

## POINT PHASE 1 PUBLIC INFRASTRUCTURE DISTRICT NOS. 1-9

### JOINT MEETING

May 21, 2025, at 1:00 p.m.

ANCHOR LOCATION: 1201 E. Wilmington Ave, Suite 115, Salt Lake City, UT 84106

*This meeting is open to the public and may be joined using the following information:*

LINK: [Join the meeting now](#)  
 MEETING ID: 275 819 520 368 4  
 PASSCODE: ie3G7C2p  
 DIAL IN: 720-721-3140  
 PHONE CONFERENCE ID: 304 093 428#

<b>Trustees</b>	<b>Terms</b>
Jay Hardy - Chair	Term from June 11, 2024, to 4 years from appointment
Robert Booth – Treasurer/Vice Chair	Term from June 11, 2024, to 6 years from appointment
Zachary Clegg – Clerk/Secretary	Term from June 11, 2024, to 6 years from appointment
Trever Nicoll - Trustee	Term from June 11, 2024, to 4 years from appointment
Vacant	Term from June 11, 2024, to 6 years from appointment

### **NOTICE OF MEETING AND AGENDA**

1. Call to Order/Declaration of Quorum.
2. Preliminary Action Items.
  - a. Approve Agenda.
  - b. Acknowledge Appointment of Michael Ambre to the Boards of Directors.
3. Public Comment – Members of the public may express their views to the Boards on matters that affect the Districts. Comments will be limited to three (3) minutes
4. Action Items
  - a. Approve Draft Minutes from April 21, 2025, Joint Meeting.
  - b. Approve Development Services Agreement with CLW Point Partners, LLC.
  - c. Approval of Resolution Amending the Annexation Area Attached as Exhibit C of the Governing Document of the Districts.
  - d. District No. 1 Boundary Adjustments.
    - a. Approve Petition for Annexation from CLW Point Partners LLC.
      1. Adopt Resolution Annexing Property.
      2. Approve Notice of Impending Boundary Action.

- e. Approve Ground Lease Agreement.
- f. Approve Sub-Campus Development Agreement [Event Center].
- g. 2025 Bond Documents.
  - a. Approve Capital Pledge Agreement.
  - b. Approve Event Center Parking Pledge Agreement.
  - c. Approve Parking Pledge Agreement.
  - d. Approval of Engagement Letter with Zions Public Finance, Inc. for  
Municipal Advisor Services.
- 5. Discussion Items.
- 6. Administrative Non-Action Items.
- 7. Adjourn.

## RECORD OF PROCEEDINGS

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### MINUTES OF THE MEETING OF THE POINT PHASE 1 PUBLIC INFRASTRUCTURE DISTRICT NOS. 1 – 9

HELD  
April 21, 2025

The Meeting of Point Phase 1 Public Infrastructure District Nos. 1-9 was held at the offices of the Colmena Group, 1201 E. Wilmington Ave, Suite 115, Salt Lake City, UT 84106 and via MS Teams and Teleconference on Monday, April 21, 2025, at 1:00 p.m.

#### ATTENDANCE

##### Trustees in Attendance:

Jay Hardy – Chair  
Robert Booth – Treasurer/Vice Chair  
Zachary Clegg – Clerk/Secretary  
Trevor Nicoll – Trustee

##### Also in Attendance:

Megan Murphy, Esq.; Betsy Russon, Esq.; and Blair Dickhoner, Esq.;  
White Bear Ankele Tanaka & Waldron, P.C.  
Shannon McEvoy and Jake Downing; Pinnacle Consulting Group, Inc.  
Adam Daly, Esq.; Gilmore & Bell, P.C.  
Aaron Van Dyke; Lincoln Property Company.  
Benjamin Becker and Maria Mamaril; Piper Sandler.

#### ADMINISTRATIVE ITEMS

Call to Order: The Meeting of the Boards of Trustees (collectively, the “Boards”) of the Point Phase 1 Public Infrastructure District Nos. 1 – 9 (collectively, the “Districts”) was called to order by Mr. McEvoy at 1:03 p.m.

Declaration of Quorum: Mr. McEvoy noted that a quorum was present, with four out of four Trustees in attendance.

Approval of Agenda: The Boards considered the approval of the agenda. Following review and discussion, upon a motion duly made by Mr. Hardy, seconded by Mr. Booth, and upon vote, unanimously carried, it was

**RESOLVED** to approve the agenda, as amended to reorder item 5.b., to precede item 4.a.

## RECORD OF PROCEEDINGS

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PUBLIC COMMENT      There were no public comments to come before the board.

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ACTION ITEMS      Award of Contract for General Contractor/Construction Manager Services for the Point of Mountain Promenade Project: Mr. Van Dyke presented a bid proposal from R&O Construction for General Contractor/Construction Manager Services for the Point of Mountain Promenade Project and answered questions. After review and discussion, upon a motion duly made by Mr. Booth, seconded by Mr. Hardy, and upon vote, unanimously carried, it was

**RESOLVED** to award the Contract for General Contractor/Construction Manager Services for the Point of Mountain Promenade Project to R&O Construction, as presented.

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PUBLIC HEARING      Upon a motion duly made by Mr. Clegg, seconded by Mr. Booth, and upon vote, unanimously carried, the public hearing to receive input from the public with respect to (I) the issuance of Point Phase 1 Public Infrastructure District No. 1's issuance and sale of Tax Assessment and General Revenue Bonds, Series 2025 (the "Bonds") and (II) the potential economic impact that the improvements, facilities or property for which the Bonds pay all or part of the cost will have on the private sector, was opened. There was no public comment to come before the Board. Upon a motion duly made by Mr. Booth, seconded by Mr. Hardy, and upon vote, unanimously carried, the public hearing was closed.

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ACTION ITEMS      April 3, 2025 – Meeting Minutes: Mr. McEvoy presented the April 3, 2025 – Meeting Minutes to the Boards. Upon a motion duly made by Mr. Clegg, seconded by Mr. Hardy, and upon vote, unanimously carried, it was

**RESOLVED** to approve the April 3, 2025 – Meeting Minutes, as presented.

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DISCUSSION ITEMS      There were no discussion items to come before the Board.

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ADMINISTRATIVE      There were no administrative non-action items to discuss.  
NON-ACTION ITEMS

## RECORD OF PROCEEDINGS

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### ADJOURNMENT

\_\_\_\_\_  
There being no further business to come before the Boards, upon motion duly made by Mr. Booth, seconded by Mr. Hardy, and upon vote, unanimously carried, the meeting was adjourned at 1:21 p.m.

\_\_\_\_\_  
The foregoing constitutes a true and correct copy of the minutes of the above-referenced meeting.

Respectfully submitted,

\_\_\_\_\_  
Jake Downing, Recording Secretary for the Meeting

## DEVELOPMENT SERVICES AGREEMENT

[Event Center]

This DEVELOPMENT SERVICES AGREEMENT (this “**Agreement**”) is entered into as of March 6, 2025 (the “**Effective Date**”), by and between POINT PHASE 1 PUBLIC INFRASTRUCTURE DISTRICT NO. 1, an independent political subdivision of the State of Utah (“**District**”) and CLW POINT PARTNERS, LLC, a Delaware limited liability company dba The Point Partners (“**Developer**”). Developer and District are sometimes referred to herein individually as a “**Party**” and collectively as the “**Parties**.”

### RECITALS

A. District will be the ground lessee of The Point of the Mountain State Land Authority (“**POMSLA**”), pursuant to a ground lease to be executed between District and POMSLA (the “**Ground Lease**”), for leased premises comprising approximately 4.74 acres of real property in Salt Lake County, Utah, which is generally depicted on Exhibit “A-1” and legally described on Exhibit “A-2” attached hereto (the “**Land**”). The Land is located within an area commonly known as “The Point of the Mountain” and comprises a distinct area to be approved under the Ground Lease for the construction of a new event center to be owned by District (“**Event Center**”).

B. The Parties desire to enter into this agreement to set forth the understanding with respect to the initial development and construction of the Event Center and the related Improvements (as defined below) on the Land.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

1. **Definitions.** In addition to the capitalized terms previously defined in this Agreement, or defined elsewhere in this Agreement, the following additional capitalized terms shall have the meanings set forth below:

“**Approval of District**” means, with respect to a specified item or matter, that such item or matter is subject to the procedure set forth in Section 8(a).

“**Approved by District**” means, with respect to a matter which is subject to the Approval of District, the approval or deemed approval thereof pursuant to the procedure set forth in Section 8(a).

“**Approved Change Orders**” means (a) any change or modification to the Plans and Specifications proposed by Developer and Approved by District, and (b) Permitted Change Orders.

“**Certificate of Substantial Completion**” means an AIA Certificate of Substantial Completion.

**“Change Order(s)”** is defined in Section 4(a)(i).

**“Completion of Construction”** means the date on which the Project Architect certifies in the form of a Certificate of Substantial Completion that, except for Minor Construction Items, the Project has been completed substantially in accordance with the Plans and Specifications as modified by Approved Change Orders.

**“Completion Date”** means the date on which Developer has provided to District the Certificate of Substantial Completion from the Project Architect upon Completion of Construction of the Project.

**“Construction Budget”** means the budget prepared by Developer and Approved by District.

**“Construction Defect Notice”** is defined in Section 7(b).

**“Construction Management Fee”** means an amount equal to the sum of five percent (5%) of the Project Costs.

**“Construction Schedule”** is defined in Section 4(a)(iv).

**“Construction Warranties”** means the warranties and guarantees of the General Contractor and the Other Contractors and the suppliers of other services and material to or in connection with the Project.

**“Contract Documents”** means the agreements between Developer and the General Contractor and Other Contractors.

**“Deadlock”** is defined in Section 8(b).

**“Development Conditions”** is defined in Section 4(a).

**“Development Plan”** is defined in Section 4(a)(vi).

**“General Contractor”** means a party selected by Developer and Approved by District.

**“Governmental Authority”** means any federal, state or local governmental or quasi-governmental body or agency having jurisdiction over the Project.

**“Governmental Requirements”** means all laws, ordinances, rules, requirements, resolutions, policy statements and regulations of Governmental Authorities bearing on the construction, alteration, maintenance, use, operation, or sale of the Project.

**“Improvements”** means all improvements to be constructed on the Land pursuant to this Agreement including, without limitation, the building(s), parking area(s), landscaping and other improvements for the Event Center.

**“Minor Construction Items”** means items of work remaining to be completed or corrected to conform to the Plans and Specifications, as modified by Approved Change Orders, the noncompletion or noncorrection of which does not prevent issuance of any required certificate of occupancy, permit or approval or does not materially interfere with the use of the Project for its intended purposes.

**“Other Contractors”** means those persons other than the General Contractor who are selected by Developer to construct the Improvements on the Project.

**“Permissible Delay”** means all periods during which a Party cannot perform its obligations under this Agreement due to: (a) delays arising out of shortage of material or services or delays in transportation of materials; (b) delays or moratoriums caused or imposed by Governmental Authorities or delays in Governmental Authorities issuing permits after Developer has timely submitted all required items to obtain such permits as contemplated by the Development Plan; (c) unavoidable delays caused by adverse weather conditions or other emergencies; (d) delays from Approved Change Orders; or (e) delays attributable to other causes beyond the reasonable control of such Party.

**“Permitted Change Orders”** means Change Orders which result in (a) changes to the Plans and Specifications that are not material (i.e., customary “field” changes), (ii) substitutions of product of equal quality in the event any product specified in any Plans and Specifications is not available or is not available within a time frame required to maintain the Construction Schedule; (iii) changes to the Plans and Specifications as are required only to comply with Governmental Requirements; (iv) changes that do not materially adversely affect the overall quality of the Plans and Specifications; and (v) non-material changes that are required to address a circumstance arising during construction which was not foreseen at the time of the finalization of the Plans and Specifications.

**“Plans and Specifications”** is defined in Section 4(a)(i).

**“Project”** means the design, construction, and development of the Event Center and the related Improvements on the Land or such other use as agreed upon by the Parties.

**“Project Architect”** means Gensler, or such other architect selected by District after consultation with Developer.

**“Project Costs”** means any and all hard and soft costs and expenditures incurred at any time in connection with the design and/or construction of the Event Center and the related Improvements on the Land or performance by the Parties under this Agreement, whether incurred prior to or subsequent to the date of this Agreement, including, without limitation all of the following set forth in the Construction Budget:



- i. Amounts paid to the General Contractor, Other Contractors and Project Architect;
- ii. Architectural, engineering and other professional fees paid in connection with the Project;
- iii. Permit and license fees, impact fee, hook-up fees and other charges of Governmental Authorities paid in connection with the Project;
- iv. The cost and expense of all insurance coverage of the types and coverages required by Section 6(c);
- v. The cost accrued or incurred in connection with or arising from the zoning of the Project including, without limitation, survey and engineering costs;
- vi. The legal and third-party accounting fees attributable to the development, construction and construction financing of the Project;
- vii. Real estate taxes and assessments (or equivalent privilege tax), utility charges and similar taxes and utility charges with respect to the Project; and
- viii. Other third-party costs and expenses contemplated by the Construction Budget and Approved by District.

“**Project Engineer**” means The Connexion Group, or such other engineer selected by District after consultation with Developer.

“**Project Financing**” is defined in Section 5.

“**Project Plan**” is defined in Section 3.

2. **Purpose of Agreement.** The Parties shall develop the Land in accordance with this Agreement.

3. **Project Plan.** The Project Architect shall prepare plans for the Project (the “**Project Plan**”), which Project Plan shall be submitted for the Approval of District. Once Approved by District, a copy of the Project Plan shall be attached hereto as Exhibit “B”.

4. **Development of the Project.**

a. Developer will perform the following duties (collectively, the “**Development Conditions**”):

- (i) Coordinate with District, the Project Architect, and all other

professionals required or needed to design the Project and its elements or systems including, without limitation, its structural, mechanical, electrical, plumbing, heating and cooling systems, if any. All final working plans, drawings and specifications for the Project and its related Improvements (the “**Plans and Specifications**”) shall be submitted for the Approval of District. Any changes to the Plans and Specifications (the “**Change Orders**”), other than Permitted Change Orders, shall be subject to the Approval of District. Developer shall cause all the Plans and Specifications, including structural, mechanical, plumbing and electrical plans prepared by the Project Architect and such other professionals, to be sufficiently detailed for bid solicitation and construction supervision.

(ii) Developer shall assist District in causing licensed contractors with verifiable experience in constructing specific purpose facilities similar in scope and quality to the Project to bid the Plans and Specifications. In connection with the solicitation of bids, Developer shall eliminate from bid requests any undetermined finish construction items with respect to which a later bid would result in a better price. Developer shall select qualified Other Contractors. Developer shall negotiate Contract Documents on behalf of District with the General Contractor and the Other Contractors. The Contract Documents shall be executed by Developer or District as initially appropriate, subject to the Approval of District as and when contemplated hereunder.

(iii) Once all bids have been received, Developer will prepare a construction budget and submit it to District for the Approval of District.

(iv) Developer shall develop a construction schedule (the “**Construction Schedule**”) for the Project which results in timely completion of construction consistent with the completion deadline included in the Construction Budget, which schedule shall be subject to the Approval of District.

(v) Developer shall negotiate agreements in respect of the maintenance and operation of the Project through the Completion Date including, but not limited to, agreements for trash removal, sweeping and other maintenance, which shall be executed by District.

(vi) The Plans and Specifications, as modified by Approved Change Orders, Construction Budget and Construction Schedule for the Project, in each case, as Approved by District, are referred to herein collectively as the “**Development Plan**”.

b. Developer shall apply for all approvals as required by Governmental Requirements for the development of the Project consistent with the Development Plan.

c. Developer shall assist District in obtaining an engineer’s confirmation of value in compliance with Utah state procurement requirements and any applicable public

finance documents related to the Project.

d. Developer shall serve as the “Procurement Official” (as defined in the Utah Procurement Code, Section 63G-6a-103(57)) for the Project.

e. Each Party shall cooperate in connection with all of the foregoing actions including, without limitation, executing applications for governmental approvals and permits.

5. **Project Financing.** District has secured or is in the process of securing public financing for the construction of the Project, which will cover all development costs, including but not limited to fees for architects, engineers, construction, municipal entitlements, impact fees, building permits, taxes, insurance, loan origination, construction interest, and a contingency (collectively, the “**Project Financing**”). Developer agrees to cooperate with District’s efforts to secure financing, which may include bond financing and other forms of public funding.

6. **Project Construction Management.** Developer shall cause the construction of the Project to be commenced in accordance with the Development Plan and shall supervise the construction of the Project by the General Contractor and/or the Other Contractors. Without limiting the foregoing, Developer shall:

a. Secure or cause to be secured, on behalf of District, all required permits from Governmental Authorities and otherwise cause the Project to be completed in compliance with all Governmental Requirements and the Development Plan.

b. Assist District in procuring the approval of the Plans and Specifications by all Governmental Authorities. If any changes in the Plans and Specifications shall be required by Governmental Authorities, such changes shall be submitted to District for the Approval of District.

c. At all times during the construction of the Improvements and continuing until the Completion Date, maintain and keep in full force and effect the following insurance coverage (i) commercial general liability in the minimum amount of \$1,000,000 per occurrence/\$2,000,000 general aggregate, written on an occurrence basis, including broad form contractual liability coverage consistent with standard provisions in ISO CGL coverage forms, broad form property coverage, premises and operations coverage, no independent contractor’s exclusion, products and completed operations, and personal and advertising injury liability; and (ii) such other insurance as may be required by the Contract Documents or as may otherwise be agreed to by the Parties.

d. Supervise the Project Architect and other engineers and professionals and the General Contractor and Other Contractors.

e. Cause the Project to be completed in all respects in accordance with the Plans and Specifications as modified by Approved Change Orders and the Construction

Budget and enforcing any claims under Construction Warranties.

f. Cause the General Contractor and Other Contractors to comply with the Contract Documents and the Construction Schedule, subject to extensions for periods of Permissible Delay.

g. Oversee and process Change Orders.

h. Review and approve for payment by District construction draw requests of the General Contractor, Other Contractors, and other providers of goods and services to the Project and submit such draw requests to District.

i. Provide a final inspection and approval by the Project Architect of all work performed by the General Contractor and Other Contractors including, without limitation, construction of structural elements and electrical, mechanical and plumbing systems.

j. Hold monthly meetings with District, which may be virtual, to update District on the progress of construction.

7. **Rights and Obligations of District Prior to Completion Date.**

a. During the course of construction of the Project, District and its authorized agents may, with twenty-four (24) hours prior written notice, enter and inspect the Land and Improvements, provided such entrance and inspection does not adversely interfere with the construction and development of the Land and Improvements and all persons comply with safety requirements and applicable law. District shall indemnify and hold Developer and its affiliates harmless from and against all losses, claims, damages, judgments, costs and expenses (including attorney fees and court costs) which Developer may incur arising out of the entrance or inspection of the Project and caused by the negligent acts or omissions or willful misconduct of District and its agents, excluding any losses resulting from the negligent acts or omissions or willful misconduct of Developer.

b. If, during construction, District or its authorized agents shall reasonably determine that construction of the Project is not proceeding in accordance with the Development Plan or this Agreement, District shall give notice to the Developer specifying the particular deviation, deficiency or omission (the “**Construction Defect Notice**”). Within ten (10) business days after receipt of a Construction Defect Notice, Developer shall forthwith take such steps as shall be necessary to verify such assertion. If Developer does not agree that a deviation, deficiency or omission exists, it shall so notify District within ten (10) business days after receipt of a Construction Defect Notice. If the Parties are not able to agree whether a deviation, deficiency or omission exists, such disagreement shall be promptly submitted and resolved by the Project Architect, whose determination shall be final. Developer shall promptly correct, or cause to be corrected, any deviation, deficiency or omission which is finally determined to exist, if any.

