any portion thereof, any change in the Vested Rules or any new or amended rule, ordinance, resolution, regulation, requirement or official policy which conflicts with or is inconsistent with this Agreement or which reduces the development rights provided by this Agreement, or which limits or reduces the permitted uses allowed under the Vested Rules, or which prevents, impedes

or materially adversely affects development, construction or operation of the Projects or any portion thereof in accordance with the Vested Rules, or which discriminates against Developer or the Projects or any portion thereof, or which applies only to the Projects or a portion thereof;

(b) Apply to the Property any new rule, ordinance, resolution, regulation, requirement or official policy which requires any additional discretionary review or approval; or

(c) Apply to the Property any new or amended rule, ordinance, resolution, regulation, requirement or official policy which materially adversely affects the timing or phasing of construction or development or which limits the availability of utilities, infrastructure or public services for the Property.

3.6 Term of Project Approvals. To the extent allowed by the Subdivision Map Act, the term of any tentative map approved for any portion of the Property, whether as stated in the existing Project Approvals, or as stated in any subsequent amendment or addition to the Project Approvals, including, but not limited to, any tentative map, tentative parcel map, tentative tract map or vesting tentative map, and any amendment of any such map, shall be automatically extended for the Term of this Agreement. Similarly, the term of any Project Approvals approved for any portion of the Property, whether now existing or subsequently approved, shall be automatically extended for the Term of this Agreement. In addition, the term of any map or other Project Approval shall be extended for a period equal to any period of time during which: (a) a development moratorium exists, including, but not limited to, a water or sewer moratorium or the actions of public agencies (other than the Town) that regulate land use, development or the provision of services to the Property, that prevents, prohibits or delays the construction of the Projects; or (b) a lawsuit involving any development approvals or permits for the Project is pending. A development moratorium adopted or implemented by the Town shall not apply to the Property, as further described in Section 3.8.

3.7 Initiatives/Referendum. Any law enacted or imposed after the Effective Date by initiative or referendum, or by the Town Council, directly or indirectly, in connection with any proposed initiative or referendum, which law would conflict with the vested rights to develop granted to Developers under this Agreement shall, to the maximum extent permitted by law, not apply to the Property.

3.8 Moratoria: Growth Control Measures. Developers' rights to develop the Property in conformance with the Vested Rules under this Agreement shall prevail over any growth-control measure or development moratorium adopted or implemented by the Town after the Effective Date, whether adopted specifically to prohibit construction of the Projects or any portion thereof, or as an interim measure pending contemplated General Plan, Specific Plan or zoning changes, or as a general growth-control management measure.

3.9 Effect of Inconsistent State or Federal Laws. This Agreement may be modified or suspended as may be necessary to comply with state or federal laws, codes or regulations enacted after the Effective Date which preempt local jurisdiction and which prevent or preclude compliance with one or more provisions of this Agreement, provided, however, that

such modification or suspension shall be made to the minimum extent necessary and only after the Parties have met and conferred in good faith to determine the feasibility of such modification or suspension and to minimize its effect on the rights of the Parties and fulfillment of the purposes and intent of this Agreement. The Parties shall cooperate to process applications for any Town or governmental approvals which may be required as a result of any such modification or suspension of this Agreement.

#### ARTICLE 4 PROJECT PROCESSING AGREEMENTS

4.1 Affordable Housing Requirements. Affordable housing requirements for the Projects shall be satisfied by the meeting the provisions of Chapter 17.36 of the Code, known as the Affordable Housing Mitigation Regulations, as is in effect on the Effective Date, except that if housing is provided for any Project in excess of the amount required for such Project under the Affordable Housing Mitigation Regulations, the excess may be applied to satisfy the requirements for any other Project. The Affordable Housing Mitigation Regulations are part of the Vested Rules; however, if the requirements of the Town for affordable or employee housing are reduced during the Term as applied to all or any other developer of the same or similar uses, then the Developers shall have the right to receive a commensurate reduction of the requirements applied to the Projects on substantially equivalent terms.

4.2 Development Schedule; Phasing. The development phasing plan anticipates that buildout of the Projects will continue over a substantial period and that the timing and phasing of development will be affected by numerous factors which are not all within the control of Developers, such as market orientation and demand, economic conditions, competition and the like. In addition, the Parties agree that any subsequently enacted Town law, ordinance, rule or regulation which restricts the timing of development of the Projects shall be deemed inconsistent with this Agreement and shall not apply to the Projects.

4.2.1 Private Development Schedule. The anticipated phasing of the private development consists of three phases which are described below. Maps depicting the location of each phase are attached to this Agreement as Exhibit N.

Phase 1 consists of the following, as depicted on Exhibit N-1:

- The area of The Village at Mammoth Project located west of Minaret Road), and east of Canyon Boulevard, which includes three buildings containing commercial and retail space, residential condominiums, the gondola and gondola/MMSA services buildings, underground parking, pedestrian plazas.

Phase 2 consists of the following, as depicted on Exhibit N-2:

- The area of the Sierra Star Project located west of Minaret Road, which includes single family residential condominiums, support commercial and transient occupancy.
- The Crest Parcel, which includes residential condominiums.

- The Twin Lakes Court Parcel, which includes development single family.

Phase 3 consists of the following, as depicted on Exhibit N-3:

- The area of The Village at Mammoth Project located west of Canyon Boulevard, which includes residential condominiums or transient occupancy.
- The area of The Village at Mammoth Project located east of Minaret Road, which includes commercial and residential condominiums.
- The area of the Sierra Star Project located east of Minaret Road, which includes multi-family, resort condominiums and transient occupancy.
- The Bridges Parcel, which includes residential.
- The Canyon Lodge Parcel, which includes residential.

Affordable housing requirements (as described in Section 4.1) applicable to each of the above developments will be provided commensurate with, and at the time, each development is completed.

The timing of construction is designed so that a preceding phase does not have to be complete before the next phase(s) begin. Also, each element within each phase is independent of each other element. Once construction of an element of a phase is commenced, construction of that phase is considered to be commenced. Further, commencement of each development or phase is contingent on the availability of financing, market conditions, demand, competition and similar factors which affect high-risk resort development. Changes in the above schedule of development may be made upon notification by the Developer to the Town Manager that general market conditions warrant modifications and a new phasing schedule shall be submitted.

4.2.2 Commencement of Construction. Construction on Phase 1 began in April 2001. Construction of The Village at Mammoth west of Minaret Road began in April 2001. The parking garage and gondola masts are currently under construction. The Canyon Boulevard re-alignment is predominantly complete. The 72" storm drain is completed. Construction of Phase 2 is anticipated to commence in 2002. Construction of Phase 3 is anticipated to commence in 2004.

4.2.3 Financing and Timing of the Installation of Public Improvements. Chapter 17.48.010 C. of the Code, Development Agreements, provides that among the purposes of a development agreement is "to enable the Town to more accurately plan and budget for necessary public improvements in full confidence that development will proceed in a timely and phased manner in accordance with the provisions of the development agreement." Accordingly, Section 17.48.50 A. of the Code requires that the development agreement contain a specific time schedule setting forth a program for the phasing of construction, when it is to begin, the financing, and the timing for the installation or construction of the public improvements. Public Improvements for the three phases of development described in Section 4.2.1 are presently scheduled as follows:

(a) For The Village at Mammoth Project:

- July 2001: Commenced realignment of Canyon Boulevard from Hillside Drive to Lake Mary Road, including grading, installation of road base, and initial asphalt lift, storm drains, and other preliminary improvements, as well as the installation of a 72" storm drain from Hillside Drive to existing Berner Street storm drain.
- 2002: Commence final improvements to re-aligned Canyon Boulevard, install improvements on Minaret Road, Lake Mary Road, and Forest Trail (west), including sidewalks, street lighting, landscaping, and undergrounding of utilities.
- 2003: Commence construction of the Ski-Back bridge.
- 2004: Commence installation of improvements on Hillside Drive, Forest Trail (east) and Berner Street and the Minaret Road/Forest Trail roundabout.

The Public Improvements included in this schedule are further described in Exhibit C, CFD Facilities. All of the Public Improvements are to be installed in accordance with plans and specifications approved by the Town. The timing of construction of Public Improvements as set forth above may change, depending upon the timing of construction of the private developments to which they relate; however, construction shall be governed by any timing requirements set forth in the conditions of approval and/or mitigation measures which are adopted for each Project by the Town pursuant to the Vested Rules.

Financing for the Public Improvements described above is to be provided through the CFD, a district that consists of a portion of the area covered by the North Village Specific Plan. The CFD was formed pursuant to a Resolution of Formation and related proceedings, adopted by the Town Council on July 11, 2001. Intrawest California Holdings, Inc., is the Developer of the approximately twenty (20) gross acres comprising The Village at Mammoth Project, all of which are in the CFD, and which are to be served by the CFD Facilities, as defined in the CFD formation documents. As of July 11, 2001, all of the taxable land in the CFD was owned by Intrawest California Holdings, Inc. The proceeds of the first series of bonds will be used to finance the acquisition and/or construction of a portion of the CFD Facilities. The balance of the CFD Facilities is expected to be financed by a subsequent bond issue.

(b) For the Sierra Star Project, the Crest Parcel, the Twin Lakes Court Parcel, the Bridges Parcel, and the Canyon Lodge Parcel:

Required Public Improvements are to be installed at the time of development for each Project (or portion), in accordance with the requirements of the Code and Town public improvement and engineering standards and/or project conditions of approval to be established by the Town of Mammoth Lakes Planning Commission. It is recognized that many of the Public Improvements for the Projects described above have already been installed adjacent to each proposed development, and the majority of the future improvements, particularly those

associated with the Sierra Star Project, will be private roads and facilities. Financing for the required public and private facility improvements will be through conventional developer financing methods.

4.3 On-Site Amenities. The on-site amenities requirement for The Village at Mammoth Project is set forth in the North Village Specific Plan. The on-site amenities requirement for other Projects covered by this Agreement can be satisfied as applied to a related group of buildings or on a neighborhood or master plan-wide basis, rather than on a building-by-building basis. The on-site amenities requirement shall apply only to multiple family and Resort Condominium Lodge uses, and not side-by-side townhomes which shall be exempt. The foregoing provisions relating to application of the Town's on-site amenities requirement are consistent with the Code, without the need for an amendment thereto, and are part of the Vested Rules.

4.4 Resort Condominium Lodge Facilities. "Resort Condominium Lodge" is defined in Section 17.32.200 of the Code, added pursuant to Ordinance No. 97-19. The "on-site" facilities provided may be located anywhere within a master-planned area and may be shared by one or more Resort Condominium Lodges, subject to provision for use as stated in the CC&Rs. The foregoing provisions relating to applications of the Town's regulations are consistent without the need for an amendment thereto, and are part of the Vested Rules.

## **ARTICLE 5 PROCESSING OF SUBSEQUENT PERMITS AND APPROVALS**

### 5.1 Subsequent Permits.

5.1.1 Defined. "Subsequent Permits" means the land use, development and building approvals which are to be processed for approval by the Town and which are necessary or appropriate in order to develop the Projects in accordance with the Vested Rules, the Project Approvals and this Agreement, including, but not limited to, zone changes, master plans or amendments thereto, variances, use permits, development plans, parcel maps, tentative and final subdivision maps, subdivision improvement plans and agreements, design review, site plans, landscape plans, grading plans and permits, and environmental determinations. The Subsequent Permits shall include any permits and approvals required to complete the infrastructure and improvements necessary to develop the Property (collectively, the "Improvements"), in accordance with this Agreement and the Vested Rules, including, without limitation, those related to: (a) clearing the Property; (b) grading the Property; (c) construction of roads and storm drainage facilities; (d) construction of the CFD Facilities; and (e) construction of all commercial, industrial and residential structures and all structures and facilities accessory thereto, subject to the limitations set forth in this Agreement. The grant of vested rights to Developers pursuant to this Agreement does not waive or remove any requirement to process and obtain Subsequent Permits for the Projects, to the extent required under the Vested Rules and the Project Approvals.

5.1.2 Standard of Review. The Town agrees that applications for Subsequent Permits shall be processed in good faith and with reasonable diligence and granted on reasonable terms and conditions, in conformance with this Agreement, the Project Approvals

and the Vested Rules. The Town shall have the right to withhold any Subsequent Permit or to conditionally approve the same in order to ensure conformance with the Project Approvals, the Vested Rules set forth in Section 3.1, the vested right to develop set forth in Section 3.4 and/or the requirements of this Agreement. In the event of any conflict between the terms and conditions of a Subsequent Permit and this Agreement, the provisions of this Agreement shall prevail unless otherwise agreed to in writing by the Town and the affected Developers.

## 5.2 Timely Processing.

5.2.1 General. Subject to compliance with the Vested Rules and other applicable laws, the Subsequent Permits shall be reviewed, processed and acted upon by the Town in a timely manner, provided that: (a) applications for such approvals are submitted to the Town during the Term of this Agreement; (b) the applications are deemed complete pursuant to the Vested Rules; and (c) there is no uncured Event of Default under the terms and conditions of this Agreement with respect to the portion of the Property for which such approval is sought.

5.2.2 Plans and Permits. The Town shall review the application and schedule the application for review by the appropriate authority within the time periods set forth in this Section 5.2.2. The Town shall process and check all building plans, grading and improvement plans, and other plan submittals and shall issue applicable permits and approvals with reasonable diligence, within the following time periods: (a) plans shall be checked within sixty (60) days after submission by the Developer of complete plans; (b) building, grading and improvement permits shall be issued within fourteen (14) days after corrected plans have been submitted by the Developer and approved by all required governmental agencies and for which all required fees have been paid; and (c) all required Town inspections shall be performed within five (5) business days following a request for inspection by a Developer. Should the Town require additional resources to meet the above time frames, the reasonable cost for such additional resources shall be borne by the Developer.

5.3 Term of Approvals. All Subsequent Permits, once granted or issued, shall, like the Project Approvals, continue in full force and effect during the Term, in order to facilitate implementation of the Developers' development rights under this Agreement.

## 5.4 Development Fees.

5.4.1 Applicable Fees. The Developers shall pay all Town fees applicable to the Projects under the Vested Rules, but in the amount payable at the time the applicable development application is filed, whether characterized as application, permit, processing or inspection fees, or as mitigation, development impact or in-lieu fees, or as assessments or exactions, or otherwise. Notwithstanding Section 3.1 or any other provision of this Agreement, all increases in the amount of such fees which are adopted by the Town on a Town-wide basis during the Term shall apply to Developers and the Projects from the date such fee increases take effect. However, in establishing fee amounts, the Town shall apply equitable standards which treat the Projects fairly, impose obligations equivalent to those applied to comparable projects within the Town, and do not discriminate by their terms or as applied to the Projects. Fees shall be payable when due, provided, however, that the Town shall reasonably determine, at the time of issuance of building permits, whether fees then due will be offset by

credits which will be available to the applicable Developer as a result of subsequent construction, and payment of fees which are anticipated to be so offset by credits shall be deferred and a reconciliation of fees and credits made prior to issuance of such certificates of occupancy. In addition, in consideration of the Developer's obligation to construct the CFD Facilities, as described in Section 6.2, credits to which any Project is entitled as a result of construction of facilities shall be transferable to any other Project and applied to reduce fees payable by the transferee in connection with any of the Projects.

5.4.2 DIF Ordinance. The amount of Development Impact Fees and the projects to be constructed are not vested or restricted as to increases, decreases or project type or nature by this Agreement. The DIF Ordinance and related resolutions are included in the Vested Rules in all other respects. The vesting of the provisions of the DIF Ordinance as to the availability and calculation of credits, in particular, is a material inducement to Developers in agreeing to complete the CFD Facilities. In addition, if the DIF Ordinance is subsequently amended to allow demolition credits to be applied to non-like structures, then such credits shall be available to Developers retroactively to January 1, 2001.

