

Agenda Summary
July 16, 2025

Agenda Item No. A-3
Topnotch Crosswalk Agreement

Summary: A Warrant Analysis and the proposed Site Development Plans approved by the DRB for the new building at the Topnotch Resort requires a crosswalk across Rt. 108 as depicted at the attached. Illicit crosswalks have been painted by previous owners proximate to this location in the past. Crosswalk construction, operations, maintenance and repair requires an 11-11 Permit from VTrans. VTrans requires that the Town be a Co-Permittee for such private pedestrian facilities within the State highway ROW. Enclosed is a final draft of a proposed Crosswalk Agreement between the Town and AHW Stowe Resort Hotel, LLC, current owners, which establishes that AHW is responsible for the construction, operations, maintenance and repairs of said crosswalk. Agreement also includes an Indemnity provision to protect the Town from any potential 3rd Party actions associated with the private crosswalk facilities.

Town Plan Impact: N/A

Fiscal Impact: None

Human Resource Impact: Approximately 10 hours of staff time have been involved in the development of this Agreement.

Recommendation: Move to approve the proposed Topnotch Crosswalk Agreement and authorize the Town Manager to endorse the Agreement on behalf of the Town and, the VTrans 11-11 Permit Application as a Co-Permittee.

CROSSWALK AGREEMENT

The date of this Crosswalk Agreement (this “Agreement”) is dated July __, 2025. The parties to this Agreement are:

AWH STOWE RESORT HOTEL LLC

4000 Mountain Road
Stowe, VT 05672
Attention: General Manager

a Delaware limited liability company (“AWH”); and

TOWN OF STOWE

P.O. Box 730
Akeley Memorial Building
67 Main Street
Stowe, Vermont 05672

a Vermont municipality (the “Town”).

Recitals

A. As a condition to the approval received by AWH from the Town, acting through its Development Review Board, AWH has applied for a Vermont Agency of Transportation (the State) 11-11 permit (the “Permit”) for approval to construct certain pedestrian improvements on property known as Vermont Route 108 (the “Highway”).

B. The Permit will require the (i) installation, operation, maintenance and repair of a pedestrian sidewalk, crosswalk approaches and associated signs that are not in the paved portion of the State’s Highway right-of-way (the “Right-of-Way”) and (ii) the annual painting and incidental repairs associated with restriping of the crosswalk in the paved portion of the Right-of-Way (the “Improvements”).

C. The State requires the Town to be Co-Permittee for the Permit.

D. The State remains responsible for all maintenance of the road, including winter snow and ice removal from the roadway within the Right-of-Way when deemed appropriate.

E. Reference is made to the following plans entitled:

1) Topnotch Resort and Spa, 4000 Mountain Road, Stowe, Vermont: Elements at Topnotch Residential Condominiums, Proposed Site Plan – West Route 108. dated January 17, 2024, prepared by Civil Engineering Associates, Inc. (the “Site Plan”); and

2) Topnotch Resort and Spa, 4000 Mountain Road, Stowe, Vermont: Elements at Topnotch Residential Condominiums, Proposed VTRANS Signage Plan – Route 108, dated March 14, 2024, prepared by Civil Engineering Associates, Inc. (the “Signage Plan”).

F. The location and details regarding the sidewalks and crosswalk are depicted on the Site Plan; the location and details regarding the signage are depicted on the Signage Plan.

G. The Town requires this Agreement to be Co-Applicant for the Permit.

Terms and Provisions

In consideration of Ten and more Dollars and for other good and valuable consideration, the sufficiency and receipt of which is acknowledged by AWH and the Town, the parties agree as follows:

Section 1. Undertaking by AWH.

(a) AWH shall assume all responsibilities with respect to the requirements described in Recital B for the sidewalks, crosswalk line striping (which shall be refreshed annually at a minimum in the spring) and signage within the Right-of-Way.

(b) Except for annual crosswalk line striping, all maintenance of the roadway within the Right-of-Way remains the responsibility of the State.