8. **Approval of District.**

a.

(i) Wherever the Approval of District is required pursuant to this Agreement, such approval shall not be unreasonably withheld, conditioned or delayed and shall be deemed to have been given if a written notice of disapproval is not delivered to Developer within five (5) business days after a written request for approval is delivered to District (which may be delivered via email). If District elects not to approve any matter pursuant to this Agreement, it shall do so in writing which shall specify in reasonable detail the basis for such refusal or the changes which, if made, would cause the Approval of District to be granted.

(ii) At all times, District shall designate and maintain (by written notice to Developer) one adult individual who shall be available to Developer by telephone and email during normal business hours in Salt Lake City, Utah and who shall be fully authorized to act for District in all matters contemplated by this Agreement within the time periods contemplated hereby. The initial representative of District under this Agreement shall be Jay Hardy ([jay@colmenagroup.com](mailto:jay@colmenagroup.com)). Any consent, approval or other discretionary act required or permitted to be given by District which has been authorized in a written instrument signed by such representative, or is deemed approved as provided herein, shall be irrevocably binding upon District and Developer may rely on such written consent or approval signed by such representative without any further inquiry.

b. A deadlock shall be deemed to exist (a “**Deadlock**”) if, at any time, any matter including, without limitation, a Change Order, is required to be approved by District pursuant to this Agreement, District withholds its approval, and Developer reasonably believes that the items sought to be changed: (y) if not performed, would result in a violation of applicable Governmental Requirements; or (z) are consistent with the design and quality of the improvements contemplated by the Development Plans and this Agreement. The Deadlock shall be resolved by mutual written agreement of the Parties or as follows:

(i) If the Project Architect determines, in a written analysis provided to the Parties, that if such approval were given, such approval would result in the occurrence of one of the events specified in clauses (y)-(z) above, then such approval shall be approved.

(ii) If the Project Architect determines, in a written analysis provided to the Parties, that if such approval were given, such approval would not result in the occurrence of one of the events specified in clauses (y)-(z) above, then such approval shall be deemed denied.

9. **Construction Management Fee.** Developer shall be entitled to receive the Construction Management Fee in connection with the Project. Payment shall be made as

follows:

a. Twenty-five percent (25%) of the Construction Management Fee shall be paid on the date on which excavation or construction work for the Project officially begins on the Land (e.g., the groundbreaking). The remaining seventy-five percent (75%) shall be paid over the course of the Project, from the start of construction through the Completion Date, but no later than the date on which the Project is first legally occupied, in accordance with the draw requests described below.

(i) Developer's draw requests shall first be submitted to the Project Engineer for review. Developer's draw requests shall be accompanied by (i) a progress report detailing the percentage of completion for each phase of the Project, (ii) a summary of Project Costs incurred to date, and (iii) any supporting documentation reasonably required to substantiate the draw request. The Project Engineer shall have ten (10) days to review the draw request and verify that the amount requested corresponds to the percentage of work completed. Once the Project Engineer verifies the draw request, such request shall be forwarded to District for review and approval.

(ii) District shall review and approve each draw request in accordance with Section 8(a)(i) above. Once a draw request is Approved by District, payment of the corresponding portion of the Construction Management Fee shall be made within ten (10) business days. If any portion of a draw request is disputed, the undisputed portion shall be paid promptly, and the Parties shall work together in good faith to resolve the dispute.

b. Upon the Completion Date, but no later than the date on which the Project is first legally occupied, the total Construction Management Fee shall be reconciled based on the actual, verified Project Costs. Any overpayment or underpayment shall be resolved within thirty (30) days of such reconciliation.

10. **Restriction on Transfers.** No Party will have the right to assign or transfer its rights or obligations under this Agreement, without the consent of the other Party.

11. **Completion of Minor Construction Items.** Written contracts with the General Contractor or Other Contractors, as the case may be, shall contain a retention provision, which shall ensure the completion of all Minor Construction Items after the Completion Date. Developer shall cause the General Contractor or the Other Contractors to complete such Minor Construction Items after the Completion Date.

12. **Loss Prior to Completion Date.**

a. If prior to the Completion Date all or a portion of the Project should be destroyed or damaged by fire, windstorm, hail, explosion, earthquake or other casualty before the Completion Date, Developer shall within thirty (30) days of the date of such casualty prepare and submit to District a plan for restoration and repair of such damage and completion of the Project, including any modifications of the Construction Budget or extension required to the Completion Date contemplated by the Construction Schedule, which plan shall be subject to the Approval of District. The Completion Date shall be

deferred for the period specified in such plan.

b. If, prior to the Completion Date, all or a part of the Project is subjected to a bona fide threat of condemnation by a body having the power of eminent domain or is taken by eminent domain or condemnation (or sale in lieu thereof), Developer or District, as applicable, shall promptly give the other Party written notice of any pending threat or proceeding as soon as the knowledge-Party becomes aware of the same. As soon as reasonably practicable, but in any event within forty-five (45) days of the date of the notice of such condemnation, Developer shall prepare and submit to District a plan for restoration and completion of the Project including any modifications of the Plans and Specifications or the Construction Budget required because of the taking and any extensions required to the Completion Date contemplated by the Construction Schedule, which plan shall be subject to the Approval of District. The Completion Date shall be deferred for the period specified in the plan.

13. **Term.** The term of this Agreement shall commence on the Effective Date and shall terminate upon final payment of the Construction Management Fee.

14. **Default.**

a. **Default.** A Party shall be in default hereunder if (a) a Party fails to make a payment when due hereunder and such failure continues for fifteen (15) days after written notice from the other Party, or (b) a Party fails to perform or fulfill any of its non-monetary obligations under this Agreement and such default continues uncured for more than thirty (30) days after written notice thereof by the other Party specifying such default; provided, if a Party has not completed a cure of a non-monetary default after diligent good faith efforts during such thirty (30) day period, such 30-day cure period will be extended for up to an additional period of time as is reasonably necessary to cure such default so long as the defaulting Party has commenced the cure of such default within such 30-day cure period and is diligently prosecuting the same to completion.

b. **Remedies.** If a default occurs and continues beyond all applicable notice and cure periods, the non-defaulting Party shall have all remedies available at law or in equity; provided, however, the non-defaulting Party shall only be entitled to seek recovery of actual damages which directly result from the defaulting Party's breach, each Party hereby waiving and covenanting not to assert any right to seek or obtain any other damages (including, but not limited to, incidental or consequential damages, which are expressly and specifically waived and released by each Party) resulting from the other Party's breach.

15. **Indemnity**

a. **Indemnity by Developer.** Developer shall indemnify, defend, and hold harmless District, and each of District's Affiliates, employees, managers, members, partners, officers, directors, agents, consultants, attorneys, successors, and assigns, to the

full extent permitted by law from and against any and all liabilities, losses, claims, costs, damages, and expenses (including, without limitation, attorneys' fees, costs, and expenses, but specifically excluding any consequential, special, or punitive damages) arising from, or in connection with, any act or failure to act by Developer or its Affiliate which results from the gross negligence, fraud, or willful misconduct of Developer or its Affiliate.

b. Indemnity by District. District shall indemnify, defend, and hold harmless Developer, and each of Developer's Affiliates, employees, members, partners, officers, directors, agents, consultants, attorneys, successors, and assigns to the fullest extent permitted by law from and against any and all liabilities, losses, claims, costs, damages, and expenses (including, without limitation, attorneys' fees, costs, and expenses, but specifically excluding any consequential, special, or punitive damages) arising from, or in connection with, any claims against Developer which results from District's gross negligence, fraud, or willful misconduct.

16. Notice of Agreement. Neither this Agreement nor any memorandum thereof shall be recorded against the Land.

17. Counterparts. This Agreement may be executed in counterparts.

18. Notices. All notices and other communications required or permitted hereunder shall be in writing and shall be given by personal delivery, overnight courier or e-mail transmission, or sent by registered or certified mail, postage prepaid, correctly addressed to the intended recipient at the address set forth below:

If to Developer: CLW Point Partners LLC  
8111 Douglas Avenue, Ste. 600  
Dallas, TX 75225

With a copy to:

Colmena Group  
Attn: Kyle Leishman  
1201 E. Wilmington Ave, #115  
Salt Lake City, UT 84106  
Email: kyle@colmenagroup.com

Wadsworth Development Group, LLC  
166 E 14000 S., Suite 210  
Draper, UT 84020  
Attn: Roman Groesbeck  
Email: roman@wadsdev.com

With an additional copy to:



Snell & Wilmer L.L.P.  
 Attn: Wade Budge  
 15 West South Temple, Suite 1200  
 Salt Lake City, UT 84106  
 Email: wbudge@swlaw.com

If to District: Point Phase 1 Public Infrastructure District No. 1  
 WHITE BEAR ANKELE TANAKA & WALDRON  
 Attorneys at Law  
 2154 East Commons Avenue, Suite 2000  
 Centennial, Colorado 80122  
 Attn: Blair M. Dickhoner  
 Email: bdickhoner@wbapc.com

Such notices and other communications shall be deemed to be given and received as follows: (i) upon actual receipt, if delivered personally on a business day between 8:00 a.m. and 5:00 p.m. (Utah time), otherwise on the next business day; (ii) upon confirmation of delivery or upon the sender's receipt of a read receipt from the recipient, whichever occurs first, if transmitted by e-mail; (iii) upon actual delivery, if delivered by overnight courier; or (iv) three (3) business days following deposit in the mail, if delivered by mail. The Parties may, from time to time, designate a different address by written notice given in the manner provided for above, not less than three (3) business days prior to the effective date of the change.

19. **Brokerage.** Each Party represents and warrants to the other Party that it has incurred no obligation to pay a brokerage commission or fee to any person in connection with the Land or the transaction contemplated by this Agreement, and shall indemnify, hold harmless and defend the other Party from any breach of such representation and warranty.

20. **Binding Effect.** This Agreement shall inure to the benefit of, and be binding on, the Parties and their respective successors and assigns. The obligations of the Parties under this Agreement shall run with and be binding on the Land unless and until terminated as provided herein.

21. **Attorney Fees.** If any action or proceeding is commenced by either Party to enforce its rights under this Agreement (in accordance with its terms) or to collect actual damages as a result of the breach of any of the provisions of this Agreement, the prevailing Party in such action or proceeding, including any bankruptcy, insolvency or appellate proceedings, shall be entitled to recover all reasonable out of pocket costs and expenses, including, without limitation, reasonable attorney fees and court costs, in addition to any other relief awarded by the court.

22. **Parties Interested /No Third-Party Beneficiaries.** Nothing expressed or implied in this Agreement is intended or shall be construed to confer upon, or to give to, any person other than the Parties any right, remedy, or claim under or by reason of this Agreement or any covenants, terms, conditions, or provisions thereof, and all the covenants, terms, conditions, and provisions in this Agreement by and on behalf of the Parties shall be for the sole and exclusive benefit of the

Parties. It is expressly understood and agreed that enforcement of the terms and conditions of this Agreement, and all rights of action relating to such enforcement, shall be strictly reserved to the Parties. Nothing contained in this Agreement shall give or allow any such claim or right of action by any other third parties. It is the express intention of the Parties that any person other than the Parties receiving services or benefits under this Agreement shall be deemed to be an incidental beneficiary only.

*[Signatures on Following Page(s)]*

IN WITNESS WHEREOF, this Agreement was executed as of the Effective Date.

**District:**

POINT PHASE 1 PUBLIC INFRASTRUCTURE DISTRICT NO. 1,  
an independent political subdivision of the State of Utah

By: Jay Hardy  
Jay Hardy (Mar 24, 2025 14:32 MDT)  
Officer of the District

Attest:

By: Zachary Clegg  
Zachary Clegg (Mar 18, 2025 17:10 MDT)

APPROVED AS TO FORM:

WHITE BEAR ANKELE TANAKA & WALDRON  
Attorneys at Law

Blair Dickhoner  
Blair Dickhoner (Mar 19, 2025 06:11 MDT)  
General Counsel to the District

*[Signatures Continue on Following Page]*

**DEVELOPER:**

CLW POINT PARTNERS, LLC,  
a Delaware limited liability company dba The Point Partners

By: 

Name: Patrick Gilligan

Title: Authorized Signatory



By: [Lance Bullen \(Apr 7, 2025 11:43 MDT\)](#)

Name: Lance Bullen

Title: Authorized Signatory



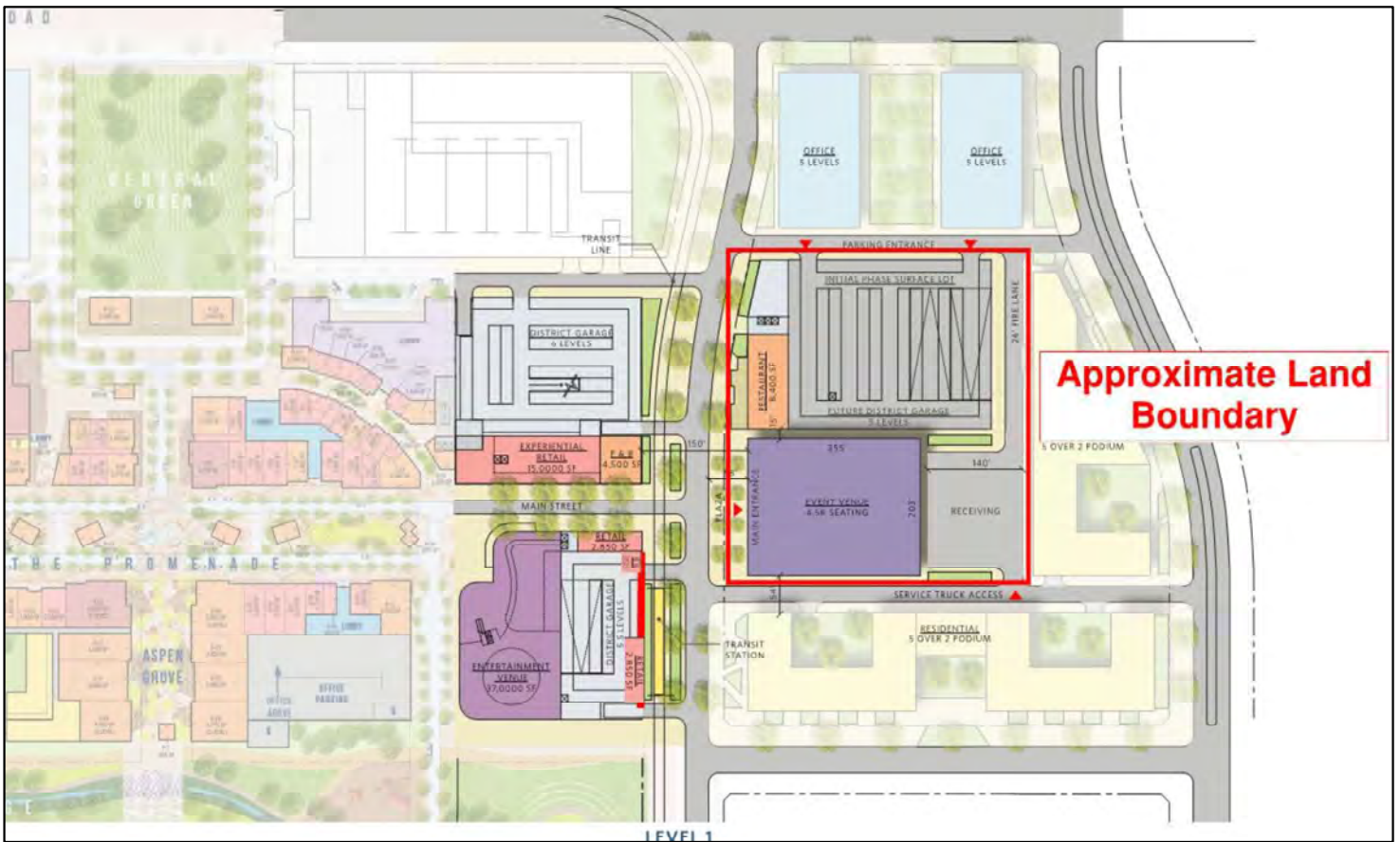
By: [Kip Wadsworth \(Mar 25, 2025 11:20 MDT\)](#)

Name: Kip L. Wadsworth

Title: Authorized Signatory

**EXHIBIT “A-1”**

### General Depiction of the Land



### Legal Description of the Land



**EXHIBIT "A-2"**  
(Continued)

A parcel of land located in the Southeast Quarter of Section 1 and the Northeast Quarter of Section 12, Township 4 South, Range 1 West, Salt Lake Base & Meridian, more particularly described as:

Beginning at a point being 3421.08 feet South 89°39'24" East from the Southwest Corner of Section 1, Township 4 South, Range 1 West, Salt Lake Base and Meridian and running thence North 00°04'28" East 158.81 feet; thence northerly 331.18 feet along the arc of a 1169.50 foot radius curve to the right, through a central angle of 16°13'29", chord bears North 08°11'12" East 330.07 feet; thence North 16°17'57" East 10.09 feet; thence East 344.63 feet; thence South 45°00'00" East 15.66 feet; thence South 511.93 feet; thence West 405.77 feet; thence North 00°04'28" East 27.80 feet to the Point of Beginning.

Contains 206,485 Square Feet or 4.740 Acres.

Basis of Bearing is South 89°39'24" East between the Southwest corner and the witness corner (Salt Lake County monument No. 4S1W011B) to the Southeast corner of Section 1, Township 4 South, Range 1 West, Salt Lake Base and Meridian.

**EXHIBIT “B”**

Project Plan

[TO BE ADDED UPON APPROVAL OF District IN ACCORDANCE WITH SECTION 3]



Salt Lake City, Utah

May 21, 2025

The Boards of Trustees (the “Boards”) of the Point Phase 1 Public Infrastructure District Nos. 1 through 9 (the “Districts”) met in regular session (including by electronic means) on May 21, 2025, at offices of Colmena Group, 1201 E. Wilmington Ave, Suite 115, Salt Lake City, UT 84106 at the hour of 1:00 p.m., with the following members of the Board being present:

Jay Hardy	Chair
Robert Booth	Treasurer/Vice Chair
Zachary Clegg	Clerk/Secretary
Trevor Nicoll	Trustee
Michael Ambre	Trustee

Also Present:

Megan Murphy, Esq.	White Bear Ankele Tanaka & Waldron, P.C.
Betsy Russon, Esq.	White Bear Ankele Tanaka & Waldron, P.C.
	Gilmore & Bell, P.C.
Benjamin Becker	Piper Sandler
Shannon McEvoy	Pinnacle Consulting Group
Brendan Campbell	Pinnacle Consulting Group

Absent:

After the meeting had been duly called to order and after other matters not pertinent to this Resolution had been discussed, a Certificate of Compliance with Open Meeting Law with respect to this May 21, 2025 meeting was presented to the Board, a copy of which is attached hereto as Exhibit A.