5.5 Time-Share Use. As soon as practicable after the Effective Date, the Town shall process and fairly consider an amendment to the Code to permit time-share uses, on a Town-wide basis, which shall include provisions for a fee or tax in lieu of the Uniform Transient Occupancy Tax collected pursuant to the ordinance of the Town of Mammoth Lakes. Such amendment may limit time-share uses to certain zones within the Town.

5.6 Other Local, State, Federal Approvals.

5.6.1 General. The Parties contemplate that development of the Projects pursuant to this Agreement may be subject to the approval of other governmental agencies. The Parties shall act in good faith and use reasonable effort and diligence to process and obtain such approvals in a manner and on terms and conditions which are consistent with and implement the Project Approvals, the Vested Rules and this Agreement. If any revisions or corrections of plans for Project Approvals approved by the Town shall be required by any other governmental agency, the Parties shall cooperate reasonably and in good faith to develop a mutually acceptable solution.

5.6.2 Other Regulatory Approvals. Developer is or will be required to obtain approvals from other governmental agencies in order to proceed with construction of the Projects vested by this agreement. Upon the written request of the Town, Developer shall provide Town with copies of any or all such approvals issued by the California Department of Real Estate for sales of residential units, with specific delineation of those portions of the approvals or conditions thereon which specify that once commenced, construction on the approved project will be completed in a timely manner and in conformance with all applicable federal, state, and local laws. Nothing in this Section shall require Developer to disclose any information provided to the Department of Real Estate on a proprietary basis, nor shall this Section create any independent right or duty on the part of the Town to enforce in any manner the regulations of or conditions of approval imposed by any other governmental agency.

5.6.3 SR203/Forest Trail Improvements. The approvals described above include certain State approvals (through its Department of Transportation), as further described in a Memorandum of Understanding dated January 5, 2000 relating to certain street improvements in the area of State Route 203 ("SR 203") and Forest Trail, executed by the State, the Town and Intrawest Mammoth Corporation ("State MOU"). The Parties shall each perform their respective obligations under the State MOU, and shall cooperate with each other and the State in the implementation of the State MOU, and the issuance of all permits and approvals required to design and construct the SR 203/Forest Trail improvements in substantial conformance with the plans therefor and to vacate and convey any excess right-of-way.

## **ARTICLE 6 PUBLIC IMPROVEMENTS AND SERVICES**

6.1 Other Community Benefits. In return for the vesting of rights granted by this Agreement, the Town Council has required that the community receive certain special benefits. Those benefits are set forth in Exhibit E to this Agreement. The rights and obligations of the Developers and the Town under the terms of Exhibit E are incorporated herein as provisions of this Agreement.

6.2 CFD Facilities. The Town has approved the formation of the CFD, which is authorized to fund the construction of the CFD Facilities identified on Exhibit C attached hereto. The CFD currently includes the property included in The Village at Mammoth Project, which shall be subject to assessments levied by the CFD for the costs of constructing the CFD Facilities, including the costs defined in the DIF Resolution as the "Construction Needs Supported by Other Resources", also known as the "Town Share." In consideration for the commitments of the Developer to facilitate the completion of the CFD Facilities as described above, the Town agrees that The Village at Mammoth Project (including full build-out as permitted under the North Village Specific Plan) shall not be required or conditioned to provide or fund any public improvements other than the CFD Facilities.

### 6.3 Open Space, Park and Recreational Areas.

6.3.1 Applicable Requirements. Development of the Projects and the Previously Developed Parcels is subject to payment of Development Impact Fees for park and recreation facilities pursuant to the DIF Ordinance, which will satisfy a requirement to provide three (3) acres per 1000 population for the Projects in the aggregate. A balance of two (2) acres per 1000 population will be provided by Developers for open space and park and recreational use pursuant to this Agreement, which land, when combined with the amounts funded by Development Impact Fees pursuant to the DIF Ordinance, will satisfy the Town's General Plan requirement for five (5) acres per 1000 population for the Projects and the Previously Developed Parcels in the aggregate.

6.3.2 Intrawest Resort Projects' Requirement. A requirement to provide five (5) acres per 1000 population applies to the Intrawest Resort Projects, three (3) of which will be satisfied by payment of Development Impact Fees, as described above, and this requirement shall be satisfied for the Intrawest Resort Projects in the aggregate, rather than on a project-by-project basis. The Town has determined that in addition to payment of Development Impact

Fees, the provision of 6.48 acres of land (or its equivalent) will satisfy all requirements for land for public open space, park and/or recreational use in connection with the Intrawest Resort Projects, as long as the Projects are developed in accordance with the land uses and densities permitted under the existing Project Approvals. As of the Effective Date, Developers have provided or are entitled to a credit against the park dedication requirement in the aggregate amount of approximately 4.31 acres of land, as a result of the provision of the improvements identified in Section 2 of Exhibit J. The balance of the 6.48-acre requirement shall be satisfied by the provision of 2.17 acres of land or other qualifying property proposed by Developers, subject to the Town's reasonable approval, which may include the potential improvements identified in Section 3 of Exhibit J.

6.4 Other Public Dedications and Improvements. Except as permitted under the Vested Rules, the Project Approvals, and this Agreement, the Town shall not require the grant, reservation, or dedication by Developers of any additional land or easements for open space, park and recreational uses or for public rights-of-way or other public purposes, or require the construction or funding of public improvements or facilities, as a condition to development of the Projects.

6.5 Public Vacations, Easements, Encroachments and Rights-of-Way. In order to facilitate the timely construction of public street improvements, the Parties shall commence and diligently process, in good faith, proceedings to vacate the public street rights-of-way which are required in order to develop the Projects in accordance with this Agreement and the Project Approvals.

6.6 Maintenance District. The Developer of The Village at Mammoth shall participate in a public maintenance district ("Maintenance District"), to be formed by the Town, to provide for or fund the incremental increase in costs attributable to non-standardized maintenance of certain public facilities within public rights-of-way consisting of Canyon Boulevard, Forest Trail, Hillside Drive and Minaret Road and the intersections thereof, including increased costs related to clearing of snow and hauling of snow from public roads, snowmelt systems, transit stops and pedestrian systems. The initial increment of property included in the Maintenance District shall consist of Lot 1 of Tract Map No. 36-193A, but the Maintenance District is anticipated ultimately to include the area covered by the Specific Plan, as shown on Exhibit K attached hereto. Property shall be annexed to the Maintenance District as development occurs, and the Developer of The Village at Mammoth agrees to annex each portion of The Village at Mammoth concurrently with recordation of a final subdivision map for such portion. The initial assessment pursuant to such Maintenance District for each owner of a Resort Condominium Lodge unit included in the Maintenance District shall not exceed a maximum of \$15 per month for a one-bedroom unit, \$20 per month for a two-bedroom unit, and \$25 per month for a three-bedroom unit; the initial assessment for each owner of commercial property shall not exceed \$0.25 per square foot per year; and assessments for other owners shall be equitable and nondiscriminatory. The initial assessments shall be subject to increases in the Consumer Price Index from and after the date of formation of the Maintenance District.

## ARTICLE 7 IMPLEMENTATION

7.1 Operating Memorandum. The Town and Developers may implement or clarify provisions of this Agreement through the execution of an "Operating Memorandum" approved by the Town and Developers, from time to time during the Term. Any such Operating Memoranda shall be automatically deemed a part of this Agreement, but approval, implementation and/or amendment thereof shall not constitute or require an amendment to the Agreement or require public notice or hearing. In the event a provision in any Operating Memorandum conflicts with this Agreement, the Agreement shall prevail. The Town Manager is authorized to approve any Operating Memorandum or amendment thereto on behalf of the Town, but may request Town Council review and approval of any proposed Memorandum, if he or she deems it necessary or desirable.

### 7.2 Annual Review.

7.2.1 General. The annual review required by Development Agreement Statute Section 65865.1 shall be conducted as provided in this Section 7.2. As part of that review, each Party shall have a reasonable opportunity to assert matters which such Party believes have not been undertaken or performed in conformance with this Agreement, to explain the basis for such assertion, and to receive from the other Party or Parties a justification for such other Party's or Parties' position with respect to such matter.

7.2.2 Commencement of Review. Prior to March 1 of each year, Developers will initiate the annual review by submitting a written statement to the Town Manager describing, and supporting in reasonable detail, Developers' good faith substantial compliance with the terms and conditions of this Agreement for the prior calendar year. Such periodic review shall be limited in scope to compliance with the terms of this Agreement pursuant to California Government Code Section 65865.1.

7.2.3 Determination of Substantial Compliance. Within thirty (30) days after the Town Manager's receipt of Developer's complete submittal [or thirty (30) days after the deadline for such submittal if none is submitted], unless said period is extended by mutual consent of the Town Manager and Developers or as the result of circumstances beyond the reasonable control of the Town, the Town Manager shall: (a) determine whether, for the year under review, Developers are in good faith substantial compliance with the terms and conditions of this Agreement; (b) confirm its determination in writing; and (c) deliver a copy to each Developer. If the Town Manager determines that Developers are in good faith substantial compliance, no public hearing will be required and the annual review shall be deemed completed. If the Town Manager fails to deliver written notice of its determination to Developers within the time period specified above, Developers shall be deemed to be in good faith substantial compliance and the annual review shall be deemed completed. If the Town Manager determines, based upon substantial evidence, that one or more Developers is/are not in good faith substantial compliance with the terms of the Agreement, the Town Manager's written determination shall specify the grounds for such determination in reasonable detail, and the Developer(s) alleged to be not in compliance shall have thirty (30) days from receipt of such determination of non-compliance to respond in writing. After receipt of Developers' response

(or expiration of such 30-day period if no response is delivered), the Town Manager shall determine whether the Developers are in good faith substantial compliance and deliver a copy of such determination to each Developer. If one or more Developers are determined not to be in good faith substantial compliance, the Town Manager may deliver a Notice of Default to each such Developer pursuant to Section 9.2. A finding by the Town Manager of good faith substantial compliance with the terms of this Agreement shall conclusively determine said issue up to and including the date of said review, and shall complete the annual review as to the Developers covered by such determination. If the annual review is completed pursuant to the procedures set forth above, the Town Manager shall promptly deliver a report to the Town Council confirming the completion of the annual review.

7.2.4 Appeal to Town Council. If the Developer(s) alleged to be in default dispute the allegation of default, then any such Developer shall have the right to appeal the determination to the Town Council, and the Town Council shall make such determination after Developers have been permitted an opportunity to be heard orally and in writing at a noticed public hearing before the Town Council. Any appeal must be filed with the Town Manager in writing within fourteen (14) days after Developers' receipt of the Town Manager's determination. The Town shall deliver to Developers a copy of any staff reports and related information concerning Developers' performance at least seven (7) calendar days prior to any review or action by the Town Council. If the Town Council, at a public hearing, determines, based upon substantial evidence, that one or more Developers are not in good faith substantial compliance with the terms and conditions of the Agreement, the Town Council may terminate or modify the Agreement as applied to the Developer(s) affected by the determination of non-compliance, subject to compliance with the provisions in Section 9.3.

7.3 Statement of Compliance. Within thirty (30) days after receipt of a written request from a Party ("requesting Party"), a Party shall execute and deliver to the requesting Party a statement certifying: (a) that the Agreement is unmodified and in full force and effect (or identifying any modifications); (b) that there are no uncured defaults under the Agreement by the certifying Party or, to the certifying Party's knowledge, by any other Party (or specifying any such defaults); and (c) any other information reasonably requested regarding the status of the Agreement and performance by the Parties. The failure by a Party ("non-responding Party") to deliver such statement within such 30-day period shall be conclusively deemed to constitute a certification by the non-responding Party that: (a) this Agreement is in full force and effect without modification, except as may be represented by the requesting Party; and (b) that, to the knowledge of the non-responding Party, there are no uncured defaults on the part of the requesting Party. Such statement or certification may be relied upon by any purchaser, transferee, lender, title company, governmental agency or other person reasonably requesting such statement.

## **ARTICLE 8 ASSIGNMENTS; MORTGAGEE PROTECTION**

8.1 Right to Assign. Any assignment by Developers of their entire right, title and interest hereunder to a party who is not an Intrawest Affiliate shall require the prior written consent of the Town, which consent shall not be unreasonably withheld or delayed. Concurrently with the transfer of any Lot(s), a Developer (or a successor Owner) shall have the

right, without the consent of the Town, to sell, assign, or transfer ("assign") its development rights, duties and obligations as Developer under this Agreement, with respect to such Lot(s), to the new Owner, who shall assume the same pursuant to a written Assignment Agreement substantially in the form of Exhibit L. A copy of the fully executed Assignment Agreement shall be delivered to the Town within thirty (30) days after the effective date of any such assignment. Upon the transfer of such Lot(s) and assignment of a Developer's rights, duties and obligations related to such Lot(s) as provided herein, the transferring Developer shall be released from any duties and obligations so assigned and assumed arising on or after the effective date of the Assignment Agreement.

## 8.2 Mortgagee Protection.

8.2.1 Right to Mortgage. Any Developer or Owner may assign, pledge or otherwise encumber its rights and interests under this Agreement for security purposes to a Mortgagee of any Lot(s) without the consent of the Town. Nothing contained in this Agreement shall restrict any Developer from encumbering all or any portion of the Property with a Mortgage, deed of trust or other security device (collectively, "Mortgage"); provided, however, that this Agreement shall be superior and senior to the lien of any Mortgage placed upon the Property or any portion thereof after the Effective Date. Prior to recordation of this Agreement, Developer shall obtain a Subordination Agreement in the form of Exhibit M attached hereto, from the holder of any Mortgage in effect as of the Effective Date subordinating the lien of such Mortgage to the Agreement. Notwithstanding the foregoing, no breach of this Agreement shall default, render invalid, diminish or impair the lien of any Mortgage made in good faith and for value, but all of the terms and conditions of this Agreement shall be binding upon and effective against any Person, including any deed of trust beneficiary or mortgagee, who acquires title to the Property, or any portion thereof, by foreclosure, trustee's sale, deed in lieu of foreclosure, or otherwise; provided, however, that such transferee shall not be liable for defaults or monetary obligations arising prior to its acquisition of title to the Property or portion thereof.

8.2.2 Notice of Default. If the Town receives written notice from a Mortgagee requesting a copy of any notice of default given to any Developer hereunder and specifying the address for service thereof, then the Town shall deliver to such Mortgagee, concurrently with the delivery to such Developer, any notice given to such Developer with respect to any claim by the Town that such Developer is in default hereunder. If the Town makes a determination of noncompliance hereunder, the Town shall likewise serve notice of such noncompliance on such Mortgagee concurrently with service on such Developer. Each Mortgagee shall have the right, but not the obligation, during the same period available to Developer hereunder, to cure or remedy, or to commence to cure or remedy, the event of default claimed or the areas of noncompliance set forth in the Town's notice.

## **ARTICLE 9 DEFAULT; REMEDIES**

9.1 Events of Default. Subject to the provisions of Section 11.15 regarding Unavoidable Delays and Section 8.2 regarding a Mortgagee's right to cure, the failure by any Party to pay any sum or to perform any obligation required under this Agreement, including, but not limited to, the Town's failure to issue Subsequent Permits for the Projects in conformance

with this Agreement, and such Party's failure to cure such default within the specified cure period after receipt of a Notice of Default pursuant to Section 9.2 below, shall constitute an "Event of Default" under this Agreement. Failure by any Developer to construct or delay in constructing the Projects or any portion thereof shall not be a default or Event of Default under this Agreement, and no Developer shall be liable to the Town for damages for failure to construct any portion of the Projects, unless such failure or delay constitutes a default under the terms of any Final Map, building permit or similar approval, in which event the Town may exercise any of its normal remedies for default under such permit or approval.