Section 2. Undertaking by the Town.

On execution of this Agreement, the Town will execute the application for the permit described in Recital A.

Section 3. Indemnity.

(a) AWH shall indemnify the Town from third party actions associated with the construction, operations, maintenance and repairs of crosswalk and sidewalk facilities with the Right-of-Way for which AWH is responsible pursuant to this Agreement, solely to the extent of any costs, expenses or liabilities are attributable to AWH's failure to comply with its obligations hereunder. On the occurrence of any third-party action described in this subsection, the Town shall provide AWH with notice and AWH shall defend such action.

(b) AWH shall obtain and maintain, or cause to be obtained and maintained, commercial general liability insurance in support of its obligations hereunder including the Town as additional insured.

Section 4. Execution, etc. Duly Authorized.

The Town and AWH represent and warrant that the execution, delivery and performance of this Agreement has been duly authorized by all necessary proceedings of the Town and AWH, as the case may be, and the individuals signing this Agreement on their behalf have been duly authorized to do so, and by doing so, to bind AWH and the Town, as the case may be, to the terms and conditions hereof.

Section 5. Severability.

In case any one or more of the provisions of this Agreement shall be held by a court of competent jurisdiction to be invalid or unenforceable for any reason or in any respect, the invalidity or unenforceability shall not limit or impair enforcement of the remaining provisions hereof.

Section 6. No Waiver.

No failure to exercise, and no delay in exercising, any right, power or remedy hereunder shall impair any right, power or remedy which a party may have, nor shall any such delay be construed to be a waiver of any such rights, powers or remedies, or an acquiescence in any breach or default under this Agreement, nor shall any waiver of any breach or default of any party hereunder be deemed a waiver of any default or breach subsequently occurring.

Section 7. Force Majeure.

AWH shall not be liable or responsible to the Town, nor be deemed to have defaulted under or breached this Agreement, for a failure or delay in fulfilling or performing a term of this Agreement when and to the extent the failure or delay is caused by or results from acts beyond AWH's reasonable control including, without limitation, the following force majeure events ("Force Majeure Event(s)") that frustrates the purpose of this Agreement: (a) acts of God; (b) flood, fire, earthquake or explosion; (c) war, invasion, hostilities (whether war is declared or not), terrorist threats or acts, riot or other civil unrest; (d) government order or law; (e) actions, embargoes or blockades in effect on or after the date of this Agreement; (f) action by any governmental authority; (g) national or regional emergency; (h) strikes, labor stoppages or slowdowns or other industrial disturbances; (i) epidemic, pandemic or similar influenza or bacterial infection (which is defined by the United States Center for Disease Control or its successor as virulent human influenza or infection that may cause global outbreak, or pandemic, or serious illness); (j) emergency state; (k) shortage of adequate medical supplies and equipment; (l) shortage of power or transportation facilities; and (m) other similar events beyond the reasonable control of AWH.

Section 8. Successors Bound.

This Agreement shall be binding on and insure to the benefit of AWH and the Town and their successors and assigns.

Section 9. Counterparts.

This Agreement may be executed in any number of duplicate original counterparts, and each such counterpart is to be considered a duplicate original, each and all of which shall constitute one and the same Agreement.

Section 10. Notices.

Any notices to be given under this Agreement shall be provided, via hand-delivery or delivery by a nationally recognized overnight courier, to the addresses set forth above or to such other address as a party may deliver to the other in the manner provided herein.

Section 11. Entire Agreement.

This Agreement constitutes the entire agreement between the parties relative to the subject matter hereof, and supersedes all prior agreements, written or oral. The Recitals are incorporated herein by reference. This Agreement may be modified or amended only by mutual written consent of the parties.

[signature page follows]

IN WITNESS WHEREOF, the parties have executed this Agreement.

AWH STOWE RESORT HOTEL LLC

TOWN OF STOWE

By: _____
Duly Authorized Agent

By: _____
Duly Authorized Agent

27893\003