Thereupon, the following Resolution was introduced in writing, read in full and pursuant to motion duly made by Board Member \_\_\_\_\_ and seconded by Board Member \_\_\_\_\_ adopted by the following vote:

AYE:

NAY:

The resolution is as follows:

## POINT PHSAE 1 PUBLIC INFRASTRUCTURE DISTRICT NOS. 1 THROUGH 9

## BOARD RESOLUTION

*Authorizing an amendment to the annexation area for  
The Point Phase 1 Public Infrastructure Districts 1 through 9*

*Approved by Resolution of  
Boards of Trustees of the Point Phase 1 Public Infrastructure Districts Nos. 1 through 9  
May 21, 2025*

A RESOLUTION OF THE BOARDS (THE “BOARDS”) OF THE POINT PHASE 1 PUBLIC INFRASTRUCTURE DISTRICT NOS. 1 THROUGH 9 (THE “DISTRICTS”) AMENDING THE ANNEXATION AREA ATTACHED AS EXHIBIT C OF THE GOVERNING DOCUMENT OF THE DISTRICTS; AND RELATED MATTERS.

WHEREAS, on June 11, 2024, the Point of the Mountain State Land Authority (“POMSLA”) approved of the creation of up to nine public infrastructure districts pursuant to the Public Infrastructure District Act, Title 17D, Chapter 4, Utah Code Annotated 1953, as amended (the “PID Act”) and relevant portions of the Limited Purpose Local Government Entities - Special Districts, Title 17B (together with the PID Act, the “District Act”) and the Point of the Mountain State Land Authority Act, Title 11, Chapter 59, Utah Code Annotated 1953, as amended (the “POMSLA Act” and together with the District Act, the “Act”) within the boundaries of the Point of the Mountain State Land (as defined in the POMSLA Act) and approved an annexation area which the Districts are approved to annex into therein (“Annexation Area”); and

WHEREAS, pursuant to 17D-4-201(3) of the Act, a District may annex an area outside of the boundaries of such District, by adoption of a resolution of the Board and with consent of 100% of all surface property owners within the area proposed to be annexed into the Districts if the governing document authorizes the District board to annex such area without future consent of the creating entity; and

WHEREAS, the Districts are governed in accordance with the District Act and the terms of a governing document (the “Governing Document”), which was adopted by the Board of POMSLA on June 11, 2024; and

WHEREAS, POMSLA and the Districts desire to amend the legal description of the annexation area attached as Exhibit A of the Governing Document and the map of the annexation area attached as Exhibit C of the Governing Document; and

WHEREAS, pursuant to the District Act, a governing document may be amended by resolutions adopted by the creating entity and the district approving such amendment; and

WHEREAS, the Board of POMSLA adopted a Resolution Amending the Annexation Area Attached as Exhibit C of the Governing Document of the Districts on May 14, 2025.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARDS, AS FOLLOWS:

1. Terms defined in the foregoing recitals shall have the same meaning when used herein. All action heretofore taken (not inconsistent with the provisions of this Resolution) by the Boards directed toward the amendments contemplated herein, are hereby ratified, approved and confirmed.

2. It is hereby found and determined by the Boards that the annexation of any portion of the Annexation Area is appropriate to the general welfare, order and security of the development of the Districts.

3. Exhibit A of the Governing Document and Exhibit C of the Governing Document is hereby amended as provided in Exhibit B hereto.

4. If any section, paragraph, clause or provision of this Resolution shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Resolution.

5. All acts, orders and resolutions, and parts thereof in conflict with this Resolution be, and the same are hereby, rescinded.

6. Prior to recordation of a certificate of annexation for the Districts, the Point of the Mountain State Law Authority ("POMSLA") has authorize the Board of POMSLA to make any corrections, deletions, or additions to the Governing Document or any other document herein authorized and approved (including, but not limited to, corrections to the property descriptions therein contained) which may be necessary to conform the same to the intent hereof, to correct errors or omissions therein, to complete the same, to remove ambiguities therefrom, or to conform the same to other provisions of said instruments, to the provisions of this Resolution or any resolution adopted by the Board of POMSLA or the provisions of the laws of the State of Utah or the United States.

7. This resolution shall take effect immediately.

PASSED AND ADOPTED by the Boards of the Point Phase 1 Public Infrastructure District Nos. 1 through 9, this May 21, 2025.

POINT PHASE 1 PUBLIC  
INFRASTRUCTURE DISTRICT NOS. 1  
THROUGH 9, a quasi-municipal corporation  
and political subdivision of the State of Utah

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

ATTEST:

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

(Here follows other business not pertinent to the above.)

Pursuant to motion duly made and seconded, the meeting of the Boards of the Ponit Phase 1 Public Infrastructure District Nos. 1 through 9 adjourned.

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

ATTEST:

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

STATE OF \_\_\_\_\_ )  
 : ss.  
COUNTY OF \_\_\_\_\_ )

I, \_\_\_\_\_, the undersigned duly qualified and acting \_\_\_\_\_ of the Point Phase 1 Public Infrastructure District Nos. 1 through 9 (the “Districts”), do hereby certify as follows:

The foregoing pages are a true, correct, and complete copy of the record of proceedings of the Board of Trustees of the Districts (the “Boards”), had and taken at a lawful meeting of the Board on May 21, 2025, commencing at the hour of 1:00 p.m., as recorded in the regular official book of the proceedings of the Boards kept in my office, and said proceedings were duly had and taken as therein shown, and the meeting therein shown was duly held, and the persons therein were present at said meeting as therein shown.

All members of the Boards were duly notified of said meeting, pursuant to law.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Districts, this \_\_\_\_\_, 2025.

(S E A L)

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

EXHIBIT A

## CERTIFICATE OF COMPLIANCE WITH OPEN MEETING LAW

I, \_\_\_\_\_ the undersigned \_\_\_\_\_ of the Point Phase 1 Public Infrastructure Districts Nos. 1 through 9 (the “Districts”), do hereby certify that I gave written public notice of the agenda, date, time and place of the regular meeting held by the Boards of Trustees of the Districts (the “Boards”) on May 21, 2025, not less than twenty-four (24) hours in advance of the meeting. The public notice was given in compliance with the requirements of the Utah Open and Public Meetings Act, Section 52-4-202, Utah Code Annotated 1953, as amended, by:

(a) causing a Notice, in the form attached hereto as Schedule 1, to be posted at the offices of Colmena Group, 1201 E. Wilmington Ave, Suite 115, Salt Lake City, UT 84106 at least twenty-four (24) hours prior to the convening of the meeting, said Notice having continuously remained so posted and available for public inspection until the completion of the meeting;

(b) causing a copy of such Notice, in the form attached hereto as Schedule 1, to be published on the Utah Public Notice Website (<http://pmn.utah.gov>) at least twenty-four (24) hours prior to the convening of the meeting; and

IN WITNESS WHEREOF, I have hereunto subscribed my official signature this [\_\_\_\_], 2025.

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

SCHEDULE 1

NOTICE OF MEETING AND AGENDA



EXHIBIT B  
GOVERNING DOCUMENT

## PETITION FOR ANNEXATION OF PROPERTY

---

TO: BOARD OF TRUSTEES OF  
THE POINT PHASE 1 PUBLIC INFRASTRUCTURE DISTRICT NO. 1  
COUNTY OF SALT LAKE, UTAH

Pursuant to the provisions of [Utah Code Section 17D-4-201\(3\)\(a\)\(iii\)](#), CLW POINT PARTNERS LLC, a Delaware limited liability company dba The Point Partners (the “Petitioner”), hereby respectfully requests that the POINT PHASE 1 PUBLIC INFRASTRUCTURE DISTRICT NO. 1 (the “District”), by and through its Board of Trustees, annex the real property described in **Exhibit A**, attached hereto and incorporated herein by this reference (the “Property”), into the boundaries of the District.

The Petitioner submits this petition in its capacity as the ground lessee of the Property pursuant to a valid and binding ground lease agreement with the State of Utah, the fee owner of the Property (the “Owner”). Under the terms of the ground lease, the Petitioner holds the exclusive right to develop, manage, and improve the Property, and is authorized to act on behalf of the ground lease interest with respect to all matters affecting the Property, including petitions for annexation into a public infrastructure district. The Owner, as the surface property owner, has previously provided its written consent to the creation of the District, as evidenced by that certain Consent to the Creation of Public Infrastructure District Nos. 1 through 9, dated June 19, 2024, recorded in the official records of Salt Lake County. The governing documents of the District, including the District’s Governing Document approved pursuant to Utah Code Title 17D, Chapter 4, expressly contemplate the inclusion of additional property into the District boundaries upon petition by an authorized property interest. Accordingly, the Petitioner, acting as the developer under the ground lease and pursuant to the authority granted therein, submits this Petition for Annexation to formally request annexation of the Property into the District boundaries in accordance with Utah Code Section 17D-4-201(3)(a)(iii), the Owner’s prior consent, and the provisions of the Governing Document.

By its signature below, the Petitioner consents to and requests annexation of the Property into the boundaries of the District.

The name and address of the Petitioner are as follows:

CLW Point Partners LLC  
8111 Douglas Avenue, Ste 600  
Dallas, TX 75225

**PETITIONER:**

**CLW POINT PARTNERS LLC**, a  
 Delaware Limited Liability Company, as  
 ground lessee of the Subject Property

\_\_\_\_\_

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

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

STATE OF UTAH )  
 ) ss.  
 COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_,  
 2025, by \_\_\_\_\_, as the \_\_\_\_\_ of CLW Point Partners, LLC.

Witness my hand and official seal.

My commission expires: \_\_\_\_\_

\_\_\_\_\_  
 Notary Public

## Exhibit A

### Property

The Point – PID

*State of Utah Department of Adm Serv. Div. Fac Const. Mgmnt*

*Parcel No.: 33-01-300-007*

*3-5-2025*

A parcel of land located in the South Half of Section 1 and the North Half of Section 12, Township 4 South, Range 1 West, Salt Lake Base & Meridian, more particularly described as:

Beginning at a point being 1301.98 feet South 89°39'24" East from the Southwest Corner of Section 1, Township 4 South, Range 1 West, Salt Lake Base and Meridian and running thence South 17°19'44" West 39.64 feet; thence South 29°34'15" East 24.47 feet; thence easterly 4.82 feet along the arc of a 576.56 foot non-tangent radius curve to the left, through a central angle of 0°28'44", chord bears South 71°59'48" East 4.82 feet; thence easterly 359.34 feet along the arc of a 5291.00 foot reverse curve to the right, through a central angle of 3°53'29", chord bears South 70°17'26" East 359.27 feet; thence easterly 181.78 feet along the arc of a 984.50 foot reverse curve to the left, through a central angle of 10°34'46", chord bears South 73°38'04" East 181.52 feet; thence South 81°27'22" East 70.00 feet; thence easterly 51.34 feet along the arc of a 885.00 foot radius curve to the left, through a central angle of 3°19'27", chord bears South 85°25'09" East 51.34 feet; thence easterly 191.82 feet along the arc of a 2310.00 foot radius compound curve to the left, through a central angle of 4°45'28", chord bears South 89°27'37" East 191.76 feet; thence easterly 104.78 feet along the arc of a 456.00 foot radius reverse curve to the right, through a central angle of 13°09'55", chord bears South 85°15'23" East 104.55 feet; thence easterly 283.14 feet along the arc of a 894.00 foot radius reverse curve to the left, through a central angle of 18°08'47", chord bears South 87°44'48" East 281.96 feet; thence easterly 233.05 feet along the arc of a 1006.00 foot radius reverse curve to the right, through a central angle of 13°16'23", chord bears North 89°49'00" East 232.53 feet; thence easterly 141.94 feet along the arc of a 534.00 foot radius reverse curve to the left, through a central angle of 15°13'45", chord bears North 88°50'19" East 141.52 feet; thence easterly 65.68 feet along the arc of a 681.00 foot radius reverse curve to the right, through a central angle of 5°31'33", chord bears North 83°59'13" East 65.65 feet; thence South 89°52'45" East 70.00 feet; thence easterly 70.74 feet along the arc of a 506.00 foot radius curve to the right, through a central angle of 8°00'36", chord bears South 83°16'05" East 70.68 feet; thence easterly 73.82 feet along the arc of a 256.48 foot radius reverse curve to the left, through a central angle of 16°29'28", chord bears South 87°30'31" East 73.57 feet; thence easterly 122.74 feet along the arc of a 146.00 foot radius reverse curve to the right, through a central angle of 48°10'11", chord bears South 71°40'09" East 119.16 feet; thence easterly 21.60 feet along the arc of a 28.98 foot radius reverse curve to the left, through a central angle of 42°42'46", chord bears South 68°56'26" East 21.11 feet; thence North 89°42'11" East 5.03 feet; thence North 00°04'27" East 274.67 feet; thence East 518.27 feet; thence North 511.93 feet; thence North 45°00'00" West 15.66 feet; thence West 344.63 feet; thence South 16°17'57" West 10.09 feet; thence southerly 13.98 feet along the arc of a 1169.50 foot radius curve to the left, through a central angle of 00°41'06", chord bears South 15°57'24" West 13.98 feet; thence South 89°59'56" West 745.28 feet; thence South 127.49 feet;

thence southerly 1.57 feet along the arc of a 1.00 foot radius curve to the right, through a central angle of  $90^{\circ}00'00''$ , chord bears South  $45^{\circ}00'00''$  West 1.41 feet; thence West 253.00 feet; thence westerly 1.57 feet along the arc of a 1.00 foot radius curve to the right, through a central angle of  $90^{\circ}00'00''$ , chord bears North  $45^{\circ}00'00''$  West 1.41 feet; thence North 127.51 feet; thence West 562.75 feet; thence westerly 135.32 feet along the arc of a 476.73 foot radius curve to the right, through a central angle of  $16^{\circ}15'50''$ , chord bears North  $80^{\circ}48'40''$  West 134.87 feet; thence North  $72^{\circ}39'57''$  West 311.15 feet; thence South  $17^{\circ}19'51''$  West 60.50 feet; thence South  $63^{\circ}58'15''$  West 9.47 feet; thence South  $17^{\circ}20'03''$  West 273.53 feet; thence South  $27^{\circ}39'57''$  East 17.89 feet; thence South  $17^{\circ}19'34''$  West 94.38 feet; thence South  $62^{\circ}19'01''$  West 17.91 feet; thence South  $17^{\circ}20'03''$  West 18.33 feet; thence South  $17^{\circ}23'45''$  East 28.50 feet; thence South  $17^{\circ}19'44''$  West 96.03 feet to the Point of Beginning.

*Contains 1,621,139 Square Feet or 37.216 Acres.*

Basis of Bearing is South  $89^{\circ}39'24''$  East between the Southwest corner and the witness corner (Salt Lake County monument No. 4S1W011B) to the Southeast corner of Section 1, Township 4 South, Range 1 West, Salt Lake Base and Meridian.

**RESOLUTION**

**OF THE BOARD OF TRUSTEES OF THE**

**POINT PHASE 1 PUBLIC INFRASTRUCTURE DISTRICT NO. 1**

**ANNEXING PROPERTY**

**(ANNEXATION NO. 1)**

---

WHEREAS, Point Phase 1 Public Infrastructure District No. 1 (the “District”) is a quasi-municipal corporation and independent political subdivision of the State of Utah, duly organized and existing pursuant to the Special District Act, Title 17B, Chapter 1, Utah Code Annotated 1953 and the Public Infrastructure District Act, Title 17D, Chapter 4, Utah Code Annotated 1953; and

WHEREAS, [Utah Code Section 17D-4-201\(3\)\(a\)\(i\)\(B\)](#) provides that an area outside the boundaries of the District may be annexed into the District if the Board of Trustees of the District (the “Board”) adopts a resolution to annex the area, provided that the Governing Document authorizes the Board to annex an area without the further consent of the creating entity, the Point of the Mountain State Land Authority (“POMSLA”); and

WHEREAS, Section V.A.5 of the Governing Document permits the District to annex areas outside the District boundaries without POMSLA’s consent provided certain conditions set forth in the Governing Document are met; and

WHEREAS, in conformance with Utah Code Section 17D-4-201(3)(a)(iii), a Petition for Annexation has been filed with POMSLA, signed by CLW Point Partners LLC, the ground lessee under a valid and binding ground lease with the State of Utah (the fee owner of the Property), who holds the exclusive right to develop and act with respect to the Property under such lease, thereby demonstrating the consent of the authorized property interest to annex the Property into the District; and

WHEREAS, the District desires to adopt this resolution to annex property into the District’s boundaries.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD AS FOLLOWS:

1. **Approval of Annexation.** The Board hereby acknowledges the Petition attached hereto as **Exhibit A** and approves the annexation of the property described in the Petition into the boundaries of the District.

**Commented [BD1]:** Make sure we don’t need to change this reference once the Governing Document amendment is complete.

**Commented [BR2R1]:** Will do.

ADOPTED \_\_\_\_\_, \_\_\_\_\_, 2025

**DISTRICT:**

**POINT PHASE 1 PUBLIC  
INFRASTRUCTURE DISTRICT NO. 1**, a  
quasi-municipal corporation and independent  
political subdivision of the State of Utah

By: \_\_\_\_\_  
Officer of the District

Attest:

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

APPROVED AS TO FORM:

WHITE BEAR ANKELE TANAKA & WALDRON  
Attorneys at Law

\_\_\_\_\_  
General Counsel to the District

**CERTIFICATION OF RESOLUTION**

I hereby certify that the foregoing constitutes a true and correct copy of the Resolution Annexing Property adopted by the Board at a meeting held on \_\_\_\_\_, 2025, at (the offices of the Colmena Group, 1201 E. Wilmington Ave, Suite 115, Salt Lake City, UT 84106 and via Teams and Teleconference.

IN WITNESS WHEREOF, I have hereunto subscribed my name this \_\_\_\_ day of \_\_\_\_\_, 2025.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

**Exhibit A**

Petition for Annexation

2647.0900;



**NOTICE OF IMPENDING BOUNDARY ACTION**  
**ANNEXATION OF PROPERTY**  
**(ANNEXATION NO. 1)**

---

**To:** Lieutenant Governor, State of Utah

**From:** Point Phase 1 Public Infrastructure District No. 1 (the “District”)

**NOTICE IS HEREBY GIVEN** that the Board of Trustees of the Point Phase 1 Public Infrastructure District No. 1 (the “Board”), desires to annex property into the boundaries of the District pursuant to [Utah Code Section 17D-4-201\(3\)](#).

A petition meeting the requirements for annexation set forth in Utah Code Section [17D-4-201\(3\)](#) has been filed with the District. (the “Petition”). The Board has adopted a resolution approving the annexation of the property as set forth in the Petition, a true and correct copy of which is attached hereto and incorporated herein by this reference as **Exhibit A**. The District hereby certifies that all requirements applicable to the annexation of the property set forth in the Petition have been met. The annexation of property is not anticipated to result in the employment of personnel and therefore [Utah Code Section 67-1a-6.5\(3\)\(d\)](#) is not applicable in this case.

A copy of the Approved Final Local Entity Plat satisfying the applicable legal requirements as set forth in [Utah Code Section 17-23-20](#) and that has been approved by the Salt Lake County surveyor as a final local entity plat is attached hereto and incorporated herein by this reference as **Exhibit B**.

CERTIFIED this \_\_\_\_ day of \_\_\_\_\_, 2025.

POINT PHASE 1 PUBLIC INFRASTRUCTURE  
DISTRICT NO. 1, a quasi-municipal corporation and  
independent political subdivision of the State of Utah

Officer of the District

STATE OF UTAH )  
 ) ss.  
COUNTY OF \_\_\_\_\_ )

The above and foregoing instrument was subscribed and sworn before me this \_\_\_\_ day of \_\_\_\_\_ 2025, by \_\_\_\_\_, as an Officer of the Point Phase 1 Public Infrastructure District No. 1.