9.2 Notice of Default and Cure. Any Party claiming a default under this Agreement shall deliver to the defaulting Party a written notice of default ("Notice of Default"). The Notice of Default shall specify the reasons for the allegation of default with reasonable particularity and the manner in which the default can be cured. The defaulting Party shall have the right to cure the default within thirty (30) days after receipt of the Notice of Default; provided, however, that if the nature of the alleged default is such that it cannot be reasonably cured within such thirty-day period, the thirty-day period shall be extended for the time reasonably required to complete the cure, so long as the defaulting Party commences the cure within the thirty-day period and diligently prosecutes the cure to completion thereafter.

9.3 Procedure Upon an Event of Default. After the occurrence of an Event of Default, the other Party may give notice of its intent to terminate this Agreement pursuant to Section 65868 of the Development Agreement Statute and any regulations of the Town implementing said section. Following notice of intent to terminate, or prior to instituting legal proceedings, the matter shall be scheduled for consideration and review in the manner set forth in Sections 65865, 65867 and 65868 of the Development Agreement Statute and Town regulations implementing said sections by the Town within thirty (30) days. Following consideration of the evidence presented in said review before the Town and an additional 30-day period to cure, the Party alleging the default by the other Party may institute legal proceedings or may give written notice of termination of this Agreement to the other Party; provided, however, a Developer may only terminate this Agreement with respect to such portion of the Property then owned by such Developer, and the Town may only terminate this Agreement with respect to the portion of the Property then owned by the defaulting Developer. Evidence of default may also arise in the course of an annual review of this Agreement pursuant to Section 7.2. If a Developer is determined by the Town to be in default pursuant to the procedures for annual review, and after giving effect to the Developers' right of appeal of such determination to the Town Council as provided in Section 7.2.4, the Town may give a written Notice of Default pursuant to Section 9.2. If the alleged default is not cured within the cure period set forth in Section 9.2 or within such longer period specified in the Town's Notice of Default, or if the defaulting Developer waives its right to cure such alleged default in writing, this Agreement may be terminated by the Town with respect to the portion of the Property then owned by such defaulting Developer.

9.4 Remedies. Upon an Event of Default, the non-defaulting Parties may pursue any remedy available at law or in equity, including, but not limited to, termination of this Agreement, specific performance, suits for declaratory or injunctive relief, and/or suits for mandamus or special writs; provided, however, that each Party hereby waives any right to sue or recover monetary damages for any default hereunder, other than the recovery of monetary amounts to which such Party is entitled under express provisions of this Agreement. All

remedies available to a Party under this Section 9.4 shall be cumulative and not exclusive of the other, and the exercise of one or more of these remedies shall not constitute a waiver or election with respect to any other available remedy.

9.5 No Cross-Defaults. The rights and obligations of each Developer and successor Owner are separate from the rights and obligations of all other Developers and Owners and may be assigned separately as provided in Section 8.1 and enforced separately. A default by any one or more Developers (or successor Owners) under this Agreement shall not constitute a default by any other Developer (or successor Owner) or result in the termination of this Agreement or the vested development rights provided herein as to any other Developer (or successor Owner). Master Developer shall have obligations hereunder only to the extent of its obligations as a Developer and Owner.

## **ARTICLE 10 AMENDMENTS; TERMINATION**

10.1 Amendments. Except as set forth in Section 3.1, this Agreement may be modified, amended and/or extended only by mutual written consent of the Parties and shall be approved in the same manner as adoption of this Agreement, by ordinance as set forth in the Development Agreement Statute.

10.2 Release. Upon the transfer or conveyance of any residential Lot or condominium unit to a residential owner, this Agreement shall automatically terminate and cease to be an exception to title with respect to such Lot or unit. Notwithstanding the automatic nature of such termination, within ten (10) days after receipt of a written request from a Developer or the residential owner, the Town shall execute and deliver any recordable documents necessary to evidence such termination. Upon the completion of the obligations set forth in this Agreement related to a Lot(s), upon the Town's receipt of written request, the Town shall execute and deliver any recordable documents necessary to release such Lot(s) from this Agreement.

10.3 Effect of Expiration/Termination. Upon expiration or termination of this Agreement: (a) no Party shall have any further rights or obligation hereunder except for matters which accrued prior to such expiration or termination and matters which specifically survive expiration or termination under the express terms of this Agreement; and (b) the underlying Project Approvals shall remain in full force and effect.

## **ARTICLE 11 MISCELLANEOUS**

11.1 Attorney's Fees. If any legal action or mediation or arbitration proceeding is brought by any Party because of a breach of this Agreement or to enforce any provision hereof, the prevailing Party shall be entitled to recover from the losing Party its reasonable attorneys' fees and costs. The "prevailing party" shall be that Party receiving substantially the relief sought in the action or proceeding.

11.2 Construction, Interpretation. This Agreement has been reviewed and revised by legal counsel for both Developers and the Town, and no presumption or rule that



with a copy to: Peter E. Tracy, Town Attorney  
P.O. Box 485  
Bishop, CA 93515

Developers: Intrawest Corporation  
Attn: Doug Ogilvy  
P.O. Box 2789  
[587 Old Mammoth Road]  
Mammoth, CA 93546

with a copy to: David Kleinkopf, Esq.  
Jacobs, Chase, Frick, Kleinkopf & Kelley LLC  
Independent Plaza  
1050 17th Street  
Suite 1500  
Denver, CO 80265

11.9 Private Undertaking. It is expressly understood and agreed by the Parties that the development contemplated by this Agreement is a private development, that no Party is acting as the agent of any other Party in any respect hereunder, and that Developers shall have full power and exclusive control over their respective properties subject only to the limitations and obligations of Developers under the Vested Rules and this Agreement. Nothing contained in this Agreement or in any document executed in connection with this Agreement shall be construed as making the Town and Developers (or any of them) joint venturers or partners.

11.10 Recordation. The Town shall record this Agreement with the Mono County Recorder within ten (10) days after the Effective Date, pursuant to Development Agreement Statute Section 65868.5. Thereafter, if this Agreement is terminated, modified or amended as provided herein, the Town shall record notice of such action with the Mono County Recorder.

11.11 Section Headings. Article and Section headings in this Agreement are inserted for convenience only and are not intended to be used in interpreting or construing the terms, covenants or conditions of this Agreement.

11.12 Severability. If any provision or term of this Agreement, or the application of any provision or term of this Agreement to any particular situation, is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the Agreement shall be unaffected and shall remain in full force and effect unless enforcement of the Agreement, with such invalidation, would be unreasonable or inequitable under the circumstances or would frustrate the purposes of the Agreement or the rights and obligations of the Parties thereunder.

11.13 Successors and Assigns; Covenants Running with the Land. Subject to the provisions of Section 8.1 governing assignment and the provisions for release set forth in Sections 8.1 and 10.2, the rights and obligations of Developers under this Agreement shall be

binding upon and inure to the benefit of successor Owners of all or any portion of the Property and shall be covenants running with the land.

11.14 Third-Party Beneficiaries. This Agreement is made and entered into for the sole protection and benefit of the Parties and their successors and assigns, including the Owners. No other Person shall have any right of action based upon any provision of this Agreement.

11.15 Unavoidable Events. In addition to specific provisions of this Agreement, performance by any Party hereunder shall not be deemed to be in default where delays or defaults are due to war, insurrection, strikes, walkouts, riots, floods, earthquakes, fires, casualties, acts of God, governmental restrictions imposed or mandated by governmental entities (but only as to delays or performance by Developers), enactment of conflicting state or federal laws or regulations (but only if the Party claiming delay complies at all times with the provisions of this Agreement pertaining to such conflicting laws), delays caused by the delay or failure by any entity other than the Party claiming such delay to provide financing for or construction of needed public facilities or infrastructure as contemplated or required by this Agreement, delays due to the enforcement of environmental regulations, litigation or similar bases for excused performance ("Unavoidable Event"). Upon the occurrence of an Unavoidable Event, the time for performance shall be extended, to the extent reasonably required as a result of the Unavoidable Event.

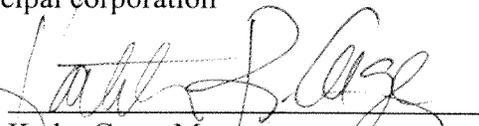
11.16 Waiver. No waiver of any provision of this Agreement shall be effective unless it is in writing and signed by a duly authorized representative of the Party against whom enforcement of the waiver is sought. No waiver of any right or remedy shall be deemed a waiver of any right or remedy with respect to any other occurrence or event.

IN WITNESS WHEREOF, the Parties have executed this Development Agreement to be effective as of the Effective Date first set forth above.

*[Signature Page to Development Agreement]*

TOWN:

THE TOWN OF MAMMOTH LAKES,  
a municipal corporation

By:   
Kathy Cage, Mayor

By:   
Stephen B. Julian, Town Manager

APPROVED AS TO FORM AND LEGALITY:

By:   
Peter Tracy, Town Attorney

State of CALIFORNIA

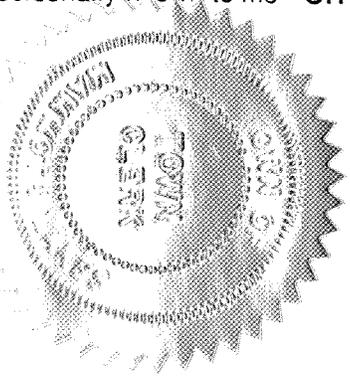
County of MONO

DOC # 2002002529  
Page 33 of 89

On 3-20-02 before me, ANITA HATTER, TOWN CLERK  
DATE NAME, TITLE OF OFFICER - E.G., "JANE DOE, NOTARY PUBLIC"

personally appeared Stephen B. Julian  
NAME(S) OF SIGNER(S)

personally known to me - OR -  proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



ANITA HATTER, TOWN CLERK  
TOWN OF MAMMOTH LAKES

WITNESS my hand and official seal.

Deeita Hall  
SIGNATURE OF ~~NOTARY~~ TOWN CLERK

**OPTIONAL SECTION**

**CAPACITY CLAIMED BY SIGNER**

Though statute does not require the Notary to fill in the data below, doing so may prove invaluable to persons relying on the document.

- INDIVIDUAL
- CORPORATE OFFICER(S)  
TITLE(S) \_\_\_\_\_
- PARTNER(S)  LIMITED  GENERAL
- ATTORNEY-IN-FACT
- TRUSTEE(S)
- GUARDIAN/CONSERVATOR
- OTHER: \_\_\_\_\_

**SIGNER IS REPRESENTING:**

NAME OF PERSON(S) OR ENTITY(IES)  
\_\_\_\_\_  
\_\_\_\_\_

**OPTIONAL SECTION**

THIS CERTIFICATE MUST BE ATTACHED TO THE DOCUMENT DESCRIBED AT RIGHT:

TITLE OR TYPE OF DOCUMENT \_\_\_\_\_

Though the data requested here is not required by law, it could prevent fraudulent reattachment of this form.

NUMBER OF PAGES \_\_\_\_\_ DATE OF DOCUMENT \_\_\_\_\_

SIGNER(S) OTHER THAN NAMED ABOVE \_\_\_\_\_

State of CALIFORNIA

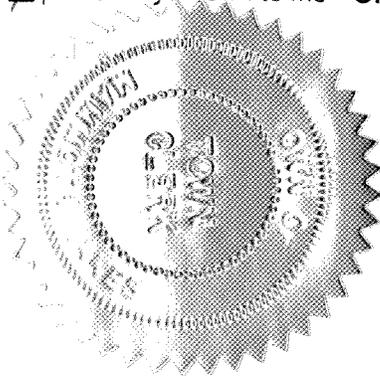
County of MONO

DOC # 2002002529  
Page 34 of 89

On 3-20-02 before me, ANITA HATTER, TOWN CLERK  
DATE NAME, TITLE OF OFFICER - E.G., "JANE DOE, NOTARY PUBLIC"

personally appeared Kathleen R. Cage  
NAME(S) OF SIGNER(S)

personally known to me - OR -  proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



ANITA HATTER, TOWN CLERK  
TOWN OF MAMMOTH LAKES

WITNESS my hand and official seal.

[Signature]  
SIGNATURE OF ~~NOTARY~~ TOWN CLERK

**OPTIONAL SECTION**  
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TITLE(S) \_\_\_\_\_
- PARTNER(S)  LIMITED  
 GENERAL
- ATTORNEY-IN-FACT
- TRUSTEE(S)
- GUARDIAN/CONSERVATOR
- OTHER: \_\_\_\_\_

**SIGNER IS REPRESENTING:**  
NAME OF PERSON(S) OR ENTITY(IES)

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State of CALIFORNIA

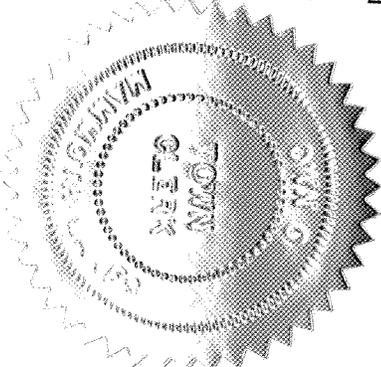
County of MONO

DOC # 2002002529  
Page 35 of 89

On 3-20-02 before me, ANITA HATTER, TOWN CLERK  
DATE NAME, TITLE OF OFFICER - E.G., "JANE DOE, NOTARY PUBLIC"

personally appeared Steve Place  
NAME(S) OF SIGNER(S)

personally known to me - OR -  proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



ANITA HATTER, TOWN CLERK  
TOWN OF MAMMOTH LAKES

WITNESS my hand and official seal.

Anita Hatter  
SIGNATURE OF ~~NOTARY~~ TOWN CLERK

**OPTIONAL SECTION**

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TITLE(S) \_\_\_\_\_
- PARTNER(S)  LIMITED  
 GENERAL
- ATTORNEY-IN-FACT
- TRUSTEE(S)
- GUARDIAN/CONSERVATOR
- OTHER: \_\_\_\_\_

**SIGNER IS REPRESENTING:**

NAME OF PERSON(S) OR ENTITY(IES)  
\_\_\_\_\_  
\_\_\_\_\_

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NUMBER OF PAGES \_\_\_\_\_ DATE OF DOCUMENT \_\_\_\_\_

SIGNER(S) OTHER THAN NAMED ABOVE \_\_\_\_\_

*[Signatures Continue]*

[Signature Page to Development Agreement]

DEVELOPER:

INTRAWEST CALIFORNIA HOLDINGS, INC.,  
a California corporation

By:

*[Signature]*  
Douglas Ogilvy, Vice President

By:

*[Signature]*  
Phil Romero, Assistant Secretary

STATE OF CALIFORNIA )

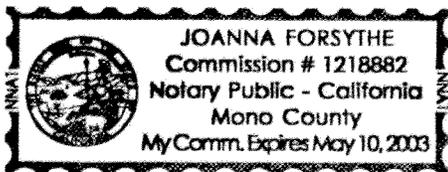
) ss.

COUNTY OF MONO )

On March 6, 2002, before me, Joanna Forsythe, a Notary Public in and for said state, personally appeared DOUGLAS OGILVY and PHIL ROMERO, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity, and that by his/her/their signature on the instrument, the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

(SEAL)



*[Signature]*  
Notary Public in and for said State

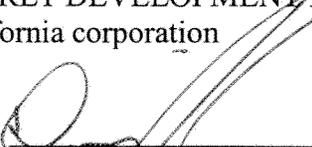
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[Signature Page to Development Agreement]

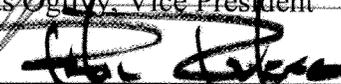
DEVELOPER:

MINARET DEVELOPMENT I CORP.,  
a California corporation

By:

  
Douglas Ogilvy, Vice President

By:

  
Phil Romero, Assistant Secretary

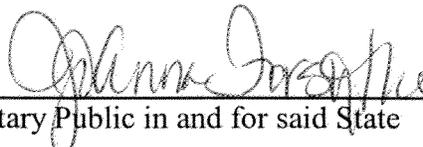
STATE OF CALIFORNIA )

) ss.

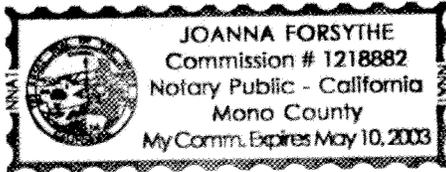
COUNTY OF MONO )

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WITNESS my hand and official seal.

  
Notary Public in and for said State

(SEAL)



[Signatures Continue]



[Signature Page to Development Agreement]

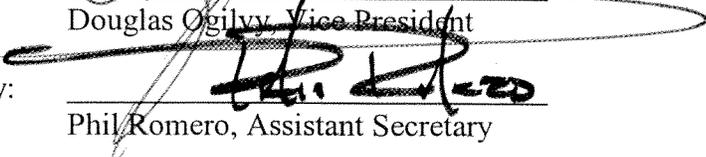
DEVELOPER:

JUNIPER PROPERTIES, INC.,  
a California corporation

By:

  
Douglas Ogilvy, Vice President

By:

  
Phil Romero, Assistant Secretary

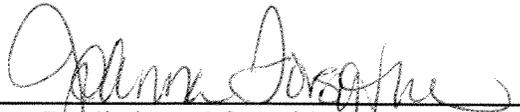
STATE OF CALIFORNIA )

) ss.

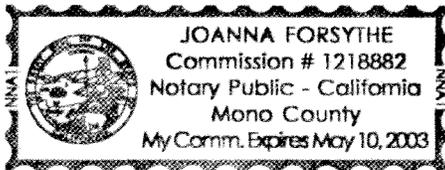
COUNTY OF MONO )

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WITNESS my hand and official seal.

  
Notary Public in and for said State

(SEAL)



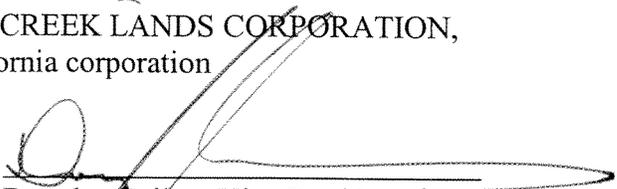
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[Signature Page to Development Agreement]

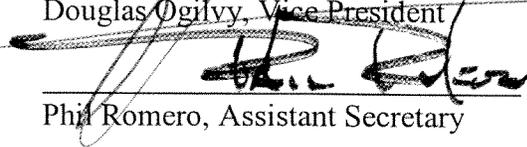
DEVELOPER:

DEER CREEK LANDS CORPORATION,  
a California corporation

By:

  
Douglas Ogilvy, Vice President

By:

  
Phil Romero, Assistant Secretary

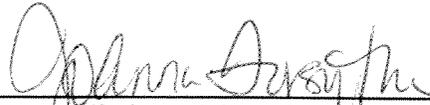
STATE OF CALIFORNIA )

) ss.

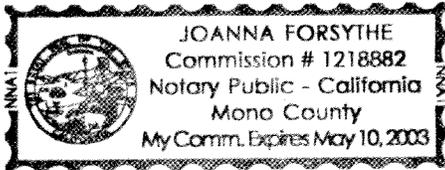
COUNTY OF MONO )

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WITNESS my hand and official seal.

  
Notary Public in and for said State

(SEAL)



[End of Signatures]

**LIST OF EXHIBITS**

- A Legal Descriptions and Plat Maps of Property
  - A-1 Sierra Star
  - A-2 The Village at Mammoth
  - A-3 The Crest Parcel
  - A-4 The Bridges Parcel
  - A-5 Canyon Lodge Parcel
  - A-6 Twin Lakes Court Parcel
  
- B Previously Developed Projects
  - B-1 Legal Description
  - B-2 Plat Map
  
- C CFD Facilities
  
- D Vested Rules
  
- E Project Assistance and Community Benefits
  
- F Surface Parking Site
  - F-1 Legal Description
  - F-2 Plat Map
  
- G Canyon Boulevard Site
  - G-1 Legal Description
  - G-2 Plat Map
  
- H Grant of Easement for Public Access
  
- I Programming Plan
  
- J Open Space, Park and Recreation Requirement
  
- K Maintenance District Area
  
- L Assignment Agreement [Form]
  
- M Subordination Agreement [Form]
  
- N Phasing Plan
  - N-1 Phase 1
  - N-2 Phase 2
  - N-3 Phase 3

EXHIBIT A

LEGAL DESCRIPTIONS AND PLAT MAPS OF PROPERTY

**EXHIBIT A-1**

**SIERRA STAR**  
**LEGAL DESCRIPTION**

Lot 1, Lot 2, and the REMAINDER of Tract No. 36 – 192A per Map recorded in Book 10 of Tract Maps, at Pages 55 through 55A, in the Office of the County Recorder, Mono County, State of California.

TOGETHER with Lot Line Adjustment Parcel 1 per Certificate of Compliance recorded in Volume 874, Page 311 of the Official Records of said County.



**EXHIBIT A-2**

**THE VILLAGE AT MAMMOTH**  
**LEGAL DESCRIPTION**

Parcel 1:

Lot 1 and the Remainder of Tract No. 36-193A, in the Town of Mammoth Lakes, County of Mono, State of California, as per map recorded in Book 10 of Tract Maps at Pages 60 through 60C, in the Office of the County Recorder of said County.

Parcel 2:

That property in the Town of Mammoth Lakes, County of Mono, State of California shown as Parcel 2, Parcel 3, and Parcel 5 on Record of Survey No. 36-78 per map recorded in Record of Survey Map Book 2 at Page 100 on file in the Office of the County Recorder of said County.

Parcel 3:

That portion of the Northeast Quarter of the Northwest Quarter of Section 34, Township 3 South, Range 27 East, MDM Parcel described as Parcel DK-003446-01-01 per deed executed by the State of California, in favor of Intrawest California Holdings, Inc., a California Corporation, Inc., and recorded May 16, 20001 as Instrument Number 2001003305 in the office of the County Recorder of said County.

Parcel 4:

Parcel 6, Parcel 7, Parcel 11, and Parcel 12 on Record of Survey No. 36-78 per map recorded in Record of Survey Map Book 2 at Page 100 on file in the Office of the County Recorder, Mono County, State of California.

TOGETHER with the Subject Parcel of Quiet Title Action filed as March 9, 1993, Case No. 10700, Mono County Superior Court shown on Record of Survey No. 36-107, per map recorded in Record of Survey Map Book 2 at Page 144 on file in the Office of the County Recorder, Mono County, State of California.

EXCEPT therefrom any portions lying within that portion of said land described as Parcels 3443-1, 3443-2, and 3443-3 per deed executed by Intrawest California Holdings, Inc., in favor of the State of California and recorded May 16, 2001 as Instrument No. 2001003307 in the office of the County Recorder of said County.

Parcel 5:

That portion of land in the Town of Mammoth Lakes, County of Mono, State of California described in Individual Grant Deed recorded in Volume 499 of Official Records at Page 515 in the Office of the County Recorder of said County.

Parcel 6:

Parcel No. 1 in the Town of Mammoth Lakes, County of Mono, State of California, as shown on Parcel Map recorded in Book 7, Page 30 of Maps in the Office of the County Recorder of said County.

**EXHIBIT A-2**  
**THE VILLAGE AT MAMMOTH**  
**PLAT MAP**



**EXHIBIT A-3**

**THE CREST PARCEL**  
**LEGAL DESCRIPTION**

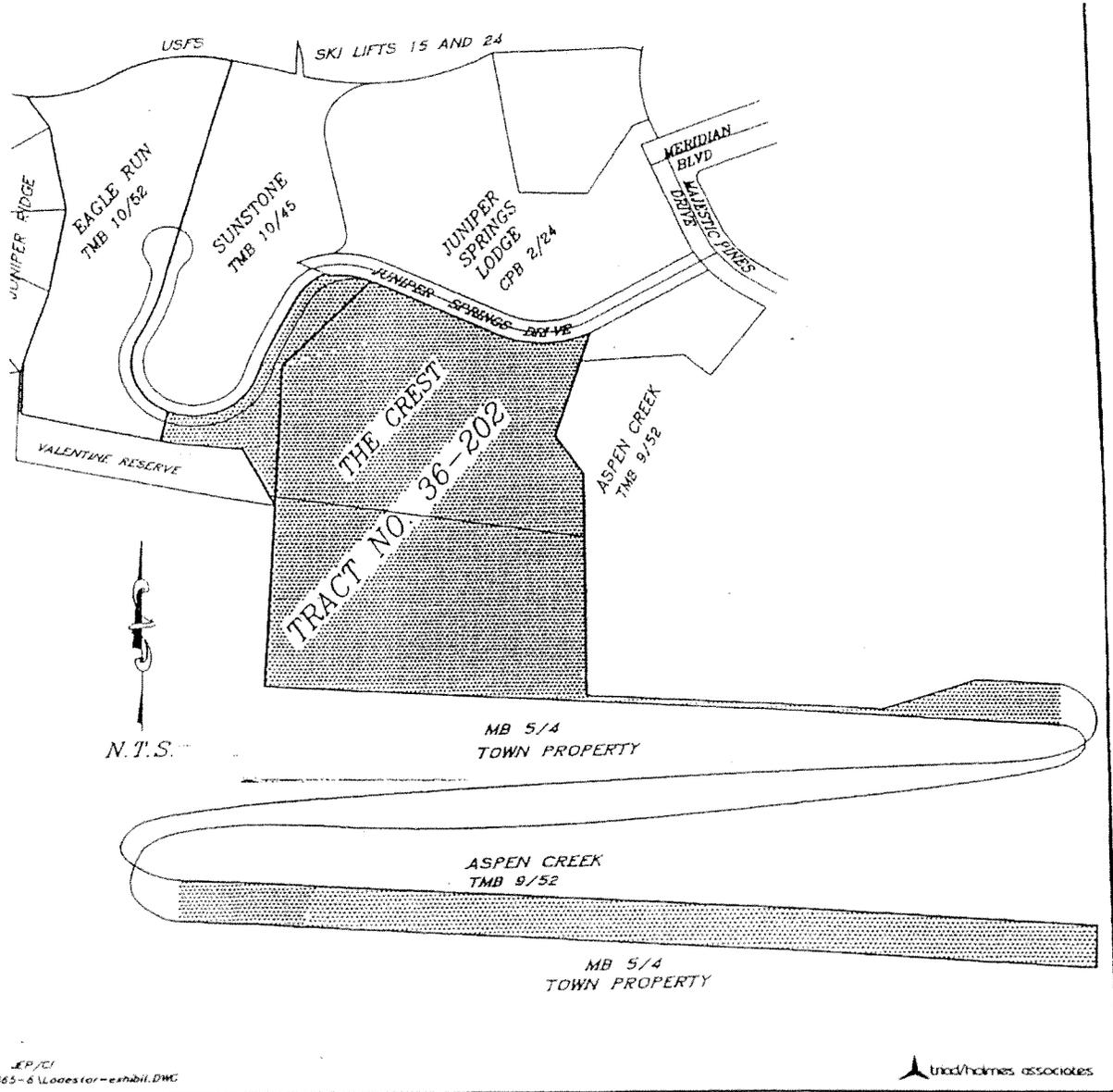
Parcel 1:

Lot 5 of Tract No. 36-181, in the Town of Mammoth Lakes, County of Mono, State of California, as per map recorded in Book 10 of Tract Maps, at Pages 40 through 40B, in the Office of the County Recorder of said County.

Parcel 2:

The "REMAINDER" of Tract No. 36-190, in the Town of Mammoth Lakes, County of Mono, State of California, as per map recorded in Book 10, Pages 52 through 52A of Tract Maps, in the Office of the County Recorder of said County.

**EXHIBIT A-3**  
**THE CREST PARCEL**  
**PLAT MAP**



**EXHIBIT A-4**

**THE BRIDGES PARCEL**  
**LEGAL DESCRIPTION**

The Remainder Parcel of Tract No. 36 – 189 per Tract Map amending Tract No. 36 – 189 recorded in Book 10 of Tract Maps at Page 58, in the Office of the County Recorder, Mono County, State of California.

**EXHIBIT A-4**  
**THE BRIDGES PARCEL**  
**PLAT MAP**



**EXHIBIT A-5**

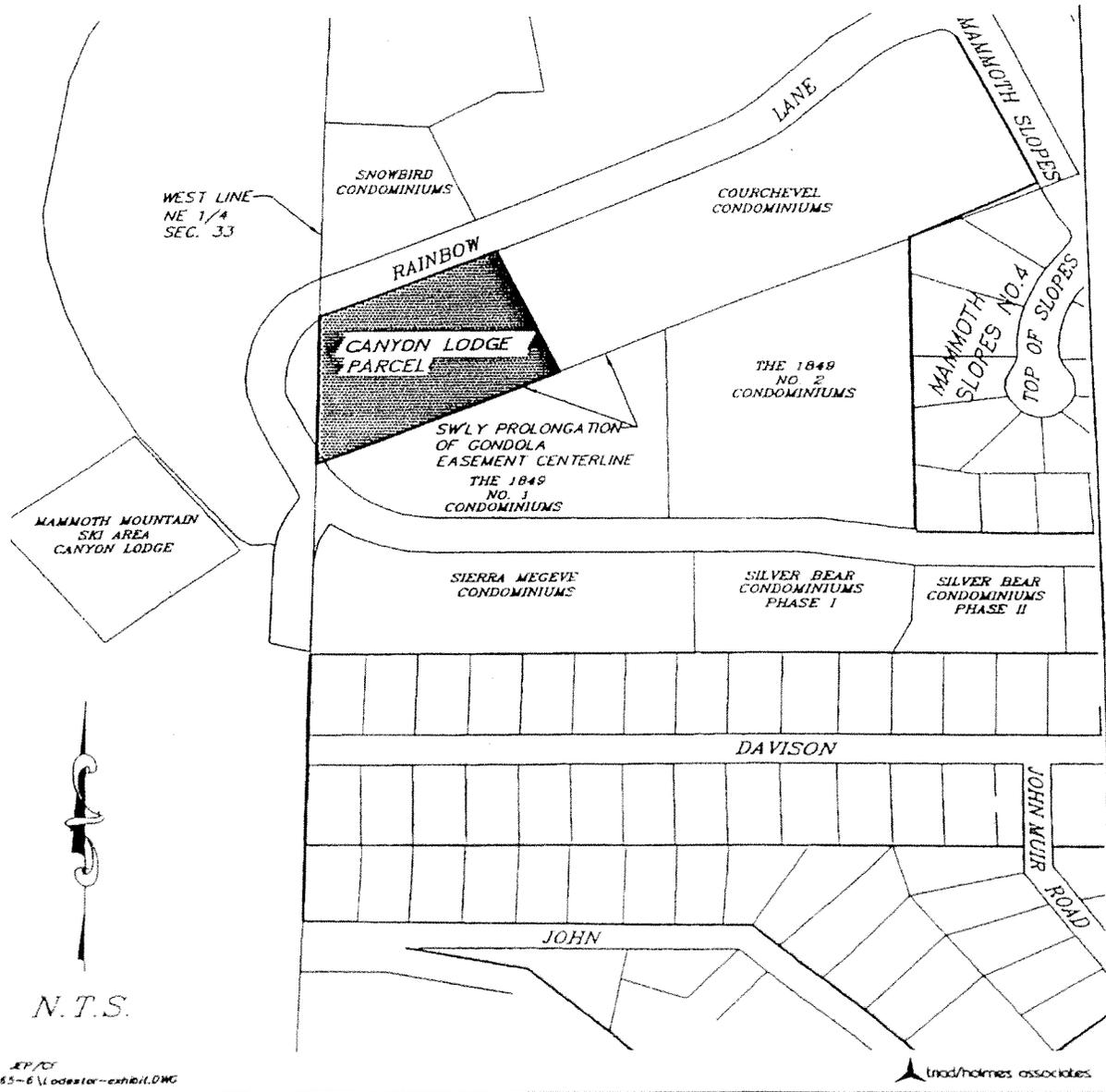
**CANYON LODGE PARCEL**  
**LEGAL DESCRIPTION**

That portion of the northeast quarter of Section 33, Township 3 South, Range 27 East, M.D.B. & M., in the County of Mono, State of California, according to the official plat on file in the Office of the Bureau of Land Management; described as follows:

Beginning at the intersection of the west line of said northeast quarter with the southwesterly prolongation of the centerline of that certain 20-foot strip of land for ski lift purposes shown on the map of Mammoth slopes, Unit No. 3, records of said County of Mono; thence along said prolongation North  $66^{\circ}20'40''$  East, 380.37 feet; thence leaving said prolongation North  $23^{\circ}25'58''$  West 221.00 feet; thence South  $66^{\circ}34'02''$  West; 222.69 feet to said west line of said northeast quarter; thence along said west line South  $01^{\circ}20'26''$  West, 245.03 feet to the point of beginning.