WITNESS my hand and official seal.

(SEAL)

Notary Public

My commission expires: \_\_\_\_\_

**Exhibit A**  
Resolution Approving Annexation

**Exhibit B**

Final Local Entity Plat

## GROUND LEASE AGREEMENT

**THIS GROUND LEASE AGREEMENT** (this “**Ground Lease**”) is entered into this \_\_\_\_ day of \_\_\_\_\_, 2025 (the “**Effective Date**”), by and between **POINT OF THE MOUNTAIN STATE LAND AUTHORITY**, an independent entity of the State of Utah (“**Lessor**”), and **POINT PHASE I PUBLIC INFRASTRUCTURE DISTRICT NO. 1**, a quasi-municipal corporation and independent political subdivision of the State of Utah (“**Lessee**”).

### **ARTICLE I** **BASIC TERMS**

This Summary of Basic Terms (“**Summary**”) is hereby incorporated into and made a part of this Ground Lease. In the event of a conflict between the terms of this Summary and the terms of the Ground Lease, the terms of the Ground Lease shall prevail.

1. **Effective Date:** \_\_\_\_\_, 2025
  
2. **Lessor:** POINT OF THE MOUNTAIN STATE LAND  
AUTHORITY, an independent entity of the State of  
Utah
  
3. **Address of Lessor:** POINT OF THE MOUNTAIN STATE LAND  
AUTHORITY  
P.O. Box 692  
Draper, UT 84020  
Attn: Michael Ambre, Executive Director  
Email: [michaelambre@utah.gov](mailto:michaelambre@utah.gov)

*With a copy to:*  
Ballard Spahr LLP  
201 South Main Street, Suite 800  
Salt Lake City, Utah 84111  
Attention: Steven Mehr  
Email: [mehrs@ballardspahr.com](mailto:mehrs@ballardspahr.com)

*With an additional copy to:*  
Ballard Spahr LLP  
201 South Main Street, Suite 800  
Salt Lake City, Utah 84111  
Attention: Jacey Skinner  
Email: [skinnerj@ballardspahr.com](mailto:skinnerj@ballardspahr.com)

*Payments to Lessor:*  
POINT OF THE MOUNTAIN STATE LAND  
AUTHORITY  
P.O. Box 692  
Draper, UT 84020

Attn: Michael Ambre, Executive Director  
 Email: [michaelambre@utah.gov](mailto:michaelambre@utah.gov)

4. **Lessee:** POINT PHASE I PUBLIC INFRASTRUCTURE DISTRICT NO. 1, an independent political subdivision of the State of Utah
  
5. **Address of Lessee:** POINT PHASE I PUBLIC INFRASTRUCTURE DISTRICT NO. 1  
 WHITE BEAR ANKELE TANAKA & WALDRON  
 Attorneys at Law  
 350 E 400 S, #2301  
 Salt Lake City, UT 84111  
 Attn: Blair M. Dickhoner  
 Email: [bdickhoner@wbapc.com](mailto:bdickhoner@wbapc.com)
  
6. **Leased Premises:** The Leased Premises consists of approximately 4.74 acres of real property, as generally depicted on Exhibit A attached hereto and legally described in Exhibit B attached hereto.
  
7. **Term:** A period of forty (40) years, commencing on the Rent Commencement Date and as set forth in Section 3.1 of this Ground Lease (the “**Initial Term**”). The Initial Term, as it may be extended pursuant to the exercise of the Extension Option(s), may be referred to herein, collectively, as the “**Term**”.
  - 7.1 **Construction Term:** The period commencing on the Effective Date and ending on the date immediately prior to the Rent Commencement Date.
  
  - 7.2 **Rent Commencement Date:** As defined in Section 3.1 of this Ground Lease.
  
  - 7.3 **Expiration Date:** The last day of the month that is four hundred eighty (480) months after the Rent Commencement Date, subject to extension pursuant to Lessee’s exercise of the Extension Option(s).
  
  - 7.4 **Extension Option(s):** As defined in Section 3.2 of this Ground Lease.
  
8. **Rent:** As set forth in Exhibit C attached hereto.

**9. Permitted Uses:**

Lessee shall use and occupy the Leased Premises for the purpose of operating an event center, parking area, and retail uses within the parking area, together with any related facilities, amenities, and ancillary uses, and for any other lawful purpose permitted under Applicable Laws, ordinances, and zoning regulations.

**ARTICLE II**  
**THE LEASED PREMISES**

Lessor hereby leases to Lessee and Lessee hereby leases from Lessor, subject to the terms and conditions stated and referred to herein (including the Exhibits attached hereto) that certain land located in the County of Salt Lake, State of Utah, depicted in Exhibit A attached hereto (“**Land**”), together with and subject to easements appertaining thereto, all as described or more particularly referred to in Exhibit B attached hereto. The Leased Premises shall include the rights of Lessee and all Lessee Parties (defined below) to access and use all public streets, utilities and services. The foregoing, collectively, are hereinafter referred to as the “**Leased Premises**”. As of the Effective Date, Lessee shall have the right to access the Leased Premises and any nearby or adjacent land owned by Lessor for purposes of planning, layout, testing, improvement, and construction of the Improvements (as defined in Section 7.1), as well as any associated and required offsite infrastructure. Such access shall include, without limitation, the right to perform the required infrastructure work generally depicted on Exhibit J attached hereto, and any other work reasonably necessary or incidental to the development and operation of the Property. Nothing in this Ground Lease shall be deemed to include as any part of the Leased Premises a fee title interest in the Land itself. As referenced in this Ground Lease, “**Lessee Parties**” shall mean and include Lessee, its agents, employees, contractors, consultants, officers, members, and directors, and sublessees of the Property, and their respective successors and assigns.

**ARTICLE III**  
**TERM**

**SECTION 3.1 Ground Lease Term.** The Initial Term of this Ground Lease shall commence on the date upon which (i) the Improvements are complete and a temporary or permanent certificate of occupancy (or applicable equivalent for base, shell and core) has been issued for the Improvements, and (ii) a certificate of completion has been issued for each component of any associated and required offsite infrastructure, including, without limitation, the required infrastructure work generally depicted on Exhibit J attached hereto (the “**Rent Commencement Date**”). Unless earlier terminated as specifically provided in this Ground Lease, the Term shall continue for the period referenced in Section 7 of the Summary. Notwithstanding anything to the contrary, the Rent Commencement Date shall be no later than forty (40) months following the Effective Date.

**SECTION 3.2 Option to Extend.** Subject to Section 3.6 below, Lessee shall have the option (“**Extension Option(s)**”) to extend the Term of this Ground Lease for six (6) additional period(s) of ten (10) years each (the “**Extension Term(s)**”). The Extension Terms shall be upon all terms and conditions of this Ground Lease; *provided, however*, that at the time of any exercise of such right by the Lessee, and at the expiration of the Initial Term or the then-current Extension Term, no Event of Default by Lessee shall exist under this Ground Lease. Each Extension Option

shall be exercised by Lessee notifying Lessor of such exercise, in writing, at least eighteen (18) months prior to the expiration of the Initial Term, or, if applicable, the then-current Extension Term.

**SECTION 3.3 Construction Term.** This Ground Lease shall become effective on the date both parties have executed this Ground Lease, and the period between the date both parties execute this Ground Lease and the Rent Commencement Date shall be designated as the “**Construction Term**” during which Base Rent (as defined in Section 4.1 below) shall not accrue but all other covenants and obligations of Lessor and Lessee shall be in full force and effect, and Lessee may commence construction of the Improvements and any associated offsite infrastructure.

**SECTION 3.4 Definition of Lease Year.** “**Lease Year**” shall include twelve (12) full calendar months, except that the first Lease Year shall include the first twelve (12) full calendar months plus the partial month, if any, that falls between the Rent Commencement Date and the first day of the first full calendar month after the Rent Commencement Date.

**SECTION 3.5 Termination.** During the Term, this Ground Lease shall continue in effect unless and until terminated by the mutual written consent of Lessor and Lessee or by the expiration of the Term, whichever comes first. If Lessee elects to extend this Ground Lease for an Extension Term(s), as provided by Section 3.2 above, this Ground Lease shall continue in effect unless and until terminated by the mutual written consent of Lessee and Lessor or by the expiration of the Extension Term(s), whichever occurs first.

**SECTION 3.6 Option to Purchase Event Center.** Lessor shall have the option to purchase the event center and related Improvements and Equipment located within the Leased Premises (the “**Event Center**”); however, such option expressly excludes the parking structure(s) located within the Leased Premises and any retail improvements within or associated with such parking structure(s).<sup>1</sup> This option shall arise only if Lessee delivers timely written notice to extend the Term of this Ground Lease for the first Extension Term pursuant to Section 3.2 above. Upon Lessee’s delivery of such notice, Lessor shall have a period of ninety (90) days to notify Lessee in writing if it elects to exercise the option. If Lessor does not timely deliver such notice, the option shall automatically expire and be of no further force or effect. If Lessor timely exercises the option, the parties shall promptly commence good faith negotiations regarding the material terms and conditions of the sale, to be documented in a mutually acceptable purchase and sale agreement. The purchase price for the Event Center shall be One-Hundred Dollars (\$100.00). The Event Center shall be sold, assigned, and transferred to Lessor in their “AS-IS”, “WHERE-IS”, and “WITH ALL FAULTS” condition, without any representations or warranties of any kind, express or implied, including, without limitation, warranties of merchantability, fitness for a particular purpose, or condition. The sale shall be effective as of the expiration of the Initial Term.

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<sup>1</sup> NTD: Parties to discuss. The parking should remain separate with the District. Parking will be used for other uses.



## ARTICLE IV RENT

**SECTION 4.1 Annual Base Rent.** Commencing as of the Rent Commencement Date and continuing through the Initial Term, Lessee shall pay base rent in the amount specified in Exhibit C attached hereto (“**Base Rent**”). Base Rent shall be paid in advance on the first day of each calendar month from and after the Rent Commencement Date, and the Base Rent for any partial month shall be a daily prorated amount of a single monthly installment. If and to the extent Lessee exercises its Extension Option(s), Base Rent for the Extension Term(s) shall be determined in accordance with the terms of Exhibit C attached hereto.

### **SECTION 4.2 Taxes, Assessments and Other Charges with Respect to the Leased Premises.**

(a) In addition to the payment of Base Rent as referenced above, Lessee covenants and agrees to bear, pay and discharge promptly as the same become due and before delinquency, all taxes, assessments (whether special or general), fees or other charges levied, assessed, or imposed on or with respect to the Leased Premises, or any buildings or improvements owned by Lessee thereon (inclusive of all real and personal property), together with any interest or penalties on any of the foregoing, under all Applicable Laws (collectively hereinafter sometimes referred to as “**Taxes**”). In addition, Lessee shall pay when due and payable, all fees, rents and charges for water, electricity, gas, sewer, garbage collection and other services or utilities provided to the Leased Premises during the Term (collectively hereinafter sometimes referred to as “**Utilities**”) and shall pay Lessee’s share of all Assessments as set forth in Article X below.

(b) Lessor and Lessee shall, where possible, arrange for separate assessments for the Taxes, Assessments and Utilities, and Lessee shall pay such Taxes, Assessments and Utilities directly to the taxing authority, or the providing utility, as applicable. Taxes, Assessments and Utilities shall be pro-rated for any partial year at the beginning of and at the end of this Ground Lease. In the event any Taxes, Assessments or Utilities which are attributable to Lessee or to the Leased Premises are paid by Lessor, they shall be reimbursed by Lessee to Lessor within thirty (30) days after Lessee receives billing therefor and proof of payment by Lessor. As referenced herein, Base Rent, together with such other amounts as are payable by Lessee to Lessor hereunder may be collectively referred to herein as “**Rent**”.

**SECTION 4.3 Late Charges.** Lessee’s failure to pay Rent promptly may cause Lessor to incur unanticipated costs. The exact amount of such costs is impractical or extremely difficult to ascertain. Such costs may include, but are not limited to, processing and accounting charges. Therefore, if Lessor does not receive any Rent payment within ten (10) Business Days after it becomes due, Lessee shall pay to Lessor a late charge equal to five percent (5%) of the overdue amount. The parties agree that such late charge represents a fair and reasonable estimate of the costs Lessor will incur by reason of such late payment.

**SECTION 4.4 Interest on Past Due Obligations.** In addition to any late charge imposed pursuant to Section 4.3 above, any amount owed by Lessee to Lessor which is not paid within thirty (30) days after it becomes due shall bear interest at the rate of ten percent (10%) per annum from the due date of such amount (“**Interest**”); *provided, however*, no Interest shall accrue upon late charges imposed upon Lessee under this Ground Lease. The payment of Interest on such

amounts shall not excuse or cure any default by Lessee under this Ground Lease. If the Interest rate specified in this Section 4.4, or any other charge or payment due under this Ground Lease which may be deemed or construed as interest, is higher than the rate permitted by law, such interest rate is hereby decreased to the maximum legal interest rate permitted by law.

## **ARTICLE V** **INTENTIONALLY OMITTED**

## **ARTICLE VI** **PERMITTED USES OF THE LEASED PREMISES**

Subject to the provisions of this Ground Lease, the Leased Premises may be used, leased and operated for the Permitted Uses (as set forth in the Summary). Additionally, and without limiting the foregoing, Lessee shall comply with all laws, ordinances, orders, rules or regulations of federal, state, county or city governments or other government or special district authorities, relating to the Leased Premises and use and operation thereof in effect on the Effective Date of this Ground Lease<sup>2</sup> (collectively, “**Applicable Laws**”); and Lessee shall not use or knowingly permit any part of the Leased Premises to be used for any unlawful purpose. Furthermore, Lessee shall require any and all Subtenants to comply with all Applicable Laws. In the event of a breach of the terms set forth in this Article VI, Lessor at its election, may terminate this Ground Lease if there is a continuance of such breach for a period of ninety (90) days after notice in writing thereof from Lessor to Lessee (which notice shall specify the respects in which Lessor contends that Lessee has failed to perform any of such covenants, conditions, and agreements) unless, Lessee, or any person holding by, through or under Lessee, in good faith, promptly after receipt of such written notice, shall have commenced and thereafter continue diligently to prosecute all action necessary to cure such breach. Further, if any portion of the Leased Premises is utilized for uses other than Permitted Uses in violation of the terms of a Sublease, then Lessor shall not have the right to terminate this Ground Lease so long as Lessee is diligently proceeding to enforce the terms of any Sublease and to cure such violation. Any termination of this Ground Lease pursuant to the terms of this Article VI shall be Lessor’s sole and exclusive remedy against Lessee for the violations described in this Article.

## **ARTICLE VII** **CONSTRUCTION OF IMPROVEMENTS**

**SECTION 7.1 Construction of Improvements.** For purposes of this Ground Lease, the following terms shall have the following meanings:

- “**Improvements**” mean, collectively, any and all buildings, improvements (inclusive of parking areas (if any), landscaping, and other appurtenant improvements located on the Leased Premises), and structures existing on the Leased Premises, and all buildings, improvements, and structures from time to time erected within or forming a part of the Leased Premises and the Equipment. Any Alterations to the Improvements (upon their making) shall be and constitute part of the Improvements.

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<sup>2</sup> NTD: This language follows the DDA ground lease form.

- **“Equipment”** means all fixtures from time to time located on and used in connection with the operations of the buildings and structures forming the Improvements, including, without limitation, all attached, affixed, or built-in plumbing, electrical, mechanical, heating, ventilating, fire safety and air conditions systems of the Improvements, furnaces, boilers, compressors, elevators, fittings, piping, conduit, ducts and apparatus, in each case from time to time attached, affixed or built-in to the Improvements (but in all of the above cases excluding the personal property and all property owned by third-party persons, or leased by Lessee from third-party persons).

On or before the date which is three (3) years before the end of the then-current Term, Lessee shall have the right to demolish, construct, alter, repair, restore, replace, or reconstruct any of the Improvements located on the Leased Premises, provided that all such work shall be performed by Lessee in compliance with Applicable Laws, and provided further that such alteration, repair, restoration, replacement, or reconstruction shall in no way reduce Lessor’s rights or increase Lessor’s obligations under this Ground Lease. Following such date (i.e., during the final three years of the Term), Lessee shall not undertake any demolition, new construction, or material alterations to the Improvements, but may perform routine maintenance, repairs, and replacements necessary to preserve the condition and functionality of the existing Improvements. Lessor shall have no obligation to construct or pay for all or any Improvements. The parties acknowledge and agree that if and to the extent that Lessee performs work pursuant to this Article VII, such work shall constitute part of the Improvements for purposes of this Ground Lease.

Lessee shall diligently pursue to completion, in a good and workmanlike manner and in accordance with all Applicable Laws and the terms of this Ground Lease, any construction, alteration, or other work commenced in connection with the Improvements. All initial Improvements constructed by Lessee shall be completed within a commercially reasonable period of time, subject to Force Majeure, and in no event later than thirty (30) months from the commencement of construction.

**SECTION 7.2 Future Construction.** Lessee may during the Term of this Ground Lease make alterations and additions to existing buildings and Improvements or construct additional buildings or Improvements on the Leased Premises (collectively, **“Alterations”**). Any Alterations and all exterior signage must be completed in compliance with Applicable Laws.

**SECTION 7.3 Compliance with Codes and Laws.** Any construction, repair, alteration, addition or other improvement of any kind or nature in or upon the Leased Premises by or at the instance of the Lessee shall be accomplished in a good and workmanlike manner and shall fully comply with all Applicable Laws. Lessee shall have the obligation of obtaining any and all necessary permits for the accomplishment of any construction, alteration, repair, addition or other improvement in or upon the Leased Premises, all at Lessee’s sole cost and expense. Lessee shall pay all costs, expenses, liabilities, losses, damages, fines, penalties, claims and demands that may in any manner arise from or be imposed as a result of Lessee’s failure or breach of its requirements of compliance set forth in this Section, *provided, however*, Lessee shall have the right at any time and at its sole cost and expense to contest in good faith, by appropriate legal or administrative proceedings, the validity or application of any law, ordinance, order, rule, regulation, requirement or other government imposition and, if permitted by law, Lessee shall not be required to comply therewith until final determination of such proceedings. In the event of any such contest, Lessee shall give prior written notice thereof to Lessor of Lessee’s intention to contest the validity or application of any such law, ordinance, order, rule, regulation, requirement or other governmental

imposition; and, in the event of any such contest, Lessor shall reasonably cooperate with Lessee in making necessary appearances and other such matters; provided, however, that, Lessor shall not be required to incur, pay, or be liable for any costs or expenses in connection with, relating to, or arising from any such contest or proceeding. Any such construction, repair, alteration, addition or other improvement made by or at the insistence of Lessee shall be at Lessee's sole cost and expense, and shall impose no obligation upon Lessor.

**SECTION 7.4 Required Insurance During Construction.** During the period of construction of any improvements or alterations upon the Leased Premises or construction of any required offsite infrastructure, Lessee shall maintain or shall cause its contractors or Subtenants (or such Subtenant's contractor) to maintain the insurance coverage set forth in Exhibit H attached hereto. Such insurance shall include, at a minimum, builder's risk (course of construction), commercial general liability, auto liability, and workers' compensation coverages as specified in Exhibit H.

**SECTION 7.5 Utilities.** Lessee, shall at its sole cost and expense, extend or cause to be extended all utilities from the boundaries of the Leased Premises onto and over the Leased Premises for Lessee's use, and shall be responsible for and shall pay all utility connection and service fees relating to Lessee's construction of the said Improvements, or any other improvement, alteration or repair in or upon the Leased Premises, and to the use of all of the aforesaid within and upon the Leased Premises. Notwithstanding the foregoing, Lessor shall be responsible, at its sole cost and expense, for ensuring that all necessary utilities (including, without limitation, water, sewer, electricity, and gas) are available and capable of being connected at the boundary of the Leased Premises no later than the earlier of (i) commencement of Lessee's construction of the Improvements, or (ii) [X]<sup>3</sup> days after the Effective Date.

**SECTION 7.6 Ownership of Improvements and Right of Reversion.** So long as this Ground Lease or any lease given in substitution for it pursuant to Article V remains in force, any building, structure or other improvement located on and/or constructed by Lessee on the Leased Premises shall be owned in fee simple by Lessee or its assignee (Lessee or its assignee to stand seized of the title for the purposes herein set forth). All buildings, structures and improvements constructed by Lessee upon the Leased Premises shall revert to and become the property of Lessor immediately upon the termination of this Ground Lease, for any reason, whether by lapse of time or otherwise, subject to the terms of any Subleases then in place. Lessee shall execute and deliver to Lessor such instruments of conveyance or other documents as may be necessary or desirable to effect, evidence, or confirm said ownership in Lessor. Notwithstanding anything to the contrary herein, Lessee shall receive written notice of default and may exercise a reasonable period of time to cure any default of Lessee hereunder so as to avoid the harsh remedy of termination and reversion of title of improvements to Lessor.

**SECTION 7.7 Development Approvals; Public Financing and Incentives.** Lessee shall be required to initiate and prosecute to completion all of the necessary governmental approvals, permits, variances, authorizations and similar matters from governmental authority for the construction of any Improvements by Lessee (including the building permit). Lessor agrees to cooperate with Lessee in connection with Lessee's applications and submittals related to the

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3 NTD: Parties to discuss timing.

proposed Improvements and all permits and approvals necessary for Lessee to commence construction thereof, including execution of applications, affidavits and similar documents as needed, promptly after Lessee's written request for same. In addition, Lessor agrees to grant, from time to time, utility easements and rights-of-way on, across and under the Leased Premises or nearby land owned by Lessor that may be required for the development and use of the Leased Premises by Lessee for the Permitted Uses, as reasonably requested by Lessee. Lessee may, at its election and sole right, seek, apply for, and obtain approval from applicable governmental authorities for any (i) special assessments, a special or public infrastructure district or any other governmental or quasi-governmental financing for the payment of any on-site or off-site improvements constructed or to be constructed related to the development of the Leased Premises, or (ii) governmental or quasi-governmental financing or financial assistance related to the development, use or operation of the Leased Premises, including any state and local economic development incentives, grants, tax credits, abatements, exemptions, rebates, tax reduction programs and/or tax increment financing, that may impose obligation(s) on the Leased Premises for the Term hereof. Lessor agrees to cooperate with Lessee in connection with Lessee's applications and submittals related to the public assistance financing or incentives contemplated by this Section 7.7, including execution of applications, affidavits and similar documents as needed, promptly after Lessee's written request for same.<sup>4</sup>

**SECTION 7.8 Plat Cooperation.** In the event that the subdivision plat (the "Plat") for the Leased Premises has not been approved and recorded prior to the execution of this Ground Lease, Lessor agrees to cooperate fully and in good faith with Lessee to facilitate the timely processing, approval, and recordation of the Plat. Without limitation, Lessor shall promptly execute, deliver, and file (or cause to be executed, delivered, and filed) any and all applications, consents, affidavits, dedications, signatures, and other documents or instruments reasonably required in connection with Lessee's preparation, submittal, approval, and recordation of the Plat with the applicable governmental authorities.

## **ARTICLE VIII**

### **DAMAGE OR DESTRUCTION**

**SECTION 8.1 Damage or Destruction.** If the Improvements or any material part thereof shall be damaged or destroyed by fire or other casualty during the Term, then, except as otherwise provided under Section 8.2 or Section 8.3 below: (a) this Ground Lease shall not terminate; (b) Lessee's obligations to make Base Rent payments and all other payments required of Lessee by this Ground Lease shall continue, without interruption, suspension or abatement; (c) no portion of the Base Rent previously paid shall be refundable, and (d) if insurance proceeds are sufficient to cover such reconstruction (or would have been sufficient if Lessee had maintained the insurance coverages required hereunder) Lessee shall be obligated to repair, reconstruct or replace the Improvements except as Lessor otherwise agrees in writing. **Lessee Termination Right.** Notwithstanding anything to the contrary herein, Lessee shall be entitled to terminate this Ground Lease (and shall have no obligation to rebuild or reconstruct any Improvements) if (i) Substantial Loss or Damage (defined below) occurs, or (ii) provided Lessee has maintained such insurance as is required to be maintained by Lessee pursuant to the terms of Article XIV below, the insurance proceeds actually received by Lessee and available for the repair of the Improvements are not

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<sup>4</sup> NTD: We are willing to accept the removal of our language, provided that your proposed language is also removed.

sufficient to complete such repair and restoration. If Lessee does not elect to terminate this Ground Lease, then Lessee shall repair and restore the Leased Premises in the same location and condition as before damage occurred (subject to adjustment to comply with Applicable Laws) as provided in Section 8.4 below, and, if the proceeds actually received by Lessee are insufficient to complete such repairs to, or replacement or reconstruction of, the Improvements, Lessee shall be obligated to pay from its own funds any such deficiency. In the event Lessee elects to terminate this Ground Lease, Lessee shall give Lessor written notice of such termination within ninety (90) days of the date of damage. If there is no uncured Lessee Event of Default under this Ground Lease, any prepaid or unearned rent shall be returned to Lessee. In the event Lessee elects to terminate this Ground Lease under this Section 8.2, Lessee shall, at Lessee's cost, leave the Leased Premises in a condition free of debris and other safety hazards. For purposes of this Article VIII, "**Substantial Loss or Damage**" means (a) during the period beginning on the first day of the first (1st) Lease Year and ending on the last day of the expiration of one-half of the Term of this Ground Lease, loss or damage occurs and the cost of repairing such damaged Improvements in the aggregate is more than fifty percent (50%) of the full replacement cost of all Improvements; and (b) during the period beginning on the expiration of the first one-half of the Term of the Ground Lease, loss or damage occurs and the cost of repairing such damaged Improvements in the aggregate is more than twenty-five percent (25%) of the full replacement cost of all Improvements.

**SECTION 8.3 Reduction of Rent.** In the event of a Substantial Loss or Damage, but Lessee does not elect to terminate this Ground Lease as set forth above, Lessee shall be entitled to a reduction of Rent equal to the proportionate value of the Improvements rendered unusable as a result of the damage and/or destruction, commencing on the date of the applicable damage or destruction during the time of repair and restoration (or such longer period in the event the applicable Improvements are not restored). **SECTION 8.4 Prompt Repair.** If Lessee, pursuant to the terms hereof, elects or is obligated to repair, replace, reconstruct or rebuild all or any part of any Improvements, the same shall be effected at Lessee's cost and expense. Promptly following any loss or damage, Lessee shall provide written notice thereof to Lessor. If Lessee, pursuant to the terms hereof, elects or is obligated to repair, replace, reconstruct or rebuild all or any part of any Improvements then subject to Force Majeure, Lessee shall diligently commence and carry out such repair, replacement, reconstruction or rebuilding to completion (or such extent of completion as is provided hereunder), all of which shall be performed in accordance with all Applicable Laws in all material respects.

## **ARTICLE IX**

### **REPAIR AND MAINTENANCE OF THE LEASED PREMISES**

**SECTION 9.1 Repair and Maintenance.** Lessee shall during the Term of this Ground Lease, at its own cost and expense and without any cost or expense to Lessor, keep and maintain all buildings and improvements which may be erected on the Leased Premises, and all appurtenances thereto located upon the Leased Premises (including, without limitation, landscaping and parking areas (if any)), in good repair and condition, ordinary wear and tear excepted, and in a neat and orderly appearance, and shall not allow any nuisance to exist or be maintained. Lessee shall likewise keep and maintain the grounds, sidewalks, driveways, accessways, parking (if any) and landscape areas of the Leased Premises in good repair and condition, ordinary wear and tear excepted, and with a neat and orderly appearance (inclusive, without limitation, of snow removal). Lessor shall not be obligated to make any repairs, replacements, or renewals of any kind, nature or description whatsoever, to the Leased Premises,

or to any buildings or other improvements thereon or appurtenances thereto within the Leased Premises, except to the extent arising out of damages to the Leased Premises caused by Lessor. Lessee may assign or delegate any or all of the duties of Lessee set forth in this Article IX.

**SECTION 9.2 Compliance with Governmental Regulations.** Lessee shall comply with all Applicable Laws affecting the Leased Premises, the Improvements thereon, or any activity or condition on or in the Leased Premises.

**SECTION 9.3 Waste and Environmental Laws and Regulations.** Lessor and Lessee agree that the terms set forth in Exhibit F attached hereto shall govern the obligations of the parties with regard to all matters related to Hazardous Materials at, upon or around the Leased Premises.

## **ARTICLE X**

### **TAXES AND ASSESSMENTS; FEES**

**SECTION 10.1 Obligations for Payment of Taxes and Assessments.** Lessee shall be obligated for and will pay at its own expense all applicable taxes, charges and assessments against the Leased Premises and all Improvements thereon, and including assessments against shares of stock in water companies, water, sewer, and other charges ordinary or extraordinary, foreseen or unforeseen, general or special, impact fees, and assessments arising out the financing of infrastructure or improvements benefitting the Leased Premises imposed by Applicable Laws, (“Assessments”), as shall be assessed upon or with respect to the Leased Premises and Improvements of every kind and nature thereon, and the sidewalks and streets within the Leased Premises. Payment of all such Assessments shall be made by Lessee on or before the last day when payment may be made without interest or penalty. If any Assessments are not paid when due, Lessor may include the verified amount of the unpaid Assessments in the billing to Lessee as additional rent hereunder, together with interest thereon at the rate of the prime rate of interest then charged by Zions Bank, N.A., plus one-half of one percent (½%), per annum. Upon collection of said amounts, Lessee shall forward said sums to the appropriate party levying such Assessments. To the extent permitted by Applicable Laws and by the party or entity to whom such Assessments are due, Lessee may pay such Assessments in equal installments; and, Lessor shall reasonably cooperate with Lessee in filing applications for any such installments if Lessor’s participation is legally required, provided however, that Lessor shall not be obligated to incur, pay or be liable for any cost or expense whatsoever, in connection therewith.

**SECTION 10.2 Contesting Taxes.** Lessee shall have the right at any time and at its sole cost and expense to pay under protest and contest, in good faith, by appropriate legal or administrative proceedings the validity or application of any Assessments imposed on it with respect to the Leased Premises or any improvements thereon. Lessor shall reasonably cooperate with Lessee with respect to the maintenance of any such contest so long as Lessor is not obligated or caused to incur or pay any cost, expense or liability with respect to the same. Lessee shall give written notice to Lessor of Lessee’s intention to pay under protest and contest the validity or application of any such tax or assessment. Notwithstanding anything to the contrary contained elsewhere herein, if any contest, failure to pay, or other act or omission by the Lessee has the effect, in the reasonable judgment of the Lessor, of jeopardizing Lessor’s interest in the Leased Premises or any improvements thereon, Lessor may, upon written notice to the Lessee, pay such amounts or take such actions as may be necessary to protect the said interest of Lessor, may add

any sum paid as additional rent hereunder, and said amount shall be paid by Lessee within thirty (30) days of billing therefor by Lessor, together with proof of Lessor's payment.

**SECTION 10.3 Payment to Lessor and Assessments.** In the event any person or entity to whom any sum is directly payable by the Lessee under any of the provisions of this Ground Lease shall refuse to accept payment of such sum from Lessee, Lessee shall thereupon give written notice of such fact to the Lessor and shall pay such sum directly to the Lessor at the place or to such agent as Lessor may from time to time designate to Lessee, and the Lessor shall thereupon pay such sum to said person or entity.

**SECTION 10.4 Lessor not Liable for Taxes.** Lessor shall in no way be liable or responsible for any tax or assessment against the Leased Premises or any improvement thereon, whether it be real, personal or mixed, *provided, however*, Lessor shall pay when due any and all income, gross receipts taxes and any other taxes or assessments calculated based upon gross revenues or income of Lessor, and Lessee shall have no liability or responsibility therefor.

**SECTION 10.5 Public Improvement Fee.** Lessor acknowledges and agrees that a public improvement fee covenant (the "**PIF Covenant**") is expected to be established and recorded by Lessee against the Leased Premises following the Effective Date of this Ground Lease. Lessor agrees that, upon the recordation of such PIF Covenant, the Leased Premises shall be bound by its terms and Lessee's Subtenants shall timely pay all public improvement fees imposed thereunder to the designated entity and for the purposes set forth therein. Lessor further agrees to execute any documents reasonably required to facilitate the PIF Covenant, provided such documents are consistent with the terms of this Ground Lease and Applicable Laws.

## **ARTICLE XI** **UTILITIES AND OTHER SERVICES**

Lessor shall not be required to furnish to Lessee any service of any kind such as, but not limited to, heat, water, power and security (both physical and data) and shall not be liable for the failure of any such service. Lessee shall pay all charges for such services and shall indemnify the Lessor against any liability on account thereof.

## **ARTICLE XII** **MECHANIC'S AND OTHER LIENS**

**SECTION 12.1 Mechanic's Lien Claims.** Lessee covenants and agrees to keep all of the Leased Premises and every part thereof and all Improvements, buildings and other improvements thereon free and clear of and from any and all mechanic's, materialmen's, and other liens for work or labor done, services performed, materials, appliances, tools or contributed, used or furnished to be used in or about the Leased Premises for or in connection with any operations of Lessee, any alterations, improvement, construction, or repairs, or additions which Lessee may make or permit or cause to be made, or any work or construction by, for, or permitted by Lessee on or about the Leased Premises (each a "**Lessee Lien**", and collectively, "**Lessee Liens**"), and at all times promptly and fully to pay and discharge any and all claims upon which any such Lessee Lien may or could be based, and to save and hold Lessor and all of the Leased Premises and all buildings and improvements thereon free and harmless of and from any and all such Lessee Liens and claims of Lessee Liens and suits or other proceedings pertaining thereto. Lessor agrees to



indemnify, defend and hold harmless Lessee free and harmless from any and all liens attaching to the Land by reason of any work or labor done by or on behalf of Lessor, its agents, employees or contractors upon the Land or Lessor's fee interest therein.

**SECTION 12.2 Contesting Claims.** Lessee shall not be required to pay or discharge any mechanic's or other Lessee Lien so long as Lessee shall in good faith proceed to contest the same by appropriate proceedings; provided, however, that Lessee shall give notice in writing to Lessor of its intention to contest the validity of such lien and shall give Lessor security in the form of a surety bond or in form otherwise reasonably acceptable to Lessor in an amount equal to 110% of the amount of such contested lien claim with interest thereon. Lessor shall reasonably cooperate with Lessee, where necessary, with respect to the contest of any such lien or charge; provided, however, that Lessor shall not be obligated to incur or pay any cost, expense, or liability, whatsoever, in connection with any of the foregoing. Lessee shall give written notice to Lessor of Lessee's intention to contest the validity or application of any Lessee Lien. Lessee shall and hereby does indemnify and hold harmless Lessor from and against any and all costs, liabilities, suits, penalties, claims, demands, costs and expenses (including reasonable attorney's fees) resulting from any Lessee Lien against the Leased Premises or any improvement or construction thereon or any other matter referred to in this Article XII arising by, through, or under Lessee, including without limitation, Lessee's contest of the validity or application of any such Lessee Lien.

### **ARTICLE XIII** **INDEMNITY**

**SECTION 13.1 Lessee's Indemnity.** Lessee shall indemnify, defend and hold harmless Lessor and the Lessor Indemnitees (as defined in Exhibit F) from and against any and all third party liabilities, suits, claims, demands or judgments of any nature to which Lessor or any Lessor Indemnatee is subject because of Lessor's respective estate in the Leased Premises or to the extent arising from (a) injury to or death of any person occurring on or in the Leased Premises, (b) third party claims arising out of an Event of Default by Lessee under this Ground Lease; and (c) third party claims to the extent arising any act or omission by Lessee or the Lessee Indemnitees (as defined in Exhibit F), provided, however, notwithstanding anything to the contrary in this Ground Lease, in no event shall Lessee be obligated, and this Section 13.1 shall not be construed or interpreted, to release, indemnify or hold Lessor or any Lessor Indemnitees free and harmless from or against any failure of Lessor or any Lessor Parties to perform their respective obligations in accordance with the terms and conditions of this Ground Lease or any claims to the extent arising out of resulting from the gross negligence or willful misconduct of Lessor or the Lessor Parties. Further, it is expressly agreed that any liabilities, obligations, penalties, fines, suits, claims, demands, actions, costs and expenses arising from or related to Hazardous Materials shall be governed by the terms of Exhibit F of this Ground Lease and not by this Section 13.1.

**SECTION 13.2 Lessor's Indemnity.** Lessor shall indemnify, defend and hold harmless Lessee, the Lessee Indemnitees and the Leased Premises from and against any and all third party liabilities, suits, claims, demands or judgments of any nature to which Lessee or any Lessee Indemnatee is subject because of Lessor's respective estate in the Leased Premises or to the extent arising from (a) third party claims arising out of an Event of Default by Lessor under this Ground Lease; and (b) third party claims to the extent arising any act or omission of Lessor or the Lessor Indemnitees, provided, however, notwithstanding anything to the contrary in this Ground Lease, in no event shall Lessor be obligated, and this Section 13.2 shall not be construed or interpreted,

to release, indemnify or hold Lessee or any Lessee Indemnitees free and harmless from or against any failure of Lessee or any Lessee Parties to perform their respective obligations in accordance with the terms and conditions of this Ground Lease or any claims to the extent arising out of resulting from the gross negligence or willful misconduct of Lessee or the Lessee Parties. Further, it is expressly agreed that any liabilities, obligations, penalties, fines, suits, claims, demands, actions, costs and expenses arising from or related to Hazardous Materials shall be governed by the terms of Exhibit F of this Ground Lease and not by this Section 13.2.

**SECTION 13.3 Legal Proceedings.** In case any action shall be brought against any indemnitee in respect of which indemnity may be sought against a party, such indemnitee shall promptly notify the indemnifying party in writing and the indemnifying party shall assume the defense thereof, including the employment of counsel and the payment of all expenses incident to such defense. Such indemnitee shall have the right to employ separate counsel in any such action and participate in the defense thereof, but the fees and expenses of such counsel shall be paid by such indemnitee unless the employment of such counsel has been authorized by the indemnifying party or counsel for the indemnifying party shall have advised the indemnitee in writing that there exists actual or potential conflicts of interest which make representation by the same counsel inappropriate. An indemnifying party shall not be liable for any settlement of any such action without its consent but, if any such action is settled with the consent of the indemnifying party or if there be final judgment for the plaintiff of any such action, the indemnifying party agrees to indemnify and hold harmless the indemnitee from and against any loss or liability by reason of such settlement or judgment.

**SECTION 13.4 Survival.** The provisions of this Article XIII shall survive the expiration or termination of this Ground Lease.