NOTE: This legal description was obtained from legal descriptions in recorded deeds and does not mathematically close. The resolution of this discrepancy is deferred to a later date.

**EXHIBIT A-5**  
**CANYON LODGE PARCEL**  
**PLAT MAP**



**EXHIBIT A-6**

**TWIN LAKES COURT**  
**LEGAL DESCRIPTION**

Parcel 1:

Lots 37, 38 and 39 of Mammoth Slopes Unit No. 3, in the County of Mono, State of California, as per Map recorded in Book 5, Page 85, through 85E of Maps, in the Office of the County Recorder of said County.

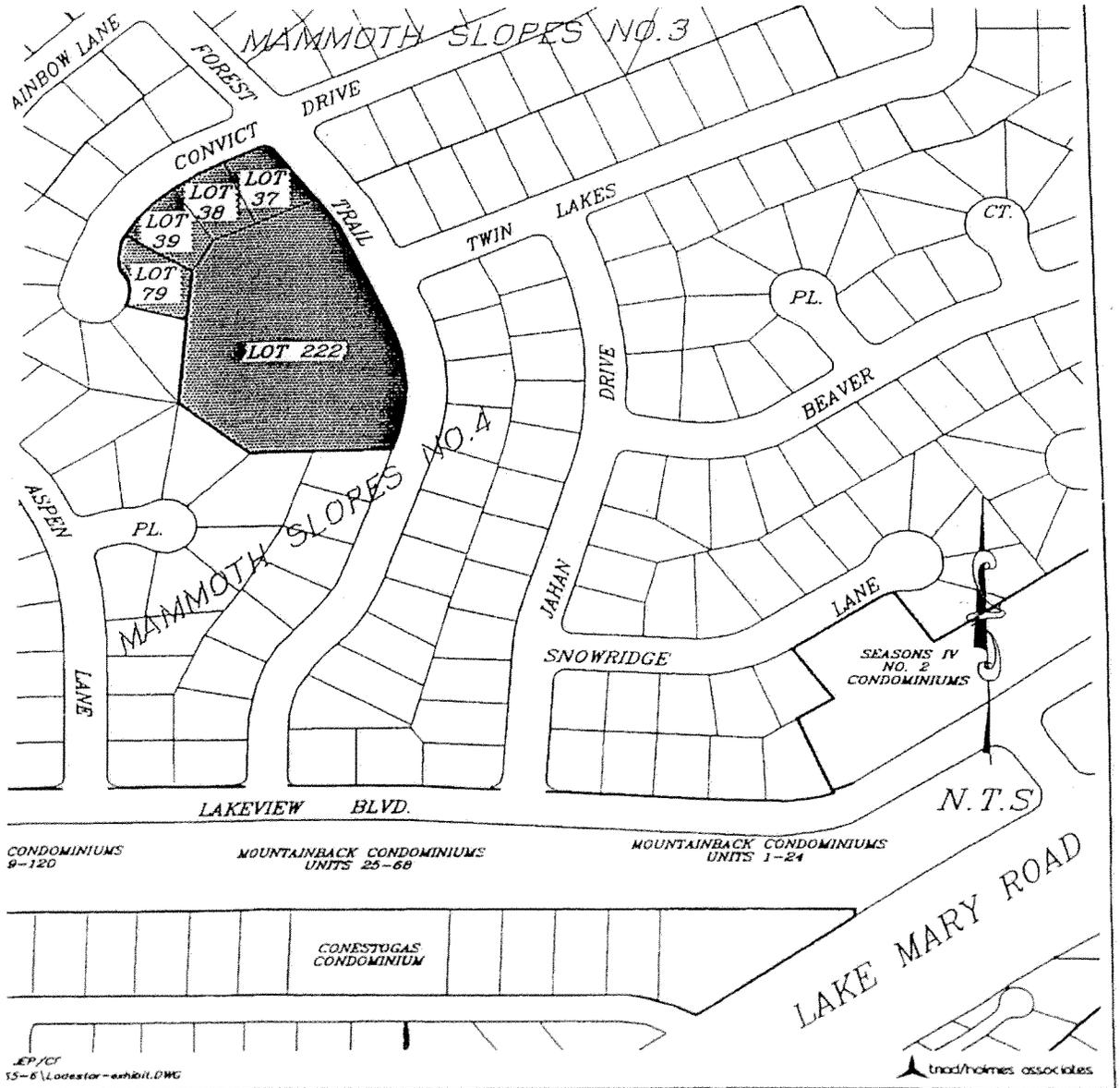
Parcel 2:

Lot 222 of Mammoth Slopes Unit No. 4, in the County of Mono, State of California, as per Map recorded in Book 5, Pages 111 to 111D of Maps, Records of said County.

Parcel 3:

Lot 79, Mammoth Slopes Unit No. 4, in the County of Mono, State of California, as per Map recorded in Book 5, pages 111, 111A, 111B, 111C and 111D of Maps, in the Office of the County Recorder of said County.

**EXHIBIT A-6**  
**TWIN LAKES COURT**  
**PLAT MAP**



**EXHIBIT B-1**

**PREVIOUSLY DEVELOPED PROJECTS**  
**LEGAL DESCRIPTION**

**MAMMOTH GREEN AT SIERRA STAR:**

Lot 1 of Tract No. 36-191, in the Town of Mammoth Lakes, County of Mono, State of California, as per map recorded in Book 10, of Tract Maps, at Page 53, in the Office of the County Recorder of said County.

TOGETHER with "Units" numbered 101 through 123, 201 through 223, the "Common Area" and the "Exclusive Use Common Area" as shown on the Condominium Plan recorded in Book 2 of the Condominium Plans at Pages 30 through 30E in the Office of said County Recorder.

**THE TIMBERS:**

Lots 1 through 32 and Lots A and B of Tract No. 36 – 182 as recorded in Book 10 at Pages 43 through 43C of Tract Maps on file in the Office of the County Recorder, Mono County, State of California.

**EAGLE RUN:**

Lot 1 of Tract 36-190 as recorded in Book 10, Page 52 of Tract Maps, on file in the office of the County Recorder, Mono County, California.

TOGETHER with "Units" numbered 101 through 118 and Units numbered 201 through 218, the "Common Area," and the "Exclusive Use Common Area" as shown on the Condominium Plan recorded in Book 2, at Pages 29 through 29E of Condominium Plans on file in the Office of said County Recorder.

**SUNSTONE:**

Lot 1, Tract No. 36-184, per Map recorded in Book 10 of Tract Maps, at Pages 45 through 45-A, in the Office of the County Recorder, Mono County, California.

TOGETHER with "Units" numbered 101, 103, through 109, 111 through 116, 118, 123 through 132, 201, 203 through 209, 211 through 216, 218, 220, 223 through 232, 303 through 309, 311 through 316, 318, and 320 through 331, the "Common Area," and the "Exclusive use Common Area" as shown on the Condominium Plans recorded in Book 2 of Condominium Plans at Pages 23 through 23E in the Office of said County Recorder.

**JUNIPER SPRINGS LODGE:**

Lot 1 and Lot 2 of Tract No. 36 – 181, in the Town of Mammoth Lakes, County of Mono, State of California, as per Map recorded in Book 10 of Tract Maps, at Pages 40 through

40B, in the Office of the County Recorder of said county as merged per Certificate of Compliance recorded in book 799, Page 253 of Official Records in the office of the County Recorder of said County.

TOGETHER with "Residential Units" numbered 110, 112 through 119, 201 through 203, 206, 208 through 227, 229 through 247, 249, 251, 301 through 318, 320 through 327, 329 through 347, 349, 351, 401 through 417, 420 through 427, 429 through 447, 449, 451, 520 through 527, 530 through 547, 549 and "Commercial Units" designated C1 through C5, the "Common Area" and "Exclusive Use Common Areas" as shown on the Condominium Plan recorded in Book 2 at Pages 24 through 24I in the Office of said County Recorder.



**EXHIBIT C**

**CFD FACILITIES**

**DESCRIPTION OF FACILITIES TO BE FINANCED BY COMMUNITY FACILITIES  
DISTRICT NO. 2001-1 (NORTH VILLAGE AREA)**

It is intended that the CFD will finance all or a portion of the costs of the following:

**Minaret Road**

*Miller's Siding centerline to Forest Trail on west side, North of Berger property to Forest Trail on east side*

Improvements proposed:

Caltrans standard curb, gutter and sidewalk with pavers, additional pavement where required, (may require A.C. cap full width of the street where trenching for utilities occurs), snow poles and sleeves, and street lights and conduits along both sides of the street, upgrade of the traffic signal at Main Street, waterline upgrades, sewer lateral reconnects, street trees, mobilization, traffic control and erosion/sedimentation control. Interim improvements along the east side of Minaret Road will include A.C. berm and sidewalk until permanent concrete curb, gutter and sidewalk are constructed in a future phase. Water main upgrades and selected widening areas extend to Main Street.

**Lake Mary Road**

*Minaret Road to New Canyon Boulevard*

Improvements proposed:

A 24" storm drain line and a 30" storm drain line with inlet and junction structures, mobilization, traffic control and erosion/sedimentation control.

**Canyon Boulevard**

*Hillside Drive to Lake Mary Road*

Improvements proposed:

Rolled curb, gutter and sidewalk, 42 to 48 feet of pavement, snow poles and sleeves, street lights and conduits, earthwork, 48" storm drain and junction structure, underground overhead utilities, new traffic signal at Lake Mary Road, sewer and water facilities, demolition, earthwork, rock-stack retaining walls, reinforced concrete retaining walls, mobilization, traffic control and erosion/sedimentation control.

Hillside Drive

Canyon Boulevard to 417' South

Improvements proposed:

Rolled curb, gutter, additional half-width pavement as required, snow poles and sleeves, sidewalk, mobilization, traffic control and erosion/sedimentation control.

Canyon Boulevard to Forest Trail

Improvements proposed:

Water main up-grades.

Forest Trail

Hillside Drive to Minaret Road

Improvements Proposed:

Rolled curb, gutter, snow poles and sleeves south side of the street (except along parcel at the corner of Hillside Drive), 6 foot wide sidewalk, additional half-width pavement where required, street lights and conduits, underground overhead utilities, waterline upgrades, mobilization, traffic control and erosion/sedimentation control.

Minaret Road to Berner Street

Improvements proposed:

Rolled curb, gutter and sidewalk, snow poles and sleeves south side of the street, additional half-width pavement where required, street lights and conduits, a 48" storm drain line and junction structures, waterline upgrades, mobilization, traffic control and erosion/sedimentation control.

Berner Street

Forest Trail to Existing Berner Street

Improvements proposed:

Rolled curb, gutter, snow poles and sleeves both sides of the street, minimum of 32 feet new pavement, sidewalk on the west side of the street only, street lights and conduits at Forest Trail and existing Berner Street intersections, 48" storm drain and junction structures, sewer and water lines mobilization, traffic control and erosion/sedimentation control.

Existing Berner Street

Improvements proposed:

Rolled curb, gutter and sidewalk, snow poles and sleeves, through the curb return on the north side of the street and to the easterly property line of Intrawest property on the south

side of the street, additional half-width pavement where required, mobilization, traffic control and erosion/sedimentation control.

### Other Improvements

#### Ski Back Bridge

Improvements proposed:

Bridge across Forest Trail to The Village at Mammoth. Improvements to include an elevator and stairs on the south side of Forest Trail.

#### Roundabout

Improvements proposed:

In lieu of a traffic signal, a modern roundabout is to be constructed at the intersection of Minaret Road with Forest Trail. Improvements include sidewalks, bike lanes, landscaping, storm drains, street lights and conduits, and other improvements as required by Caltrans and the Town. The existing overhead utilities across the intersection will be placed underground.

#### Storm Drain Realignment

Improvements Proposed:

A 72" storm drain line to replace an existing 48"-54" storm drain that is undersized. The proposed line will follow a different alignment. The existing pipe will be removed within the Caltrans right of way and will be abandoned in place along Old Canyon Boulevard and Old Berner Street. Abandonment measures will be to slurry fill all pipe that will permanently remain underground. Construction of the new line will include inlets along Minaret Road immediately upstream of the crossing of the storm drain line across Minaret Road. The Public Improvements shall include the acquisition of right of way, the costs of design, engineering and planning, the costs of any environmental or traffic studies, surveys or other reports, landscaping and irrigation, soils testing, permits, plan check and inspection fees, insurance, legal and related overhead costs, coordination and supervision and any other costs or appurtenances related to any of the foregoing.

### **OTHER**

The CFD may also finance any of the following:

1. Bond related expenses, including underwriters discount, reserve fund, capitalized interest, bond and underwriters counsel and all other incidental expenses.
2. Administrative fees of the Town and the Bond trustee or fiscal agent related to the CFD and the Bonds.
3. Reimbursement of costs related to the formation of the CFD advanced by the Town or any related entity, or any landowner in the CFD, as well as reimbursement of any costs

advanced by the Town or any related entity, or any landowner in the CFD, for facilities, fees or other purposes or costs of the CFD.

**EXHIBIT D**

**VESTED RULES**

[As of the Effective Date]

1. Town of Mammoth Lakes General Plan
2. Project Approvals, as identified in Section 3.2 of the Agreement
3. Resolutions
  - 01-09 Establishes a Code Compliance Manual
  - 00-01 Amendments to General Bikeway Plan
  - 99-16 Public Facilities Director Authority to Execute Right-of-way Exemptions
  - 97-25 Amendments to Design Review Manual  
Design Review Manual  
Mammoth Lakes Trail System Plan
4. Municipal Code Sections
  - 1.04.050 Definitions
  - 1.08.020 County enactments to remain in effect
  - 1.08.030 Declaration of intent
  - 1.08.040 Substitution of reference to Town
  - 1.08.050 County ordinances – duration within Town
  - 1.08.060 County ordinances – superseding Town ordinances
  - 1.08.070 County enforcement – enforcement
  - 2.04.070 Appeals to Council
  - 2.04.080 Appeals notice – time limit – contents
  - 2.04.090 Appeals – hearings – notice
  - 2.04.100 Appeals – hearings – procedures
  - 3.12.030D Parking for transient uses
  - 5.16 Card rooms
  - 5.20 Bingo games
  - 5.24 Outdoor festivals
  - 5.28 Amplified public entertainment establishment
  - 8.16 Noise regulation
  - 8.24 Reclamation (as amended by ordinance 01-02)
  - 8.30 Particulate emissions regulations
  - 10.12.040 (Introduction and G only) No parking zones designated
  - 10.12.050 Exceptions
  - 10.12.100 Winter parking prohibition (as amended by Ordinance 01-06)
  - 12.04 Encroachments and excavations
  - 12.08 Land clearing, earthwork, and drainage facilities
  - 12.10 Floodplain management
  - Title 17 Zoning

5. Mono County Code – Title 17 – Subdivisions and Land Divisions (as amended by ordinance 86-01, Resolution 90-17 and Ordinance 97-06), excepting 17.24.020 Inspection Fee, 17.37.040 C1 and C2 Filing Fees, 17.40.010 Fees, 17.40.020 Time for Payment and all other references to fees; and also excepting where these provisions are superseded by the Subdivision Map Act and/or in conflict with the Subdivision Map Act.

## EXHIBIT E

### PROJECT ASSISTANCE AND COMMUNITY BENEFITS

As consideration for the Town's approval of this Development Agreement, the Developers, as their respective ownerships and interests dictate, will provide the Town with the following benefits. The Town Council has determined that the Town will receive substantial benefits from both the Projects and this Agreement. This Agreement will facilitate orderly growth and quality development in conformance with the goals and policies of the General Plan and the Vision Statement. The Agreement vests development standards which provides certainty that the Projects will be of high quality.

The Projects will provide substantial revenues to the Town, including property taxes, sales taxes, transient occupancy taxes, fees and other revenues. The Projects will provide additional lodging and housing opportunities, provide increased employment opportunities for residents, enhance and expand the Town's resort facilities and services, and promote the Town's image as a four-season destination resort community. The development of the Projects will create the confidence and economic stimulus for the development and/or redevelopment of the rest of the community.

The Projects will implement key goals of the General Plan, including development of a master planned, pedestrian oriented resort center, a range of visitor accommodations, new recreation and commercial facilities, a comprehensive transportation system, and provide for direct links to Mammoth Mountain Ski Area, all of which enhance the Town's image and serve to revitalize the Town's competitive position among resort communities.

Further, the Projects will provide significant public dedications, facilities and improvements as outlined in the following sections of this Exhibit E.

The provision of the above would not be possible without this Agreement which provides the Developer(s) with assurances, commitments and certainty to obtain financing for the development of the Projects and the public improvements and produce them in a timely fashion.

1. Canyon Boulevard Site. The Developer of The Village at Mammoth Project will irrevocably offer to dedicate to the Town in fee simple title, the property legally described and depicted in Exhibit G attached to this Agreement ("Canyon Boulevard Site"), subject only to title matters reasonably acceptable to the Town, including an easement for access for the gondola which shall include restrictions on the type and height of any structure built within the easement area. Upon acceptance of the offer of dedication, the Town may, in the sole and unfettered discretion of the Town Council, use the site for any public purpose, including affordable housing. Development of the site for commercial use or market rate housing shall not be considered a public purpose.

The Design Guidelines approved for Phase I of The Village at Mammoth Project shall apply to the Canyon Boulevard Site notwithstanding conveyance to the Town. No density permitted under the existing North Village Specific Plan shall be transferred with the Canyon

Boulevard Site, and the Developer of The Village at Mammoth Project reserves the right to utilize the density approved for the Project pursuant to the North Village Specific Plan within property owned by such Developer or its Affiliates.

If the Town elects to provide public automobile parking on the Canyon Boulevard Site, the Town, acting on its own behalf or through a district, authority, or other public entity authorized by law for that purpose, shall have the right, in its sole and unfettered discretion, to select the method of financing, constructing, and operating such public parking in whole or in part. The Developers shall have no right or entitlement of any kind to the creation of public parking, preferential use of any public parking that may be created, or control of any other type or kind of use of the dedicated site by the Town other than as a member of the public.

Pursuant to the North Village Specific Plan, the offer of dedication shall be deemed complete satisfaction of Developers' duty or obligation to provide commercial parking for any or all commercial uses now or hereafter developed within The Village at Mammoth Project, including full build-out as permitted under the North Village Specific Plan. This paragraph is not intended to preclude voluntary cooperation by the Developer in pursuit of parking solutions, including, but not limited to, participation in an assessment district and/or obtaining financing from State or other sources.

The Town will monitor North Village parking and study the relationship of commercial, residential, and public parking to determine what, if any, changes in the parking standards for resort commercial/residential mixed use projects are either required or desirable. The Developers shall not oppose any such changes proposed by the Town, but such changes shall not apply to The Village at Mammoth Project unless the Developer thereof consents thereto. However, the Developer of The Village at Mammoth Project shall cooperate reasonably with the Town's efforts to monitor North Village parking and shall provide for the shared use of residential parking areas by commercial patrons, to the extent feasible and provided it does not substantially increase the cost of operating such facilities.

2. Surface Parking Site. Intrawest may develop the property legally described and depicted in Exhibit F attached to this Agreement ("Surface Parking Site") for temporary public parking in connection with the development of Phase I of The Village at Mammoth Project.

The Developer of The Village at Mammoth shall have the right to utilize all or a portion of the Surface Parking Site described on Exhibit F for temporary parking purposes. Improvements to the Surface Parking Site for such interim parking use shall be in conformance with the North Village Specific Plan and the conditions of approval for Phase 1 of The Village at Mammoth. However, in consideration of the offer of dedication of the Canyon Boulevard Site pursuant to Section 1 of this Exhibit E, the Developer of The Village at Mammoth Project shall not be required to reserve or use the Surface Parking Site to satisfy parking needs for The Village at Mammoth Project, and shall have the right to develop the Surface Parking Site or any portion thereof for any other use permitted by the North Village Specific Plan. The Developer of The Village at Mammoth Project shall have the right to use the Surface Parking Site for construction staging.

3. Participation in CFD. The Developer of The Village at Mammoth Project will participate in, and construct, \$8.2 million in public improvements to be acquired by the Town of Mammoth Lakes Community Facilities 2001-1 (North Village Specific Plan Area 1) ("CFD"), consisting of the CFD Facilities identified in Exhibit C attached to this Agreement, as more fully set forth in the governing documents for the CFD and the Acquisition Agreement relating thereto. Of the \$8.2 million, the Developer will construct \$7.6 million of public infrastructure in the North Village area that would have otherwise been constructed and paid for by the Town from a variety of funding sources. As such, the contribution by the Developer represents substantial benefits to the Town and its residents, including savings to the General Fund of about \$5.1 million, maintaining Development Impact Fee funds in the Streets and Traffic Signals/Storm Drainage categories thereby allowing for other streets and storm drainage projects to be funded and constructed throughout the Town, and advancing the timeframe for the commencement of construction for The Village at Mammoth Project and associated gondola to calendar year 2001.

4. Public Access; Events Programming. The Developer of The Village at Mammoth Project shall grant to the Town, pursuant to a recorded document, an easement for public access across the main plaza areas within The Village at Mammoth Project. Exhibit H attached to this Agreement is a form which has been approved by the parties to implement this right of public access for the plaza within Phase 1 of the Village at Mammoth. The access rights for subsequent phases shall be substantially in conformance with the terms and conditions set forth in Exhibit H. The access license shall be effective from and after the Town's issuance of certificates of occupancy (or the substantial equivalent) for the areas affected by such license.

In addition, the Developer of The Village at Mammoth Project and the Town have approved criteria for implementing the programming of Town-sponsored events at The Village of Mammoth plazas ("Programming Plan"), a copy of which is attached to this Agreement as Exhibit I. The Programming Plan will allow the Town to conduct, or otherwise arrange or provide for, a variety of community and civic events, including but not limited to cultural activities, public entertainment, and public holiday celebrations, within The Village at Mammoth plazas on the terms and conditions described in the Programming Plan.

The access license and the Programming Plan shall be binding upon successor owners of the plazas described therein, including homeowners' associations, and provisions requiring compliance with the access easement and the Programming Plan shall be included in the recorded CC&Rs for The Village at Mammoth Project. The granting of this easement for public access and the right to conduct and/or facilitate community and civic events is of value to the Town and its residents, the business community and visitors to the Town. The provision of such a highly visible, festive, and significant public venue could not be otherwise provided except at great public expense to the Town and its residents. The Developer of The Village at Mammoth Project, or its successor or assigns, shall at all times own, control, and maintain such spaces and shall have the right to make and enforce reasonable rules and regulations regarding use by the Town and/or the public, as set forth in Exhibits H and I.

5. Conference Center. The Master Developer shall negotiate reasonably with the Town regarding public participation in a conference center facility proposed within the Sierra Star Project or elsewhere, and providing for public use of and access to the facility at a level

commensurate with the Town's financial participation in the project. The granting of these rights to the site or facility is of value to the Town and its residents, the business community and visitors to the Town because participation by the Town in a Developer facility would reduce the risk and financial burden of providing a Town facility and would facilitate an anticipated rise in shoulder season occupancy for all transient occupancy facilities in Town.

6. Mammoth Community Housing Foundation. The Town is in the process of forming the Mammoth Community Housing Foundation to support, encourage, and provide affordable housing within the Town. The Master Developer agrees to participate in the Mammoth Community Housing Foundation when it is formed, on terms and conditions mutually acceptable to all participants. The Master Developer also agrees to lend its housing and development expertise and business acumen to actively support the activities of the Housing Foundation and to make an initial \$67,500 cash contribution toward the formation of the Housing Foundation upon the request of the Town and will support the efforts of the Housing Foundation through an ongoing commitment of financial and/or other resources. The Town and its residents will benefit from the formation of the Housing Foundation and its efforts to provide and maintain an affordable housing base within the Town.

7. Transit System. The Town is in the process of forming a community-wide, year-round transit system to service the Mammoth community. Developers agree to participate in the transit system on a fair share basis when it is formed, on the terms approved for Phase 1 of The Village at Mammoth, as set forth in Condition 18 of the Conditions of Approval for Tentative Tract Map (TTM) 36-193, adopted by the Planning Commission by Resolution No. PC-00-59 on December 15, 2000.

8. Ambassador Program. The Master Developer agrees to support and participate in the activities of a Mammoth Lakes Ambassador Program, the goal and objective of which will be to promote excellence in customer service to visitors and residents among all of the businesses in the Town. The program will provide training to the full-time and part-time employees of Mammoth businesses and provide incentives to maintain and improve customer service and satisfaction. The economy of the Town is visitor-services based and dependent upon excellence in customer service. Programs to improve and maintain customer service are of immense value to the business community of Mammoth and provide a significant value to the Town.

**EXHIBIT F-1**

**SURFACE PARKING SITE**  
**LEGAL DESCRIPTION**

Parcel 1:

That portion of the Northeast Quarter of the Northwest Quarter of Section 34, Township 3 South, Range 27 East, MDM Parcel described as Parcel DK-003446-01-01 per deed executed by the State of California, in favor of Intrawest California Holdings, Inc., a California Corporation, Inc., and recorded May 16, 20001 as Instrument Number 2001003305 in the office of the County Recorder of Mono County, State of California.

Parcel 2:

Parcel 6, Parcel 7, Parcel 11, and Parcel 12 on Record of Survey No. 36-78 per map recorded in Record of Survey Map Book 2 at Page 100 on file in the Office of the County Recorder, Mono County, State of California.

TOGETHER with the Subject Parcel of Quiet Title Action filed as March 9, 1993, Case No. 10700, Mono County Superior Court shown on Record of Survey No. 36, per map recorded in Record of Survey Map Book 2 at Page 144 on file in the Office of the County Recorder, Mono County, State of California.

EXCEPT therefrom any portions lying within that portion of said land described as Parcels 3443-1, 3443-2, and 3443-3 per deed executed by Intrawest California Holdings, Inc., in favor of the State of California and recorded May 16, 2001 as Instrument No. 2001003307 of Official Records in the office of the County Recorder of said County.

Parcel 3:

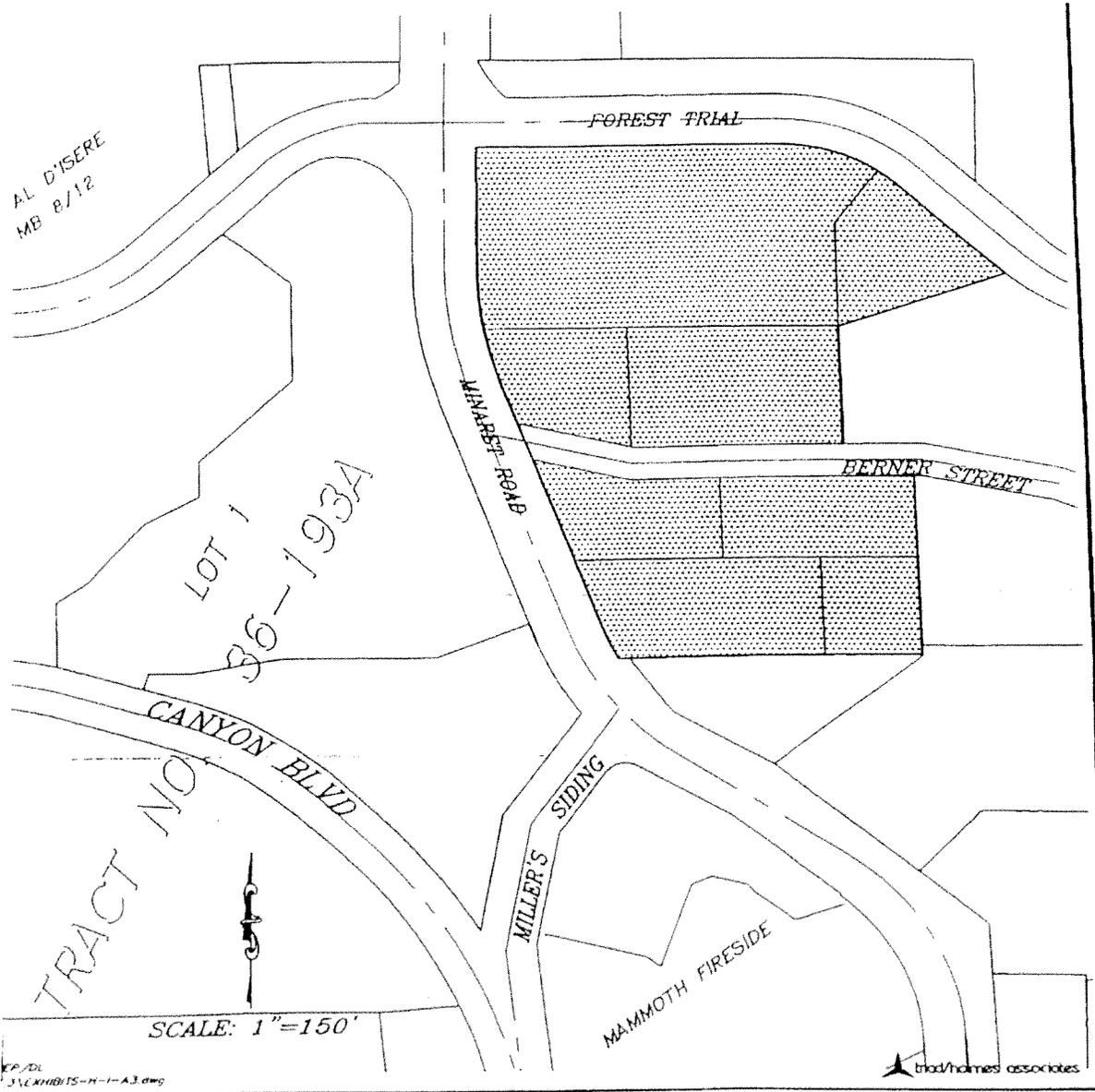
That portion of land in the Town of Mammoth Lakes, County of Mono, State of California described in Individual Grant Deed recorded in Volume 499 of Official Records at Page 515 in the Office of the County Recorder of said County.