## **ARTICLE XIV** **INSURANCE**

**SECTION 14.1 Fire and Extended Coverage.** Lessee shall, at its sole expense, obtain and keep in force during the term of this Ground Lease property insurance on an “all-risk” (special form) basis and fire and extended coverage insurance covering all buildings and improvements that are hereafter placed or built upon the Leased Premises. The Lessor shall be named as an additional insured by endorsement as a loss payee or additional insured, as appropriate, as its interests may appear. The amount of such insurance shall not be less than one hundred percent (100%) of the full replacement value of said buildings and improvements (with no coinsurance penalty provision or subject to an agreed amount). Lessee waives as against Lessor any and all claims and demands, of whatsoever nature, for damages, loss or injury to the buildings and improvements that are hereafter placed or built upon the Leased Premises and to the property of Lessee in, upon or about the Leased Premises which shall be caused by or result from fire and/or other perils, events or happenings which are subject of extended coverage property insurance. Lessee further agrees that each such policy of fire and extended coverage insurance and all other policies of insurance on the Leased Premises shall specifically waive the Lessee’s insurer’s right of subrogation against Lessor.

The term “**Replacement Value**” shall be determined at the time the fire and extended coverage insurance is initially taken out, and Lessee shall promptly notify Lessor in writing of such determination and deliver a copy of said insurance policy, provided that Lessor or Lessee

may at any time, but not more than once every five (5) years, by written notice to the other, require the full insurable value of said buildings and improvements to be redetermined, whereupon such redetermination shall be made promptly and each party promptly notified in writing of the results thereof.

**SECTION 14.2 Other Insurance.** During the term of this Ground Lease the Lessee shall procure and maintain in full force and effect commercial general liability (CGL) insurance with a single limit of not less than Two Million Dollars (\$2,000,000.00) per occurrence (with a general aggregate limit of at least \$4,000,000, or an aggregate limit applicable separately to the Leased Premises) insuring against any and all liability of Lessee. Lessee shall also maintain business automobile liability insurance with a limit of not less than One Million Dollars (\$1,000,000.00) per accident, covering owned, hired, and non-owned vehicles, and workers' compensation insurance as required by law, including employer's liability coverage with a limit of not less than One Million Dollars (\$1,000,000.00) per accident or disease. Such insurance shall be written by a company which is rated A- or better by A.M. Best Company (or an equivalent rating by a nationally recognized rating agency) and which is authorized to do business in the state of Utah and the CGL and automobile liability policies shall name as insured parties Lessor and Lessee as their interests may appear.

**SECTION 14.3 Determination of Limits.** In the event that either party shall at any time deem the limits of any of such insurance then carried to be either excessive or insufficient, the parties shall endeavor to agree upon the proper and reasonable limits for such insurance then to be carried. If the parties shall be unable to agree thereon, the proper and reasonable limits for such insurance then to be carried shall be determined by an impartial third person selected by the parties and the decision of such impartial third person as to such limits then to be carried shall be binding upon the parties. Such insurance shall be carried with the limits as thus agreed upon or determined until such limits shall again be changed pursuant to the provisions of this Section 14.3. The expenses of such determination shall be borne equally by Lessor and Lessee.

**SECTION 14.4 Parties Covered.** Lessor shall be named as an insured as its interest may appear. Any loss adjustment shall require the written consent of the Lessor and Lessee. To the extent commercially available, Lessee shall endeavor to have all policies required under this Section 14.4 provide that the insurer of such policies shall endeavor to give not less than thirty (30) days prior written notice to Lessor of any cancellation or alteration of such policies (with ten (10) days' notice for cancellation due to non-payment of premium). A certificate of insurance for each policy carried by Lessee shall be delivered to Lessor or otherwise made accessible to Lessor by electronic means.

**SECTION 14.5 Blanket Insurance Coverage.** Any insurance required to be carried by Lessee hereunder may be provided by blanket or umbrella insurance policies covering the Leased Premises and other property owned, leased or controlled by Lessee or its Affiliates, provided such blanket or umbrella insurance complies with all other insurance requirements hereunder. Any Umbrella or Excess liability coverage shall be on a follow-form basis that is at least as broad as the underlying coverage and satisfies all applicable requirements (including being primary and non-contributory and naming Lessor as additional insured).

**SECTION 14.6 No Limitation or Relief Based on Insurance.** No provision of this Lease requiring insurance shall be construed to limit the liability of any party. Failure to maintain the

required insurance shall not relieve any party of its indemnification or other obligations under this Lease.

## **ARTICLE XV**

### **SUBLETTING; ASSIGNMENT; RIGHT OF FIRST OFFER TO PURCHASE**

**SECTION 15.1 Subletting.** Lessor and Lessee acknowledge that Lessee may sublease, license, or grant rights to use (collectively “**Sublease**”) space within the Leased Premises (including, without limitation, the Improvements) located or to be located on the Leased Premises to tenants (“**Subtenants**”, and individually, a “**Subtenant**”). Lessee may Sublease all or any portion of the Leased Premises without the prior written consent of Lessor, *provided, however*:

(a) Lessee shall not permit any portion of the Leased Premises to be used for any use other than the Permitted Uses.

(b) Each Sublease entered into by Lessee shall be subordinate to this Ground Lease. No Sublease shall affect or reduce any obligation of Lessee or rights of Lessor under this Ground Lease. All obligations of Lessee under this Ground Lease shall continue in full force and effect, notwithstanding any Sublease.

**SECTION 15.2 Covenant Against Transfers.** Except as allowed under this Article XV or any other express provision of this Ground Lease, Lessee shall not sell, assign or transfer this Ground Lease, or any of Lessee’s rights hereunder, in whole or in part, nor shall Lessee’s rights or interests under or in this Ground Lease be transferred or assigned by operation of law or otherwise except in accordance with the terms of this Ground Lease. Notwithstanding anything to the contrary herein, Lessee shall have the right to transfer or assign its rights and interests under this Ground Lease pursuant to the terms of Article V above and as permitted by the terms of Section 15.5 below.

**SECTION 15.3 Assignment by Lessee with Lessor Approval.** Without limiting any of Lessee’s other sale, assignment or transfer rights under this Article XV, Lessee may sell, assign, or transfer all or a portion of its interests under this Ground Lease (an “**Assignment**”) to a purchaser, assignee, or transferee (an “**Assignee**”) according to the following procedure:

(a) Notice to Lessor. Lessee shall notify Lessor of the identity of any proposed Assignee no later than sixty (60) days prior to the proposed Assignment, and provide Lessor with (i) financial statements, or other financial information, for such proposed Assignee (or applicable upstream entities) which are acceptable to Lessor (such approval not to be unreasonably withheld, conditioned or delayed) and (ii) draft copies of an Assignment agreement to be executed by the parties and acknowledged by Lessor in connection with the proposed Assignment.

(b) Lessor Approval. Lessor shall have a period of sixty (60) days after receipt of such notice from Lessee in which to elect to either approve or disapprove of the proposed Assignment, which approval shall not be unreasonably withheld, conditioned or delayed. If Lessor approves of an Assignment, then Lessee shall have no further obligations under this Ground Lease as to the portion of its interest assigned following the effective date of the Assignment.

(c) For the avoidance of doubt, this Section 15.3 is in addition to, and shall not be deemed to limit, any other transfer or assignment rights provided under this Ground Lease, including, without limitation, this Article XV.

**SECTION 15.4 No Waiver; Release.** The granting of consent to any assignment that expressly requires Lessor's consent hereunder shall not constitute a waiver of Lessor's discretion to approve or disapprove any future request for permission to assign in accordance with the requirements of this Article XV. Acceptance of rent or other performance by Lessee following an assignment, whether or not Lessor has knowledge of such assignment, shall not constitute consent to the same nor a waiver of the requirement to obtain consent to same (to the extent such consent is so required). Provided the assignee delivers, not later than the effective date of such assignment, a written agreement reasonably acceptable to Lessor pursuant to which the assignee agrees to perform Lessee's obligations under this Ground Lease and to observe all of the terms and conditions of this Ground Lease (at least to the extent accruing from and after said assignment), the assigning Lessee shall be released from all of its obligations as Lessee hereunder (or such portion thereof as the assignee has agreed to perform or assume).

**SECTION 15.5 Permitted Transfers.** Notwithstanding the limitations set forth in this Article XV, Lessee shall be permitted to assign this Ground Lease (each such transaction a "**Permitted Transfer**" and the transferee, a "**Permitted Transferee**") (1) to any parent, subsidiary, Affiliate, division, or entity Controlling, Controlled by, or under Common control with Lessee, (2) in connection with a sale of all or substantially all (greater than 90%) of Lessee's assets owned and controlled by Lessee, provided that upon consummation of such assignment, the assignee has a net worth that is not less than the net worth of Lessee as of the Effective Date, or (3) to any corporation or entity in which or with which the Lessee, or its corporate successors or assigns, is merged or consolidated, in accordance with applicable statutory provisions regarding merger and consolidation of corporations, so long as: (a) Lessee's obligations hereunder are assumed by the entity surviving such merger or created by such consolidations, and (b) the net worth of the surviving or created corporation is not less than the net worth of Lessee as of the Effective Date. In the case of a Permitted Transfer, Lessee shall promptly provide Lessor with (I) notice of the Permitted Transfer, (II) a written assignment and assumption executed by Lessee's successor under a Permitted Transfer, and (III) evidence that said successor has the same or greater financial strength as Lessee immediately prior to the Permitted Transfer (if required). A Permitted Transferee shall release the assigning Lessee from its obligations as Lessee under this Ground Lease (other than those, if any, that the Permitted Transferee has not assumed).

- "**Control**" means (including, with correlative meanings, the terms "**Controlling**", "**Controlled by**" and "**under common Control with**"), as applied to any Person, the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of the Person, whether through the ownership of voting securities or by contract or otherwise, and control shall not be deemed absent solely because one or more Persons shall have veto power with respect to major decisions.
- "**Affiliate**" shall mean, with respect to any natural person, firm, corporation, partnership, limited liability company or any other legal entity, public or private ("**Person**"), any Person directly or indirectly Controlling, Controlled by or under common Control with Lessee.

**SECTION 15.5 Covenants Binding on Successors and Assigns.** All of the terms, conditions and covenants of this Ground Lease shall inure to the benefit of and be binding upon the successors and assigns of the respective parties hereto, but the provisions of this Section 15.5 shall in no way affect or derogate from the other provisions of this Article XV.

**SECTION 15.6 INTENTIONALLY OMITTED.**

**SECTION 15.7 Recognition of Subtenants.** In the event this Ground Lease is terminated due to an uncured Event of Default (as defined in Section 21.1), then each Sublease shall automatically become a direct lease between Lessor and the Subtenant (without any further action by any party), Lessor shall allow all Subtenants to remain on the Leased Premises as tenants of Lessor and Lessor shall not disturb the rights of such Subtenants under their respective Subleases provided that all of the following conditions are met: (1) such Subtenant is not an Affiliate; and (2) such Subtenant is not then in material default under such Sublease beyond all applicable notice and cure periods. In addition, even if the Subtenants are entitled to remain on the Leased Premises and not be disturbed, Lessor shall not be responsible to such Subtenants for: (a) any prepaid rent unless paid over to Lessor upon termination of this Ground Lease and clearly designated in writing by Lessee as such rent; (b) return of any security deposit collected by Lessee unless such security deposit has been paid over to Lessor upon termination of this Ground Lease and clearly designated in writing by Lessee as a refundable security deposit under the Sublease, and then only to the extent that such Subtenant is entitled to a full or partial refund of such security deposit under the Sublease; or (c) incomplete tenant improvements, promised but never started, or promised future tenant improvement obligations or expenses, except as otherwise expressly agreed to by Lessor in writing in its sole discretion. In the event of such termination of this Ground Lease, Lessee shall promptly provide Lessor, at no cost to Lessor, the following: (i) all signed Sublease agreements and any amendments thereto between Lessee and the Subtenants; (ii) all unapplied security deposits paid by the Subtenants; (iii) all books and records of accounts, including all rent rolls; (iv) all Subtenant files and other Subtenant information; (v) all building and maintenance records and other pertinent information in Lessee's possession pertaining to the Improvements located on the Leased Premises; and (vi) all prepaid rents, including any portion of a monthly rent to which Lessee is not entitled based upon the actual termination date of this Ground Lease; provided, however, that the foregoing shall not be deemed conditions to the non-disturbance provisions of this Section 15.7. All such Subtenants who wish to remain must agree to attorn to Lessor as the landlord under the Sublease for the balance of the term of the Sublease and must pay the security deposit required under the Sublease, unless it has already been paid over by Lessee to Lessor pursuant to all requirements of this Section. The nondisturbance and attornment provisions of this Section shall be self-operative with no further instrument required to effectuate the attornment; provided, however, that Lessor agrees to consider and reasonably cooperate with such further non-disturbance agreements, with such additional terms as Subtenants shall reasonably request from time to time.

**SECTION 15.8 Lessee's Right of First Offer to Purchase.** It is further understood and agreed notwithstanding anything to the contrary herein, Lessor hereby grants to Lessee an ongoing right of first offer to purchase the fee interest in the Land underlying the Leased Premises subject to and in accordance with the terms of Exhibit I attached hereto.

## **ARTICLE XVI**

### **WAIVER**

Lessee covenants and agrees that if Lessor fails or neglects for any reason to take advantage of any of the terms hereof providing for the termination of this Ground Lease or for the termination or forfeiture of the estate hereby demised, or if Lessor, having the right to declare this Ground Lease terminated or the estate hereby demised, terminated or forfeited, shall fail so to do, any such failure or neglect of Lessor shall not be or be deemed to be construed to be waiver of any cause for the termination of this Ground Lease or for the termination or forfeiture of the estate hereby demised subsequently arising, or as a waiver of any of the covenants, terms or conditions of this Ground Lease or of the performance thereof. None of the covenants, terms or conditions of this Ground Lease in favor of or for the benefit of Lessor can be waived except by the written consent of Lessor. Lessor covenants and agrees that if Lessee fails or neglects for any reason to take advantage of any of the terms hereof, any such failure or neglect by Lessee shall not be or be deemed to be construed to be waiver of any cause for the termination of this Ground Lease or for the termination or forfeiture of the estate hereby demised subsequently arising, or as a waiver of any of the covenants, terms or conditions of this Ground Lease or of the performance thereof by Lessor. None of the covenants, terms or conditions of this Ground Lease in favor of or for the benefit of Lessee can be waived except by the written consent of Lessee.

## **ARTICLE XVII**

### **INSPECTION OF PREMISES**

Lessor shall be entitled at all reasonable times to enter the Leased Premises for the purposes of inspecting the performance by Lessee of the terms and conditions of this Ground Lease, provided that any such entry shall be expressly subject to the rights of any Subtenants occupying portions of the Leased Premises or the Improvements and in no event shall Lessor or any Lessor Indemnitees disturb any Subtenants in strict compliance with the terms of any Sublease.

## **ARTICLE XVIII**

### **DEFENSE OF ACTIONS**

If Lessee is required to defend any action or proceeding pursuant to any such occurrence, to which Lessor is made a part, Lessor shall be entitled to appear, defend or otherwise take part in the matter involved at its election by counsel of its own choosing, (at Lessor's expense, unless otherwise required by Section 13.3) providing such action by Lessor does not limit or make void any liability of any insurer of Lessor or Lessee hereunder in respect to the claim or matter in question. If Lessor is required to defend any action or proceeding pursuant to any such occurrence, to which Lessee is made a part, Lessee shall be entitled to appear, defend or otherwise take part in the matter involved at its election by counsel of its own choosing (at Lessee's expense, unless otherwise required by Section 13.3), providing such action by Lessee does not limit or make void any liability of any insurer of Lessor or Lessee hereunder in respect to the claim or matter in question.

**ARTICLE XIX**  
**INTENTIONALLY OMITTED**

**ARTICLE XX**  
**CONDEMNATION**

**SECTION 20.1 Total Taking.** In the event of the taking or condemnation by any competent authority of the whole of the Leased Premises or materially all of the Leased Premises at any time during the Term, the Term shall cease as of the date of possession by the condemnor and all rental and other payments shall be apportioned as of the date of possession. The award shall be allocated between Lessor and Lessee such that: (i) Lessor receives the amount of any condemnation award attributable to the value of the fee interest in the Leased Premises subject to this Ground Lease and to the value of Lessor's reversionary interest in the Improvements, and (ii) Lessee receives the amount of any condemnation award attributable to the value of Lessee's leasehold interest in the Leased Premises and to the value of the Improvements upon the Leased Premises. For purposes of this Article XX, a taking shall be deemed to be a taking of "materially all" of the Leased Premises if, as a result of such taking, it is not reasonably feasible or economically practicable for Lessee to operate the remainder of the Leased Premises for the Permitted Use.

**SECTION 20.2 Partial Taking.** In the event of a taking or condemnation of less than materially all of the Leased Premises:

(a) Except as hereinafter provided, the Term shall continue.

(b) The award shall be allocated between Lessor and Lessee such that: (i) Lessor receives the amount of any condemnation award attributable to the value of the fee interest in the portion of the Leased Premises so taken subject to this Ground Lease and to the value of Lessor's reversionary interest in the portion of the Improvements so taken, and (ii) Lessee receives the amount of any condemnation award attributable to the value of Lessee's leasehold interest in the portion of the Leased Premises so taken and to the value of the portion of the Improvements so taken.

(c) If (i) the remaining part of the Leased Premises not so taken cannot be adequately restored, repaired or reconstructed so as to constitute a complete functional unit of property of substantially the same usefulness, design and construction, as immediately before such taking, or (ii) the portion of the condemnation award to be distributed to Lessee pursuant to Section 20.2(b) would be insufficient to restore, repair or reconstruct the Leased Premises so as to constitute a complete functional unit of property of substantially the same usefulness, design and construction, as immediately before such taking, then Lessee shall have the right, to be exercised by written notice to Lessor within ninety (90) days after the date of taking, to terminate this Ground Lease as to such remaining part of the Leased Premises not so taken on a date to be specified in said notice not earlier than the date of such taking. In such case Lessee shall pay and satisfy all rent due and accrued hereunder up to such date of such termination and shall perform all of the obligations of Lessee hereunder to such date and thereupon this Ground Lease shall terminate, and the award shall be allocated pursuant to Section 20.2(b).



(d) If this Ground Lease is not terminated as provided above, Lessee shall proceed diligently to restore, repair or reconstruct the part of the Leased Premises not taken, to the extent practicable, to a functional unit of substantially the same usefulness, design, construction and quality of the Leased Premises prior to such taking, but in all events solely to the extent of condemnation awards distributed to, and actually received by, Lessee. In such event, Lessee shall be entitled to a reduction of rent equal to the proportionate value of the Improvements taken or otherwise rendered unusable as a result of the condemnation or taking.

**SECTION 20.3 Temporary Taking.** If the whole or any part of the Leased Premises or of Lessee's interest under this Ground Lease be taken or condemned by any competent authority for its temporary use or occupancy, and Lessee shall continue to pay, in the manner and at the times herein specified, the Rent and all Assessments and other charges payable by Lessee hereunder, then this Ground Lease shall continue and, except only to the extent that Lessee may be prevented from so doing pursuant to the terms of the order of the condemning authority, Lessee shall perform and observe all of the other terms, covenants, conditions and obligations hereof upon the part of Lessee to be performed and observed, as though such taking or condemnation had not occurred. All awards for any temporary taking shall be paid to Lessee.