Parcel 4:

Parcel No. 1 in the Town of Mammoth Lakes, County of Mono, State of California, as shown on Parcel Map recorded in Book 7, Page 30 of Maps in the Office of the County Recorder of said County.

**EXHIBIT F-2**

**SURFACE PARKING SITE**  
**PLAT MAP**



**EXHIBIT G-1**

**CANYON BOULEVARD SITE**  
**LEGAL DESCRIPTION**

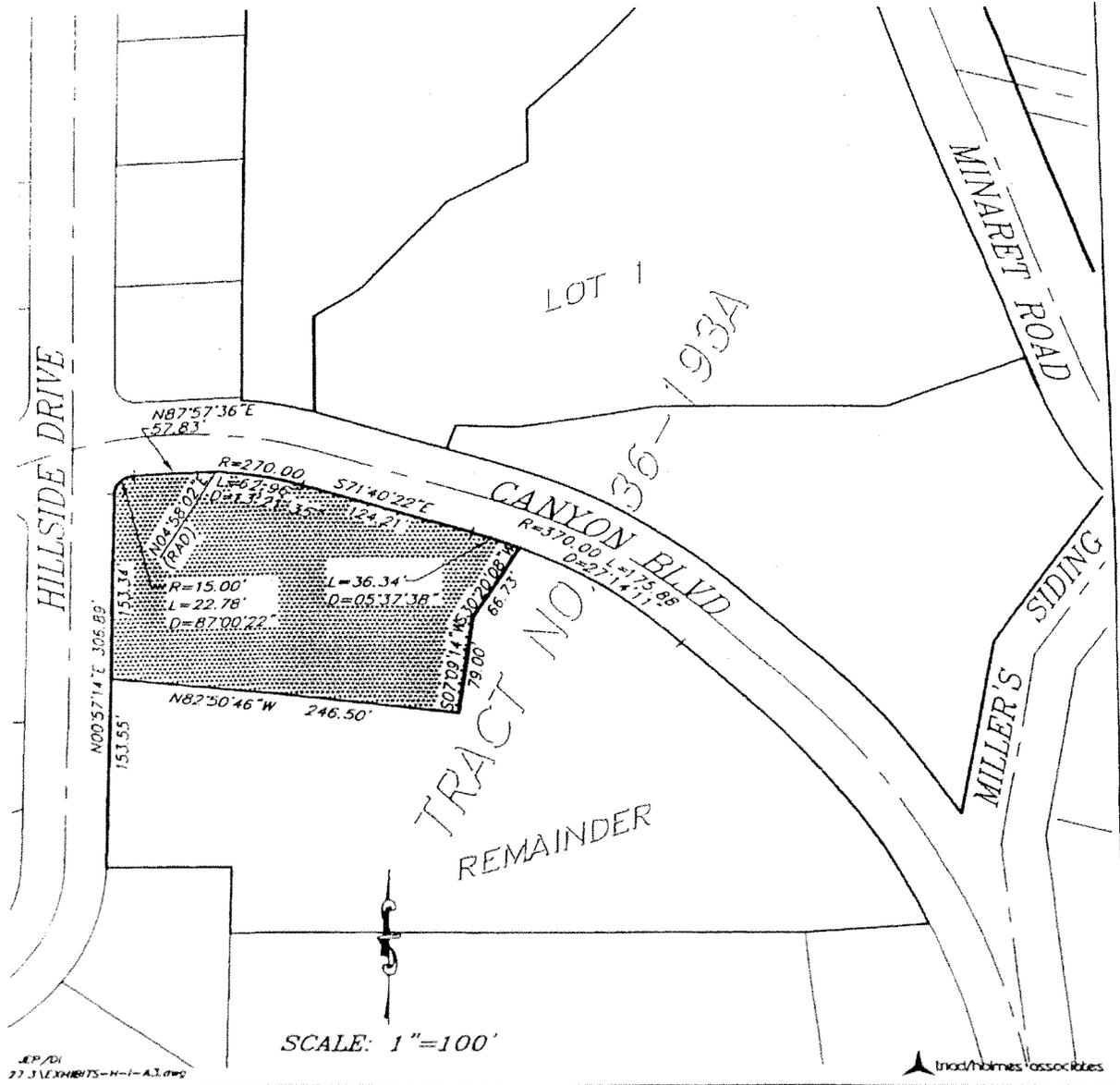
That portion of the Remainder Parcel of Tract No. 36 – 193A as per Tract Map recorded in Book 10 of Tract Maps at Pages 60 through 60C, in the Office of the County Recorder, Mono County, State of California. More particularly described as follows:

Beginning at a point in the westerly line of said Tract, said line also being the easterly Right-of-Way of Hillside Drive, bearing N00°57'14"E 153.55 feet from the southwest corner of said tract; thence along said line N00°57'14"E a distance of 153.34 feet to the beginning of a 15.00-foot radius tangent curve concave southeasterly; thence northerly and northeasterly along said curve and tract boundary an arc length of 22.78 feet through a central angle of 87°00'22"; thence N87°57'36"E 57.83 feet along said tract boundary to the beginning of a 270.00-foot radius non-tangent curve concave southerly, through which a radial line bears N04°58'02"E; thence easterly along said curve and along said tract boundary an arc length of 62.96 feet through a central angle of 13°21'35"; thence S71°40'22"W 124.21 feet along said tract boundary to the beginning of a 370.00-foot radius tangent curve concave southwesterly; thence easterly along said curve and along said tract boundary an arc length of 36.34 feet through a central angle of 05°37'38"; thence S30°20'08"E 79.00 feet; thence N82°50'46"W 246.50 feet to the point of beginning.

Containing: 1.00 Acres more or less

EXHIBIT G-2

CANYON BOULEVARD SITE  
PLAT MAP



**EXHIBIT H**

**FORM OF A GRANT OF EASEMENT FOR PUBLIC ACCESS**

(Not intended to be an operative form of the Agreement)

RECORDING REQUESTED BY AND  
WHEN RECORDED RETURN TO:

Kathy Drobnak  
Jacobs Chase Frick Kleinkopf & Kelley LLC  
1050 - 17th Street, Suite 1500  
Denver, Colorado 80265

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**GRANT OF EASEMENT**  
(ICH to the Town of Mammoth Lakes)

This Grant of Easement (this "Grant of Easement") is granted as of this 5th day of July, 2001, by Intrawest California Holdings, Inc., a California corporation ("ICH") to the Town of Mammoth Lakes, California (the "Town").

**R E C I T A L S :**

A. ICH is owner of the parcel of real property described on Exhibit A attached hereto and forming a part hereof (the "Phase One Property").

B. A portion of the Phase One Property will be developed as a condominium project (the "Condominium Project") in accordance with the Declaration of Covenants, Conditions and Restrictions for The Village at Mammoth Phase I (the "Condominium Declaration") and the Condominium Plan for The Village at Mammoth Phase I (the "Condominium Plan"). The Condominium Declaration and the Condominium Plan will be recorded in the Official Records of Mono County, California, simultaneously herewith.

C. The Phase One Property will also be subject to the Declaration of Covenants, Conditions and Restrictions for The Village at Mammoth, a Master Planned Development (the "Community Declaration") to be recorded in the Official Records of Mono County, California, simultaneously herewith.

D. A portion of the Phase One Property included within the Condominium Project will be operated and maintained as a pedestrian plaza (the "Condominium Plaza"). The

approximate location of the Condominium Plaza has been identified on Exhibit B attached hereto.

E. The remaining portion of the Phase One Property will be conveyed to the association (the "Community Association") created pursuant to the Community Declaration and will be operated and maintained as a pedestrian plaza (the "Village Plaza"). The approximate location of the Village Plaza has been identified on Exhibit C attached hereto.

F. ICH desires to grant easements for access purposes over portions of the Phase One Property and the Town desires to accept such easements in accordance with the terms and conditions contained in this Easement Agreement.

#### Grant of Easement

In consideration of the foregoing and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, ICH hereby grants the easements described in this Grant of Easement, upon and subject to the terms and conditions contained herein.

##### 1. Grant of the Plaza Easements.

a. ICH hereby grants to the Town, for the benefit of members of the general public, a nonexclusive easement (the "Public Access Easement") over and across the walkways and pedestrian paths located within the Condominium Plaza and the Village Plaza (the "Public Access Areas") for the purposes of:

i. providing members of the general public with pedestrian access over, through and across the Public Access Areas to and from retail establishments and other commercial spaces located, or to be located, within the Phase One Property and the Village Plaza and other pedestrian areas located adjacent thereto; and

ii. providing law enforcement and emergency personnel of the Town with pedestrian access over, through and across the Public Access Areas for the purpose of law enforcement and emergency response activities.

b. The Public Access Easement is granted subject to the reservations set forth below, as well as the Condominium Declaration and the Community Declaration. Any and all individuals exercising a right to use the Public Access Easement shall do so in accordance with conditions and restrictions set forth in the Condominium Declaration and the Community Declaration, as well as any rules and regulations relating to the Public Access Areas which may be promulgated by the Community Association or the association of owners created pursuant to the Condominium Declaration.

##### 2. ICH's Reservations.

a. Construction of improvements on and around the Public Access Areas has not yet been completed. In connection therewith ICH reserves unto itself and for the benefit of its successors and assigns, the following rights:

i. the right to alter buildings, structures or improvements and to construct additional buildings, structures and improvements within the Public Access Areas; and

ii. the right to use all of the Public Access Areas except portions of which contain buildings, structures or improvements pursuant to paragraph 2(a)(i) above for any purpose that does not permanently interfere with the use and enjoyment of the Public Access Easement.

b. ICH also reserves the following rights unto itself and for the benefit of its successors and assigns:

i. the right to restrict access temporarily to all or any portion of the Public Access Areas at any time, on the condition that ICH provides reasonable alternative access to the general public;

ii. the right to relocate the Public Access Areas; and

iii. the right to grant additional easements and other rights to third parties over and under the Phase One Property and the Public Access Areas, including, without limitation, easements for utility lines.

iv. ICH also reserves unto itself and for the benefit of the Community Association, the right to grant licenses, easements and other rights to third parties over and across the Condominium Plaza and the Village Plaza, including, but not limited to the Public Access Areas, for the purpose of locating and operating vendor carts, booths or other such facilities within such areas.

3. Encroachments.

The Public Access Easement is subject to all existing encroachments of buildings and improvements onto, over and under the Public Access Areas, and to all other encroachments of buildings and improvements hereafter constructed or installed on or around the Public Access Areas in connection with the development of The Village at Mammoth.

4. Nature of the Public Access Easement.

The Public Access Easement and all other covenants, conditions, restrictions, reservations and other provisions contained in this Grant of Easement are covenants running with the land or equitable servitudes, as the case may be.

5. Governing Law.

This Grant of Easement shall be governed by the laws of the State of California.

6. Exhibits.

All exhibits referenced in this Easement Agreement are hereby deemed incorporated herein by reference.

7. Counterparts.

This Grant of Easement may be executed in counterparts, each of which shall be deemed an original, all of which together shall constitute one and the same instrument.

8. Severability.

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

9. Amendment.

This Grant of Easement may not be amended, modified, supplemented, revoked or terminated except by a written instrument duly executed by ICH and the Town.

Executed as of the date first set forth above.

INTRAWEST CALIFORNIA HOLDINGS, INC.,  
a California corporation

By: \_\_\_\_\_  
Douglas Ogilvy, Vice President

By: \_\_\_\_\_  
David D. Kleinkopf, Assistant Secretary

TOWN OF MAMMOTH LAKES, CALIFORNIA

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

[Attach notarial acknowledgments]

## EXHIBITS TO BE ATTACHED

- A Legal Description of the Phase One Property
- B Approximate Location of the Condominium Plaza
- C Approximate Location of the Village Plaza

**EXHIBIT I**

**PROGRAMMING PLAN**

**[FOR TOWN-SPONSORED COMMUNITY EVENTS]**

The Village at Mammoth Community Association ("Community Association") is the association of owners formed pursuant to the Declaration of Covenants, Conditions and Restrictions for The Village at Mammoth ("Community Declaration") to manage, administer and operate the master planned development located in Mammoth Lakes, California and known as The Village at Mammoth ("Village").

Pursuant to the Community Declaration, one of the purposes of the Community Association is to administer and manage the various plans and agreements required by the Town of Mammoth Lakes, California ("Town") which pertain to the use, operation and maintenance of the sidewalks, plazas and common areas located within the Village (the "Village Plaza"). The following is the Plan for Town-Sponsored Community Events required by Section 3.03 of the Community Declaration.

1. Subject to the terms and conditions set forth below, the Town shall be permitted to hold the following annual community events within the Village Plaza (each, a "Scheduled Community Event"):

a. Event: Community, Cultural, Recreational, or Entertainment  
Approximate Dates of Event: 1st week of May

b. Event: Community, Cultural, Recreational, or Entertainment  
Approximate Dates of Event: 3rd week of June

c. Event: Community, Cultural, Recreational, or Entertainment  
Approximate Dates of Event: 2nd week of September

d. Event: Community, Cultural, Recreational, or Entertainment  
Approximate Dates of Event: 1st week of December

2. No consent or approval of the Community Association shall be required for any of the Scheduled Community Events described above. On or before 180 days prior to the approximate date for the Scheduled Community Event, the Town shall notify the Community Association, in writing, of the exact dates and hours of the Scheduled Community Event, which shall be subject to the reasonable approval of the Community Association. Any change in a Scheduled Community Event with respect to the type of event or the dates and hours of any such event must be approved in writing by the Community Association, which approval shall not be unreasonably withheld.

3. The Town may hold additional events or programs ("Unscheduled Community Events") within the Village Plaza by obtaining the prior written consent of the Community Association.

4. Any and all costs, fees and expenses incurred in connection with any Scheduled Community Event or Unscheduled Community Event (Scheduled Community Events and Unscheduled Community Events shall hereinafter be referred to together as "Community Events") including, but not limited to, those for security, insurance and periodic trash removal and clean-up, shall be paid for by the Town, at its sole cost and expense.

5. Any Community Event conducted within the Village Plaza shall comply with (a) all applicable use restrictions contained in the Community Declaration, (b) the requirements of the insurers of the Community Association, and (c) any and all rules and regulations of the Community Association relating to the use and maintenance of the Village Plaza, as such rules and regulations may exist from time to time. The Town shall supervise all Community Events to assure compliance with such restrictions, rules and regulations.

6. Notwithstanding anything to the contrary set forth herein, the Community Association may refuse to schedule or hold any Unscheduled Community Event within the Village Plaza if the Community Association, in its sole and absolute discretion, determines that any Unscheduled or proposed Community Event (a) may be potentially harmful or dangerous to participants, attendees or members or guests of the Community Association, (b) may pose an undue risk of damage to the Village Plaza or improvements located within or adjacent to the Village Plaza, or (c) may cause significant and unreasonable noise levels, disturbances or other nuisances to owners or guests of condominium units located adjacent to the Village Plaza. In addition, the Community Association may immediately terminate any ongoing Community Event during which any dangerous or destructive activities occur, if the Town is unable to control or otherwise resolve such activities within a reasonable period of time.