**SECTION 20.4 Effect of Termination.** If this Ground Lease is terminated pursuant to the provisions of this Article XX, then all Rent and other charges payable by Lessee to the Lessor under this Ground Lease, or, in the event of a partial taking, all Rent and other charges payable under this Ground Lease with respect to the portion of the Leased Premises so taken, will be paid up to the date of taking, and any charges paid in advance and allocable to the period after the date of taking will be repaid to Lessee by Lessor, which obligations shall survive the termination of this Ground Lease. In the event of such termination, Lessor and Lessee will then be released from all further liability under this Ground Lease or, in the event of a partial taking, from all further liability under this Ground Lease with respect to the portion of the Leased Premises so taken, except such liability which survives termination.

**SECTION 20.5 Cooperation.** Lessee and Lessor agree to work together, in good faith, in making their respective claims against the condemning authority, in accordance with the provisions of this Article XX. Each party shall be responsible for making its own claim for court costs and attorneys' fees incurred in the condemnation proceedings.

## **ARTICLE XXI**

### **DEFAULT PROVISIONS**

**SECTION 21.1 Events of Default.** Each of the following events are hereby defined as an "**Event of Default**" or, if more than one "**Events of Default**":

(a) The failure of Lessee to pay any installment of Rent, or any other payments or deposits of money as herein provided or required, when due and the continuance of such failure for a period of thirty (30) days after notice thereof in writing;

(b) The failure of Lessee to perform any of the other covenants, conditions and agreements of this Ground Lease on the part of Lessee to be performed, and the continuance of such failure for a period of sixty (60) days after notice in writing thereof from Lessor to Lessee (which notice shall specify the respects in which Lessor contends that Lessee has failed to perform

any of such covenants, conditions and agreements of this Ground Lease) unless, with respect to any default which cannot be cured within sixty (60) days, Lessee, or any person holding by, through or under Lessee, in good faith, promptly after receipt of such written notice, shall have commenced and thereafter continue diligently to prosecute all action necessary to cure such default;

(i) the filing of an application by Lessee for a consent to the appointment of a receiver, trustee or liquidator of itself or of all of its assets,

(ii) the filing by Lessee of a voluntary petition in bankruptcy or the filing of a pleading in any court of record admitting in writing its inability to pay its debts as they come due,

(iii) the making by Lessee of a general assignment for the benefit of creditors,

(iv) the filing by Lessee of an answer admitting the material allegations of, or its consenting to, or defaulting in answering, a petition filed against it in any bankruptcy proceeding, and

(v) the entry of an order, judgment or decree by any court of competent jurisdiction, adjudicating Lessee a bankrupt, or appointing a receiver, trustee or liquidator of it or all its assets, and such order, judgment or decree continuing unstated and in effect for any period of ninety (90) consecutive days.

**SECTION 21.2 Remedies.** Lessor may treat any one or more of the Events of Default as a breach of this Ground Lease and thereupon at its option by serving written notice on Lessee in accordance with the terms of this Ground Lease of which Lessor shall have received notice in writing, Lessor shall have, subject to the provisions in Section 21.3 below, in addition to all other remedies provided by law, one or more of the following remedies, all subject to the rights of Lessee hereunder:

(a) Lessor may terminate this Ground Lease and the Term created hereby, in which event Lessor may forthwith repossess the Leased Premises and the Improvements and be entitled to recover forthwith as damages a sum of money equal to the present value of the Base Rent to be paid by Lessee for the balance of then current Term of this Ground Lease, less the rental value of the Leased Premises and the Improvements for said period and any other sum of money and damages due or to become due to Lessor from Lessee under the terms of this Ground Lease, less the amount of the loss that Lessee proves could have been reasonably avoided. As referenced herein, "present value" shall be calculated using a discount rate equal to the prevailing discount rate of the Federal Reserve Bank of San Francisco at the time of award plus one percent (1%).

(b) Lessor may terminate Lessee's right of possession and may repossess the Leased Premises and the Improvements by forcible entry and detainer suit or otherwise, without terminating this Ground Lease, in which event Lessor may, but shall be under no obligation so to do, subject to the rights of Subtenants, relet all or any part of such Leased Premises or Improvements for such Rent and upon such terms as shall be satisfactory to Lessor (including the right to relet the Leased Premises and the Improvements for a term greater or lesser than the

remaining Term under the stated Term of this Ground Lease and the right to relet the Leased Premises and the Improvements as a part of a larger area and the right to change the character or Leased Premises subject to the terms of Applicable Laws). For the purpose of such reletting, Lessor may make any repairs, changes, alterations or additions in or to the Leased Premises and the Improvements that may be necessary or convenient; and if Lessor shall fail or refuse to relet the Leased Premises, or if the Leased Premises and Improvements are relet and a sufficient sum shall not be realized from such reletting after paying all of the costs and expenses of such repairs, changes, alterations and additions and the expenses of such reletting and the collection of the rent accruing therefrom, to satisfy the damages to which Lessor is entitled hereunder, then Lessee shall pay to Lessor as damages a sum equal to the present value amount of the Rent reserved in this Ground Lease for such period or periods, or, if the Leased Premises have been let, Lessee shall satisfy and pay any such deficiency upon demand therefor from time to time; and Lessee agrees that Lessor may file suit to recover any sums falling under the terms of this Section 21.2(b) from time to time and that any suit or recovery of any portion due Lessor hereunder shall be no defense to any subsequent action brought for any amount not theretofore reduced to judgment in favor of Lessor.

(c) Subject to the rights of any Subtenants, Lessor may take possession of the Leased Premises including all Improvements and pay and fully discharge any mortgages or outstanding loans or obligations at which time Lessor will be the sole owner of the Leased Premises and all Improvements thereon, subject to the rights of Subtenants.

(d) Upon the termination of this Ground Lease and the Term created hereby, or upon the termination of Lessee's right of possession, whether by lapse of time or at the option of Lessor, as aforesaid, Lessee will, subject to the rights of Subtenants, surrender possession of the Leased Premises and the Improvements to Lessor and remove all of Lessee's effects and personal property therefrom; and if such possession be not immediately surrendered, Lessor may, subject to the rights of Subtenants, forthwith re-enter the Leased Premises and the Improvements in accordance with Applicable Laws.

**SECTION 21.3 Lessee Right to Cure.** Notwithstanding any provisions under Sections 21.1 and 21.2 hereof to the contrary, Lessee shall receive written notice of default and may exercise a reasonable period of time to cure any default of Lessee under this Ground Lease so as to avoid the harsh remedy of termination and reversion of title of Improvements to Lessor.

**SECTION 21.4 Default by Lessor.** If Lessor defaults in its obligations under this Ground Lease and such default remains uncured for a period of thirty (30) days after receipt by Lessor of written notice thereof from Lessee (unless such default is of such a nature that it cannot be cured within said thirty (30) day period, in which event Lessor shall not be in default hereunder if it shall have commenced to cure said default within said thirty (30) day period and diligently prosecute said cure to completion within a reasonable period of time, not to exceed one hundred eighty (180) days), then Lessee shall have all the rights and remedies provided at law, in equity or in this Ground Lease (including, without limitation, the rights of self-help and specific performance), which rights shall be cumulative and may be exercised and enforced concurrently. Any right or remedy conferred upon Lessee under this Ground Lease shall not be deemed to be exclusive of any other right or remedy it may have. Without limiting the generality of the foregoing, if Lessor fails to perform any obligation of Lessor under this Ground Lease within thirty (30) days following Lessee's written notice to Lessor thereof (or such longer period, not to exceed one hundred eighty

(180) days in accordance with the foregoing), then Lessee may proceed to take the required action; and provided, further, that nothing in the foregoing shall limit (or be deemed to require any additional notice and cure rights) for any other express “self-help” or similar rights provided under this Ground Lease, all of which rights and remedies shall be deemed to be in addition to the foregoing and shall not require any of the foregoing notice or cure rights (or any initial 30 day periods). If such action is not taken by Lessor within said notice period, then, in addition to any other rights and remedies, Lessee shall be entitled to take such action and to offset against Rent next coming due under this Ground Lease, all costs and expenses incurred by Lessee in connection with such action.

#### **SECTION 21.5 INTENTIONALLY OMITTED.**

**SECTION 21.6 Remedies Not Exclusive.** The exercise by either party of any remedy arising by virtue of an Event of Default or a default on the part of Lessor, as applicable, shall not be considered exclusive, but either party may exercise any and all other rights or remedies provided by this Ground Lease or by law or equity. Either party may elect to sue the other party hereunder without terminating this Ground Lease. The termination of this Ground Lease pursuant to the express terms hereof shall not extinguish the right of either party to collect damages arising from the breach of this Ground Lease by the other party. Notwithstanding anything to the contrary herein, in no event shall either party be responsible to the other for lost profits or special, consequential, punitive or other similar damages.

**SECTION 21.7 No Waivers.** No failure by any party hereto to insist upon the strict performance of any provision of this Ground Lease or to exercise any right, power or remedy consequent to any breach thereof, and no acceptance of full or partial Rent during the continuance thereof, shall constitute a waiver of any such breach or of any such provision. No waiver of any breach shall affect or alter this Ground Lease, which shall continue in full force and effect, or the rights of any party hereto with respect to any other then existing or subsequent breach.

**SECTION 21.8 Force Majeure.** As referenced herein “**Force Majeure**” or an event of Force Majeure means any prevention, delay, or stoppage of the performance of any obligation under this Ground Lease that is due to strikes; labor disputes; inability to obtain labor, materials, equipment or reasonable substitutes therefor; acts of nature; governmental restrictions, regulation, moratorium, or controls; litigation; judicial orders; enemy or hostile government actions; wars; civil commotions; fires or other casualties; pandemic and/or quarantine; or other causes beyond the reasonable control of the party obligated to perform hereunder. No express reference in this Ground Lease to a Force Majeure event shall create any inference that the terms of this Section 21.8 do not apply with equal force in the absence of such an express reference. Lessor and Lessee shall use commercially reasonable efforts to notify the other within thirty (30) days of any Force Majeure event that the notifying party is claiming allows some action to be delayed pursuant to this Article XXI.

### **ARTICLE XXII** **COVENANTS OF TITLE AND AUTHORITY; OTHER WARRANTIES**

**SECTION 22.1 Lessor Warranties.** Lessor represents and warrants as follows:

(a) Authority. Lessor has full right and lawful authority to enter into and perform the obligations of Lessor under this Ground Lease for the full Term hereof.

(b) Title. Lessor has a sufficient fee interest in the Leased Premises, free of liens, encumbrances or security interests (except as set forth in Exhibit G), to enable it to enter into this Ground Lease with Lessee. The execution of this Ground Lease and the performance required hereunder have been duly authorized by the necessary action of appropriate governing bodies of Lessor; and Lessor will defend the same at Lessor's expense, against all claims of any right, title or interest adverse to or in conflict with said title. Except as set forth on Exhibit F, Lessor does not warrant the condition of the Leased Premises or the suitability of the Leased Premises (including, without limitation, soils, water table, drainage, and other such matters) for the construction of the Improvements; and Lessee accepts the Leased Premises "as is", subject only to the express obligations of this Ground Lease (including, without limitation, Exhibit F hereto). Lessor agrees to make available to Lessee, without charge, all tests and test results in Lessor's possession relating to soils, water table, drainage, and other such matters with respect to the Leased Premises; *provided, however*, that except as set forth in Exhibit F, (i) such tests shall be made available without any warranty or representation or liability, whatsoever, to the Lessor, and (ii) Lessee shall be solely responsible for its use or reliance, if any, of or upon said tests.

(c) Governmental Immunity. Lessee advises that it is a governmental entity in the State of Utah and is bound by the provisions of the Utah Governmental Immunity Act (Utah Code Ann. Title 63G, Chapter 7). Nothing in this Ground Lease shall be construed as a waiver by Lessee of any procedural or substantive defense, immunity, or limitation of liability provided under the Act. Any indemnity or insurance obligations incurred by Lessee are expressly limited to the amounts identified in the Act.

## **SECTION 22.2 Lessee Warranties**. Lessee represents and warrants as follows:

(a) Entity. Lessee is an independent entity of the State of Utah duly organized and validly existing under the laws of the State of Utah.

(b) Authority. Lessee has full right and lawful authority to enter into and perform the obligations of Lessee under this Ground Lease for the full Term hereof; and the execution of this Ground Lease and the performance required hereunder have been duly authorized by all members, and the party executing this Ground Lease has been authorized to do so.

## **ARTICLE XXIII QUIET ENJOYMENT**

Lessor agrees that Lessee, upon paying the Rent and all impositions and other charges herein provided for and performing all the covenants and conditions of this Ground Lease, shall lawfully and quietly occupy the Leased Premises during the Term of this Ground Lease without hindrance or disturbance by Lessor or any persons claiming under Lessor and that Lessor has good right to make this Ground Lease for the full Term hereby granted.

**ARTICLE XXIV**  
**DELIVERY OF POSSESSION OF THE LEASED PREMISES**

Lessor agrees to deliver to Lessee exclusive possession of the Leased Premises upon the Effective Date hereof, subject only to those title exceptions described in Exhibit G attached hereto (“**Permitted Exceptions**”) free and clear of all other tenancies and parties in possession, debris and Hazardous Materials (as defined on Exhibit F).

**ARTICLE XXV**  
**ATTORNEYS’ FEES**

If any action at law or in equity shall be brought to recover any Rent under this Ground Lease, or for or on account of any breach of or to enforce or interpret any of the covenants, terms or conditions of this Ground Lease, or for the recovery of the possession of the Leased Premises, or for the enforcement of obligations hereunder, the prevailing party shall be entitled to recover from the other party reasonable attorneys’ fees and costs incurred in connection with any such action or claims.

**ARTICLE XXVI**  
**ESTOPPEL CERTIFICATE**

At any time, and from time to time, each party shall promptly (and in no event later than twenty (20) days after receiving written notice from the other party) execute, acknowledge and deliver to the other party or to a Subtenant, a certificate in the form reasonably satisfactory to the requesting party certifying (to such party’s knowledge): (i) that this Ground Lease is in full force and effect and has not been modified (or if modified, setting forth all modifications), or, if this Ground Lease is not in full force and effect, the certificate shall so specify the reasons therefor; (ii) the commencement and expiration dates of the Term, including the terms of any Extension Options of Lessee; (iii) the date to which the rents have been paid under this Ground Lease and the amount thereof then payable; (iv) whether the other party has actual, present knowledge of any existing defaults in the performance of the requesting party’s obligations under this Ground Lease, and, if there are any such defaults, specifying the nature and extent thereof; and (v) any other reasonable information typically provided in an estoppel certificate, which may include, without limitation, that improvements constructed upon the Leased Premises have been completed and have been constructed pursuant to and in compliance with this Ground Lease; that the uses to which the Leased Premises are Permitted Uses; and the date upon which the Improvements were first occupied.

**ARTICLE XXVII**  
**MEMORANDUM OF GROUND LEASE; CONFIRMATION OF GROUND LEASE**  
**TERMS**

This Ground Lease shall not be recorded, but Lessor and Lessee agree to execute and acknowledge concurrently with the execution and delivery of this Ground Lease a Memorandum of Ground Lease substantially in the form of Exhibit D attached hereto which may be recorded in the real property records of Salt Lake County following the Effective Date. Following the Rent Commencement Date, Lessor and Lessee each agree, upon request of the other, to execute, acknowledge and deliver a Confirmation of Ground Lease Terms Dates substantially in the form

of Exhibit E attached hereto.

### **ARTICLE XXVIII TIME OF THE ESSENCE**

Time is to be of the essence of this Ground Lease and of each and every covenant, term, condition and provision hereof.

### **ARTICLE XXIX NOTICE; DAYS**

Any notice given under this Ground Lease must be in writing and must be sent by overnight carrier or may be delivered by confirmed electronic mail to the last address of the party to whom notice is to be given as designated by such party in writing. Notice by overnight carrier shall be deemed to have been given upon the date of confirmed delivery, and notice by electronic mail shall be deemed given at the time and on the date of transmittal if the sending party does not receive notice of failed delivery. Lessor and Lessee each confirm that their notice addresses are currently as set forth in the Summary, and shall be subject to change upon delivery to the other of written notice in accordance with the terms of this Article XXIX. As referenced in this Agreement “**Days**” shall mean calendar days unless otherwise noted, and “**Business Day**” shall mean a day that is not a Saturday, Sunday or a legal holidays (as recognized by banks in the State of Utah). In the event that the date for the performance of any covenant or obligation under this Ground Lease or the effectiveness of any notice hereunder shall fall on a day that is not a Business Day, the date for performance thereof or the date of effectiveness of any applicable notice shall be extended to the next Business Day.

### **ARTICLE XXX GENERAL PROVISIONS**

**SECTION 30.1 Remedies Cumulative.** All rights and remedies hereinbefore and hereafter conferred upon Lessor and Lessee under this Ground Lease shall be deemed cumulative and no one exclusive of the other, or any other remedy conferred by law.

#### **SECTION 30.2 Confidentiality.**

(a) Confidential Information. For the purposes of this Ground Lease, the term “**Confidential Information**” shall include, but not be limited to, any trade and business information, performance information, sales information, financial information, cost estimates, forecasts, contractual and special marketing information, site conditions, testing results, development plans, ideas, technical data and concepts originated by Lessee and which Lessee desires to protect against unrestricted disclosure or competitive use, is identified or labeled as confidential, and which is furnished pursuant to this Ground Lease. Without limitation on the foregoing, the Rent Schedule attached as Exhibit C to this Ground Lease and any financial information provided pursuant to Sections 15.3, 15.4, and 15.5 of this Ground Lease constitute Confidential Information.

(b) Non-Disclosure. Lessor hereby agrees not to use the Confidential Information for its own use or for any other purpose not expressly permitted by this Ground Lease.

Lessor shall not disclose such Confidential Information to any other third party and shall protect the confidentiality of and take all reasonable steps to prevent disclosure or use of the Confidential Information and to prevent it from falling into the public domain or the possession of unauthorized persons.

(c) GRAMA. Lessor agrees to classify and treat as a “Protected Record” under the Government Records Access and Management Act, Utah Code Ann. §§ 63G-2-101 et. seq. (the “**GRAMA**”), all Confidential Information under this Ground Lease, and to otherwise treat qualifying documents as Confidential Information in accordance with GRAMA. Upon delivery of Confidential Information to Lessor, Lessee shall provide the specific basis qualifying documents for protection under GRAMA. If Lessor disagrees with Lessee’s classification of a record, Lessor shall first advise Lessee before treating any such record as anything other than Confidential Information under this Ground Lease or a Protected Record under GRAMA. Lessor shall comply with the following requirements with respect to information labeled as Confidential Information by Lessor:

(i) Sharing with Governmental Entities. Lessor may only share Confidential Information with another government body or agency in accordance with Section 206 of GRAMA and shall provide written notice of any such sharing to Lessee at least ten (10) Business Days prior to providing such information to such governmental body or agency. Lessor shall obligate government entities receiving Confidential Information (i) not to disclose Confidential Information, (ii) to notify and refer all access requests to Lessor to be addressed in accordance with this Ground Lease, and (iii) defer to Lessor on determinations of whether a record is a Protected Record;

(ii) Records Requests; Challenges. In accordance with GRAMA, Lessor will notify Lessee of any document request under GRAMA or otherwise related to documents provided by Lessee. Lessee, at its sole cost and expense, shall have the right to challenge any third party’s efforts to obtain access to the Confidential Information provided under this Ground Lease. To the extent allowed by GRAMA, Lessor shall cooperate with Lessee, in good faith, in connection with any challenge to whether a document or other Confidential Information should be protected from disclosure.