**EXHIBIT J**

**OPEN SPACE, PARK AND RECREATION REQUIREMENTS**

**Quimby Act Parkland Dedication Requirements  
Intrawest Projects (Sierra Star, North Village, Juniper Springs)**

1. Total acreage requirement (in addition to payment of Development Impact Fees):  
6.48 acres
2. Improvements provided by Developers as of the Effective Date and applied toward the total acreage requirement:

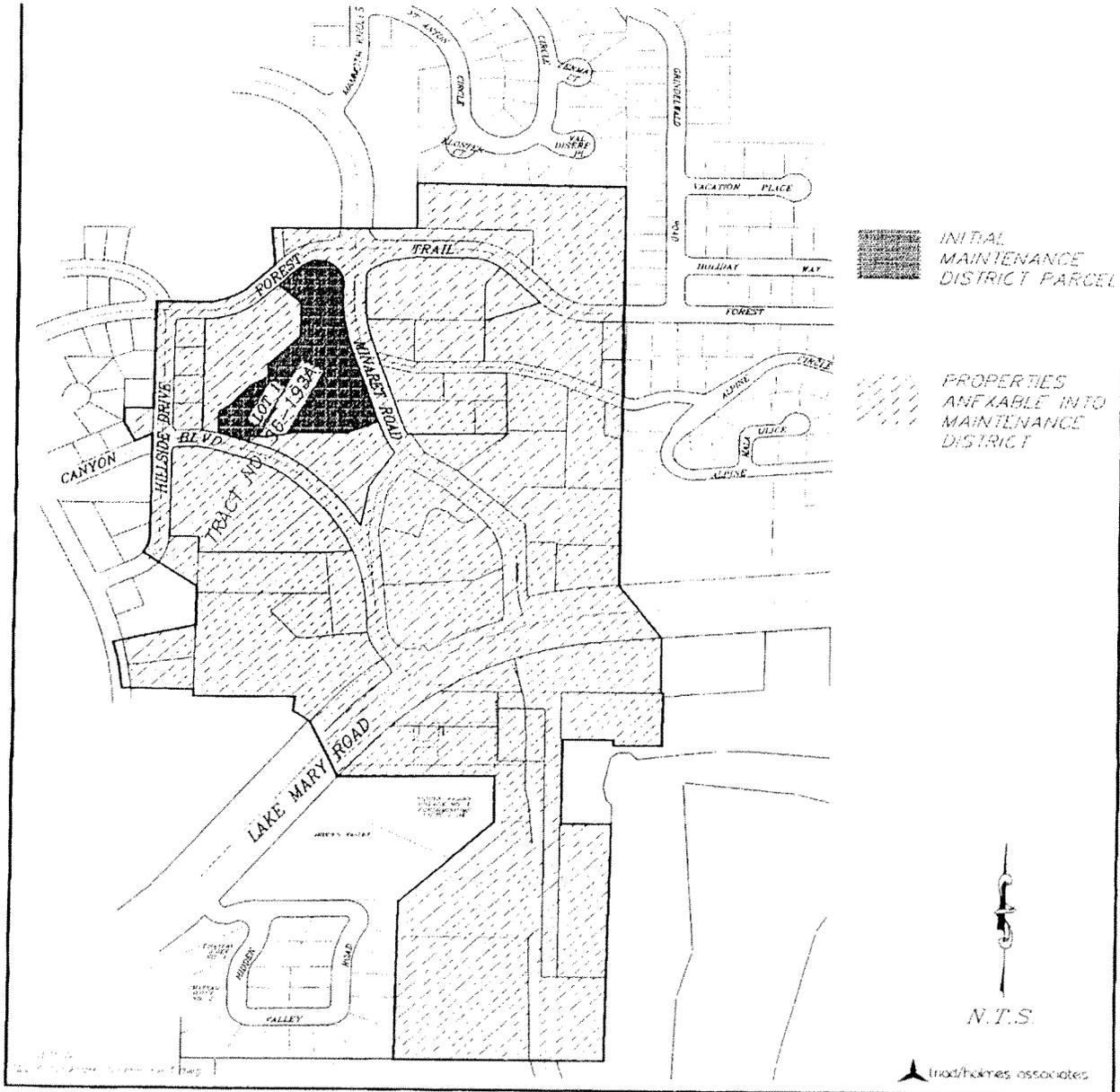
Juniper Springs Lodge Bike Trail	.14 acres
Deer Creek Bike Trail	.23 acres
Aspen Creek Bike Trail	.68 acres
Sierra Star Bike Trail from MCWD to Matsu (segment 4)	1.76 acres
Use Agreement for Plazas in The Village at Mammoth (West Side) value of 1.5 acre	
Total acreage:	4.31 acres

3. Potential improvements which may be subsequently provided by Developers:

Bike Trail along Meridian (if adopted into Master Trail Plan)	.28 acres
Bike Trail between Meridian and Segment 4 (if adopted into Master Trail Plan)	.4 acres
Open Space/Conservation lands within Mammoth Creek corridor	value of 1 acre
Use Agreement for Plazas in The Village at Mammoth (East Side)	value of .5 acre
Total acreage:	2.18 acres

**EXHIBIT K**

**MAINTENANCE DISTRICT AREA**



**EXHIBIT L**

**ASSIGNMENT AGREEMENT [FORM]**

RECORDING REQUESTED BY  
AND WHEN RECORDED MAIL TO:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Attention: \_\_\_\_\_

(Space Above For Recorder's Use)

**ASSIGNMENT AGREEMENT**

This ASSIGNMENT AGREEMENT ("Assignment"), effective as of \_\_\_\_\_, 200\_, ("Effective Date"), is executed by \_\_\_\_\_ ("Assignor Developer"), and \_\_\_\_\_ ("Assignee Developer"), with reference to the following:

**R E C I T A L S :**

A. Assignor is a "Developer" or "Owner" under the terms of the Development Agreement by and among The Town of Mammoth Lakes ("Town") and Intrawest Affiliates, effective on \_\_\_\_\_, 2001 and recorded in the Official Records of Mono County, California, on \_\_\_\_\_, 2001 as File No. \_\_\_\_\_.

B. Pursuant to Section 8.1 of the Development Agreement, a Developer or an Owner of property subject to the Development Agreement, has the right, without the consent of the Town, to sell, assign or transfer ("assign") its development rights, duties and obligations under the Development Agreement, with respect to the property conveyed, to the new owner, who shall assume such obligations pursuant to a written assignment agreement.

C. Assignor Developer will convey to Assignee Developer, concurrently with the Effective Date of this Assignment, a portion of the real property covered by the Development Agreement, which portion is legally described as:

[insert legal description of property being conveyed]

("Conveyed Property").

D. This Assignment is intended to implement Section 8.1 of the Development Agreement and to evidence the assignment of the rights, duties and obligations of Assignor under the Development Agreement related to the Conveyed Property to Assignee.

NOW, THEREFORE, in consideration of the above recitals and the mutual covenants set forth herein, Assignee and Assignor agree as follows:

1. Assignment and Assumption. Assignor hereby assigns to Assignee all of the rights, duties and obligations of Assignor as "Developer" or "Owner" under the Development Agreement, with respect to the Conveyed Property. Assignee hereby accepts such assignment and assumes all of the rights, duties and obligations of the Assignor as "Developer" or "Owner" under the Development Agreement with respect to the Conveyed Property.

2. Release. As of the Effective Date, the Assignor Developer will be released from any duties and obligations assigned pursuant to Section 1 arising on or after the Effective Date.

3. Effective Date. This Assignment shall be effective upon the date of recordation of a grant deed conveying the Conveyed Property from Assignor to Assignee.

4. Notices. Within thirty (30) days after the Effective Date, Assignor shall deliver a copy of this fully executed Assignment to the Town. Notices to the Assignee pursuant to the Development Agreement shall be directed to:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

IN WITNESS WHEREOF, the parties have executed this Assignment Agreement as of the Effective Date first set forth above.

"ASSIGNOR"

\_\_\_\_\_  
a \_\_\_\_\_

By: \_\_\_\_\_  
Title: \_\_\_\_\_

"ASSIGNEE"

\_\_\_\_\_  
a \_\_\_\_\_

By: \_\_\_\_\_  
Title: \_\_\_\_\_

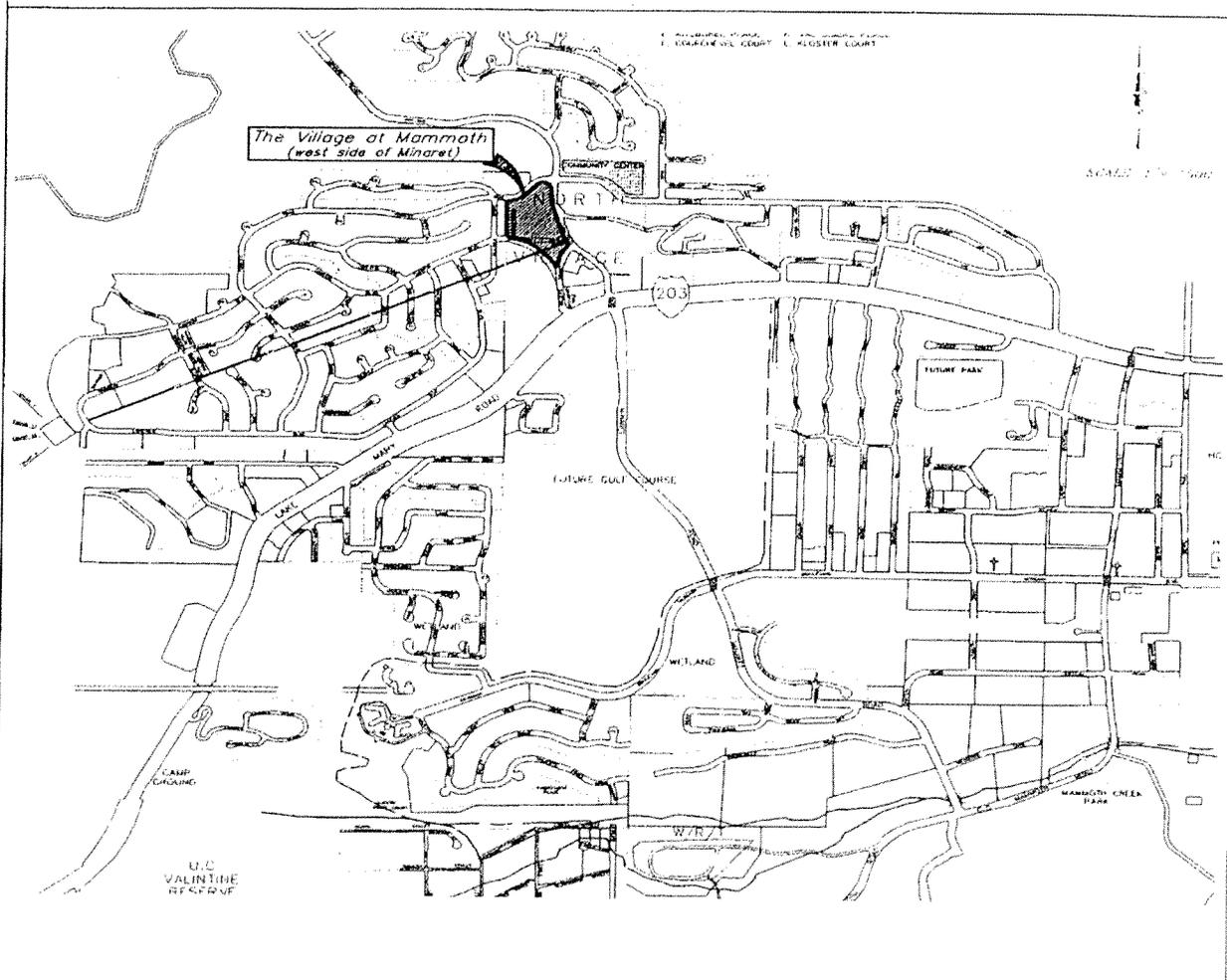


**EXHIBIT N**

**PHASING PLAN**

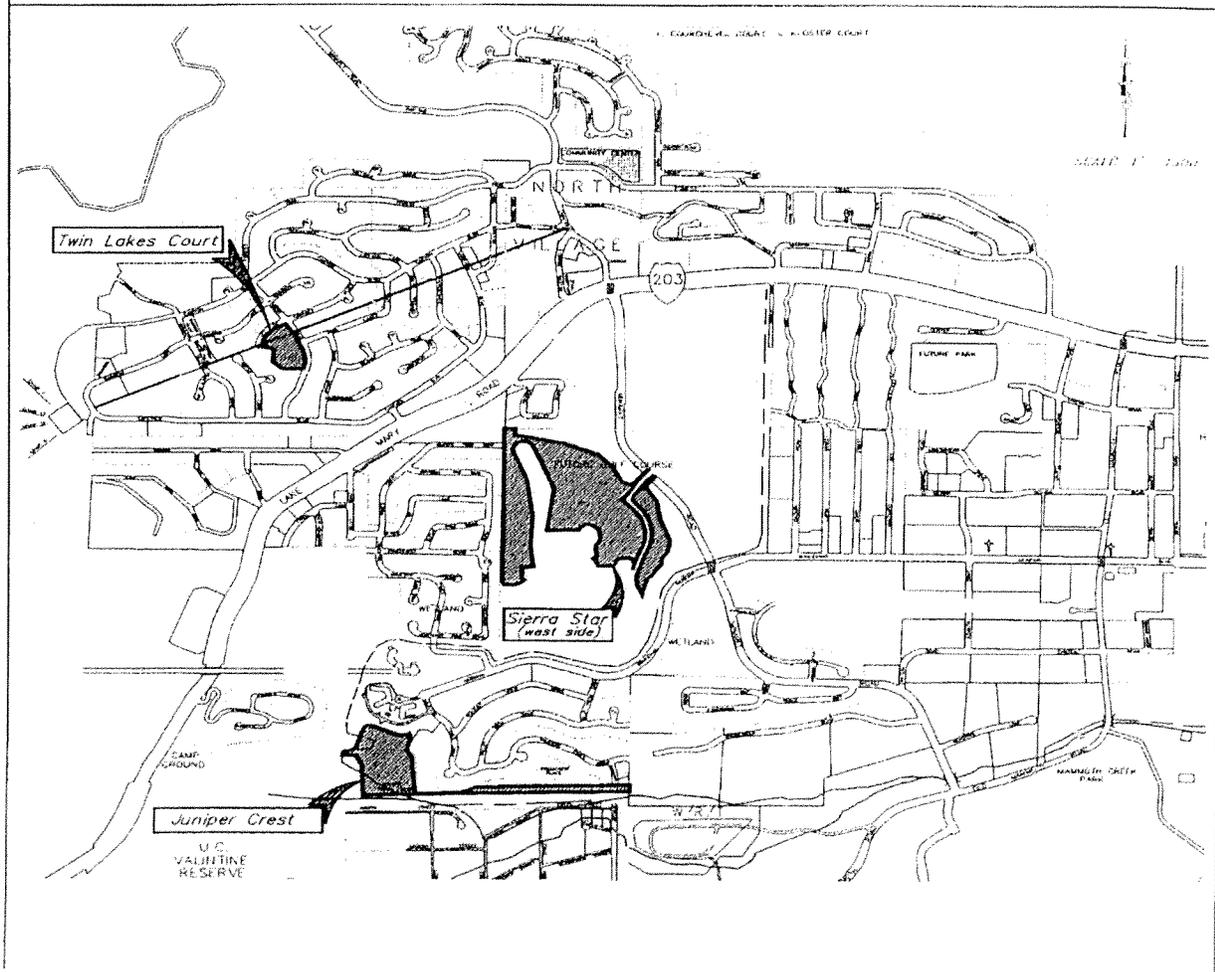
**EXHIBIT N-1**

**PHASE 1**  
**The Village at Mammoth (west of Minaret Road)**



**EXHIBIT N-2**

**PHASE 2**  
**Sierra Star (west of Minaret Road), Crest Parcel,**  
**Twin Lakes Court Parcel**



**EXHIBIT N-3**

**PHASE 3**  
**The Village at Mammoth (west of Canyon Boulevard)**  
**The Village at Mammoth (east of Minaret Road)**  
**Sierra Star (east of Minaret Road), The Bridges Parcel,**  
**and the Canyon Lodge Parcel**