(iii) Third-Party Sharing. Lessor may share Confidential Information from Lessee with third-party consultants and advisors but only after obligating such third-party consultants and advisors, by separate non-disclosure agreement in conformance with the terms of this Section 30.2. Lessor shall inform Lessee in writing of the names of such third persons signing such non-disclosure agreements promptly after the agreements are fully executed.

(d) Immediate and Irreparable Harm. Lessor acknowledges and agrees that Lessee would suffer immediate and irreparable harm, for which damages would be an inadequate remedy, if Lessor improperly disclosed Confidential Information or otherwise violated the foregoing provisions of this Section 30.2. Accordingly, Lessor acknowledges and agrees that Lessee shall be entitled to an injunction or injunctions to enforce specifically the terms and provisions hereof without the necessity of proving actual damages, in addition to any other remedy to which Lessee may be entitled at law or equity. Nothing herein contained is intended to waive or diminish any rights Lessee may have at law or in equity at any time to protect and defend its legitimate property interests (including its business relationships with third parties), the foregoing



provisions being intended to be additions to, and not in derogation or limitation of, any other rights Lessee may have at law or in equity.

**SECTION 30.3 Interpretation.** The captions of the Articles or Sections of this Ground Lease are to assist the parties in reading this Ground Lease and are not a part of the terms or provisions of this Ground Lease. Unless the context clearly requires otherwise, (a) the plural and singular numbers will each be deemed to include the other; (b) the masculine, feminine, and neuter genders will each be deemed to include the others; (c) “shall,” “will,” “must,” “agrees,” and “covenants” are each mandatory; (d) “may” is permissive; (e) “or” is not exclusive; and (f) “includes” and “including” are not limiting. In the event of a dispute between Lessor and Lessee over the interpretation of this Ground Lease, both parties shall be deemed to have been the drafter of this Ground Lease, and any Applicable Laws that states that contracts are to be construed against the drafter shall not apply. The language in all parts of this Ground Lease shall in all cases be construed as a whole according to its fair meaning and not strictly for or against either Lessor or Lessee.

**SECTION 30.4 Incorporation of Prior Leases; Modifications.** This Ground Lease is the only lease between the parties pertaining to the lease of the Leased Premises. All amendments to this Ground Lease shall be in writing and signed by the parties hereto. Any other purported amendments shall be void. All attached exhibits are hereby expressly incorporated into this Ground Lease by this reference.

**SECTION 30.5 Binding Effect; Choice of Law; Jury Waiver.** This Ground Lease binds any party who legally acquires any rights or interest in this Ground Lease from Lessor or Lessee. The laws of the State of Utah shall govern this Ground Lease, without regard to the State’s conflicts of law principles. Lessee hereby knowingly, intentionally, and irrevocably agrees that Lessor may bring any action or claim to enforce or interpret the provisions of this Ground Lease in the State of Utah and the County of Salt Lake, and that Lessee irrevocably consents to personal jurisdiction in the State of Utah for the purposes of any such action or claim. Lessee further agrees that any action or claim brought by Lessee to enforce or interpret the provisions of this Ground Lease, or otherwise arising out of or related to this Ground Lease or to Lessee’s use and occupancy of the Leased Premises, regardless of the theory of relief or recovery and regardless of whether third parties are involved in the action, may only be brought in the State of Utah and the County of Salt Lake, unless otherwise agreed in writing by Lessor prior to the commencement of any such action. In the interest of obtaining a speedier and less costly adjudication of any dispute, Lessor and Lessee hereby knowingly, intentionally, and irrevocably waive the right to trial by jury in any legal action, proceeding, claim, or counterclaim brought by either of them against the other on all matters arising out of or related to this Ground Lease or the use and occupancy of the Leased Premises or any other relationships between them of any kind or nature, whether such claims asserted be in contract, tort, equity, statute or otherwise.

**SECTION 30.6 Counterparts.** This Ground Lease may be executed in counterparts and, when all counterpart documents are executed, the counterparts shall constitute a single binding instrument. Receipt of electronic signatures (regardless of the means of transmission, whether by PDF, email or other format) shall be as binding on the parties as an original signature.

**SECTION 30.7 Relationship of Parties.** Nothing contained in this Ground Lease shall be deemed or construed by the parties hereto or by any third party to create the relationship of

principal and agent, partnership, joint venturer or any association between Lessor and Lessee, it being expressly understood and agreed that neither the method of computation of rent nor any act of the parties hereto shall be deemed to create any relationship between Lessor and Lessee other than the relationship of Lessor and Lessee.

**SECTION 30.8 Benefit.** Except as otherwise provided in this Ground Lease, no term or provision of this Ground Lease or the Exhibits hereto are intended to be, nor shall any such term or provision be construed to be, for the benefit of any person, firm, corporation, or other entity not a party hereto.

**SECTION 30.9 Partial Invalidity.** If any term, covenant, condition or provision of this Ground Lease shall be invalid or unenforceable at any time or to any extent, the remainder of this Ground Lease shall not be affected thereby, and each remaining term, covenant, condition and provision of this Ground Lease shall remain valid and enforceable to the fullest extent permitted by law.

[Signature Pages Follow]

**INTENDING TO BE LEGALLY BOUND**, Lessor and Lessee have signed this Ground Lease at the place and on the dates specified adjacent to their signatures below.

**LESSOR:**

Signed on \_\_\_\_\_, 20\_\_  
at \_\_\_\_\_.

**POINT OF THE MOUNTAIN STATE LAND  
AUTHORITY,**  
an independent entity of the State of Utah

By: \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Its: \_\_\_\_\_

By: \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Its: \_\_\_\_\_

**LESSEE:**

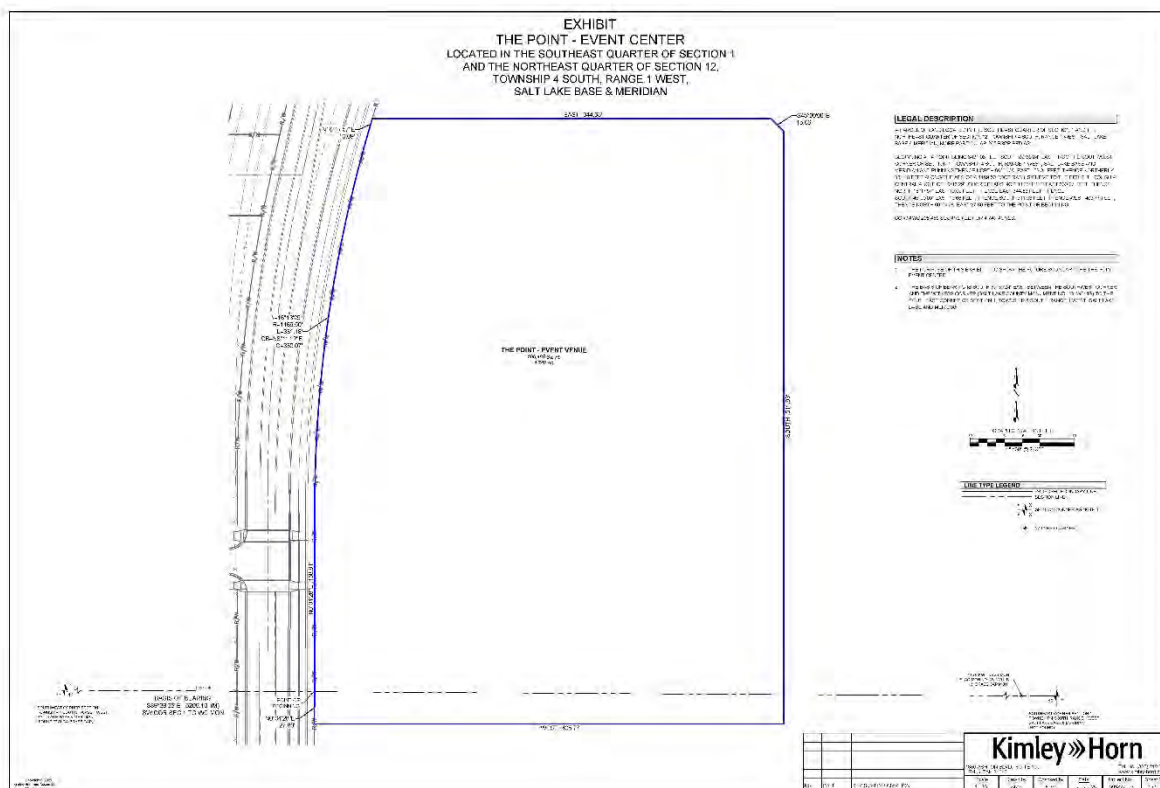
Signed on \_\_\_\_\_, 20\_\_  
at \_\_\_\_\_.

**POINT PHASE I PUBLIC INFRASTRUCTURE  
DISTRICT NO. 1**, a quasi-municipal corporation  
and independent political subdivision of the State of  
Utah

By: \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Its: \_\_\_\_\_

# EXHIBIT A

## GENERAL DEPICTION OF THE LEASED PREMISES



# EXHIBIT A

-1-

*General Depiction of the Leased  
Premises*

4857-9373-4761.15

**EXHIBIT B****LEGAL DESCRIPTION OF THE LEASED PREMISES****The Point – Event Venue***State of Utah Department of Adm Serv. Div. Fac Const. Mgmnt**Parcel No.: 33-01-300-007**2-27-2025*

A parcel of land located in the Southeast Quarter of Section 1 and the Northeast Quarter of Section 12, Township 4 South, Range 1 West, Salt Lake Base & Meridian, more particularly described as:

Beginning at a point being 3421.08 feet South 89°39'24" East from the Southwest Corner of Section 1, Township 4 South, Range 1 West, Salt Lake Base and Meridian and running thence North 00°04'28" East 158.81 feet; thence northerly 331.18 feet along the arc of a 1169.50 foot radius curve to the right, through a central angle of 16°13'29", chord bears North 08°11'12" East 330.07 feet; thence North 16°17'57" East 10.09 feet; thence East 344.63 feet; thence South 45°00'00" East 15.66 feet; thence South 511.93 feet; thence West 405.77 feet; thence North 00°04'28" East 27.80 feet to the Point of Beginning.

*Contains 206,485 Square Feet or 4.740 Acres.*

Basis of Bearing is South 89°39'24" East between the Southwest corner and the witness corner (Salt Lake County monument No. 4S1W011B) to the Southeast corner of Section 1, Township 4 South, Range 1 West, Salt Lake Base and Meridian.

**EXHIBIT B**

-1-

*Legal Description of the Leased  
Premises*

4857-9373-4761.15

The Point - Ground Lease  
[Ground Lessee]

## EXHIBIT C

### RENT

#### Land Value and Base Rent Calculation

The Leased Premises consist of approximately 4.740 acres (206,485 square feet). The Land Value shall be determined by multiplying the total land area (in square feet) by the Threshold Value of Twenty-Two and 96/100 Dollars (\$22.96) per square foot. The resulting Land Value shall then be multiplied by the Ground Rent Factor to determine the annual Base Rent.

- **Land Area:** 206,485 square feet (4.740 acres)
- **Threshold Value:** \$22.96 per square foot
- **Land Value:** 206,485 sq. ft.  $\times$  \$22.96 = \$4,742,822.60

The **Ground Rent Factor** is calculated as the sum of (i) the average 10-year treasury bill rate over the 12-month period prior to the applicable Land Value Adjustment Date (the “**Treasury Rate**”) and (ii) 187.5 basis points (1.875%) (the “**Treasury Spread**”). For the purposes of the initial calculation, the parties have agreed to a ballpark Lease Year 1 annual Base Rent of \$300,000, which equates to a Ground Rent Factor of approximately 6.33% ( $\$300,000 \div \$4,742,822.60$ ).

#### Ramp Up Period

- **Lease Year 1:** 50% of annual Base Rent
- **Lease Year 2:** 75% of annual Base Rent
- **Lease Year 3+:** 100% of annual Base Rent

#### Annual Increases

From and after the Rent Commencement Date, and notwithstanding the Ramp Up Period, annual Base Rent shall increase by two percent (2%) annually.

#### Revaluation and Reset Rent

A revaluation of the Land Value will occur effective as of the first day following the expiration of the twentieth (20th) Lease Year, and thereafter following the expiration of each 20-Lease Year period during the Term (each such date of adjustment being a “**Land Value Adjustment Date**”).

The Reset Rent shall be calculated as the product of the new Land Value (as determined by the appraisal process set forth below) and the then-applicable Ground Rent Factor, subject to the following limitations:

- The Reset Rent shall not decrease below the annual Base Rent paid from the previous year.
- The Reset Rent shall not increase by more than fifteen percent (15%) over the annual Base Rent in effect for the immediately preceding Land Value Adjustment Date.

#### Sample Calculation Table

Lease Year	Land Value	Ground Rent Factor	Annual Base Rent (100%)	Ramp Up %	Payable Base Rent	2% Increase Applied?
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## EXHIBIT C

1	\$4,742,822.60	6.33%	\$300,000	50%	\$150,000	No
2	\$4,742,822.60	6.33%	$\$300,000 \times 1.02$ $= \$306,000$	75%	\$229,500	Yes
3	\$4,742,822.60	6.33%	$\$306,000 \times 1.02$ $= \$312,120$	100%	\$312,120	Yes
4	\$4,742,822.60	6.33%	$\$312,120 \times 1.02$ $= \$318,362$	100%	\$318,362	Yes
5	\$4,742,822.60	6.33%	$\$318,362 \times 1.02$ $= \$324,729$	100%	\$324,729	Yes

*Note: The Ground Rent Factor is based on the ballpark Lease Year 1 annual Base Rent provided. Actual Ground Rent Factor will be determined as described above.*

### **Appraisal Process**

Six (6) months prior to each Land Value Adjustment Date, Lessor shall retain, at Lessor's cost, a qualified appraiser to issue an arms' length appraisal of the Land Value ("**Revaluation**"). The instructions to the qualified appraiser shall include directions that the Revaluation shall consider the Land Value based on the then-current use of the Leased Premises at the time of the appraisal (not the highest and best use, if different), and shall exclude the value of any improvements located on the Leased Premises. If Lessee objects to the new Land Value set forth in the qualified appraiser's Revaluation, Lessee shall have the right to deliver to Lessor a written objection to such Revaluation within thirty (30) days following Lessee's receipt thereof. If Lessor and Lessee are unable to agree in good faith upon the Revaluation within sixty (60) days following delivery of Lessee's written objection, Lessee, at its cost, may obtain a second arms' length appraisal of the Land Value from a qualified appraiser of its choice. Lessee's qualified appraiser shall deliver a written Revaluation to both parties within thirty (30) days of being engaged by Lessee. If the second Revaluation differs from the first Revaluation by more than five percent (5%), the new Land Value shall be deemed to be the average of the two Revaluations. If the second Revaluation differs from the first Revaluation by five percent (5%) or less, the Land Value shall be deemed to be the higher of the two Revaluations. If Lessee fails to obtain a second qualified appraisal within the time and manner specified herein, the Land Value shall be deemed to be the amount determined by the first Revaluation proposed by Lessor. Upon final determination of the Revaluation, the Revaluation shall be multiplied by the Ground Rent Factor and the result shall be the "**Reset Rent**" which shall be effective as of each Land Value Adjustment Date.

### **EXHIBIT C**

**EXHIBIT D****MEMORANDUM OF GROUND LEASE**

WHEN RECORDED, RETURN TO:

POINT PHASE I PUBLIC INFRASTRUCTURE DISTRICT NO. 1  
 WHITE BEAR ANKELE TANAKA & WALDRON  
 Attorneys at Law  
 2154 East Commons Avenue, Suite 2000  
 Centennial, Colorado 80122

**MEMORANDUM OF GROUND LEASE**

**THIS MEMORANDUM OF GROUND LEASE** (this “**Memorandum**”) is made and entered into as of \_\_\_\_\_, \_\_\_\_\_ by and between **POINT OF THE MOUNTAIN STATE LAND AUTHORITY**, an independent entity of the State of Utah (“**Lessor**”), and **POINT PHASE I PUBLIC INFRASTRUCTURE DISTRICT NO. 1**, a quasi-municipal corporation and independent political subdivision of the State of Utah (“**Lessee**”).

**RECITAL**

Lessor and Lessee entered into that certain Ground Lease dated \_\_\_\_\_, 2025 (as amended from time to time, the “**Ground Lease**”). Lessor has leased to Lessee and Lessee has leased from Lessor certain unimproved real property located in Salt Lake County, Utah, as more particularly described on Exhibit A attached hereto (the “**Leased Premises**”). All capitalized terms not defined hereunder shall have the meaning set forth in the Ground Lease.

**AGREEMENT**

**NOW, THEREFORE**, Lessor and Lessee confirm and agree as follows:

1. Term. Lessor and Lessee are parties to that certain Ground Lease, dated as of \_\_\_\_\_, 2025.
2. Extension Options. Subject to and in accordance with the terms of the Ground Lease, Lessee has six (6) options to extend the Term of the Ground Lease for a period of ten (10) years each.
3. Right of First Offer. Lessee has a right of first offer to purchase the Leased Premises, as more fully provided in the Ground Lease.
4. Option to Purchase. Lessor has an option to purchase certain Improvements and Equipment, as more fully provided in the Ground Lease.
4. Miscellaneous. This Memorandum has been prepared to provide notice that the

**EXHIBIT D**



Leased Premises is subject to the terms and conditions of the Ground Lease, which terms are hereby incorporated into this Memorandum by this reference. In no event shall the terms of this Memorandum be deemed to modify, amend, limit, or otherwise affect the terms and conditions of the Ground Lease. In the event of any inconsistency between the terms of this Memorandum and the terms of the Ground Lease, the terms of the Ground Lease shall control.

5. Counterparts. This Memorandum may be executed in any number of counterparts, each of which shall be an original, but all of which shall together constitute one and the same document.

[SIGNATURES ON NEXT PAGE]

EXHIBIT D

-2-

*Memorandum of Ground Lease*

**IN WITNESS WHEREOF**, Lessor and Lessee have signed this Memorandum as of the day and year first above written.

LESSOR:

**POINT OF THE MOUNTAIN STATE LAND  
AUTHORITY**, an independent entity of the State of  
Utah

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

Name: \_\_\_\_\_

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

LESSEE:

**POINT PHASE I PUBLIC INFRASTRUCTURE  
DISTRICT NO. 1**, a quasi-municipal corporation and  
independent political subdivision of the State of Utah

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

Printed Name: \_\_\_\_\_

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

**[ATTACH NOTARY ACKNOWLEDGEMENTS ON FOLLOWING PAGES]**

**EXHIBIT D**

-3-

**EXHIBIT A**  
**LEGAL DESCRIPTION**

**The Point – Event Venue**

*State of Utah Department of Adm Serv. Div. Fac Const. Mgmnt*

*Parcel No.: 33-01-300-007*

*2-27-2025*

A parcel of land located in the Southeast Quarter of Section 1 and the Northeast Quarter of Section 12, Township 4 South, Range 1 West, Salt Lake Base & Meridian, more particularly described as:

Beginning at a point being 3421.08 feet South 89°39'24" East from the Southwest Corner of Section 1, Township 4 South, Range 1 West, Salt Lake Base and Meridian and running thence North 00°04'28" East 158.81 feet; thence northerly 331.18 feet along the arc of a 1169.50 foot radius curve to the right, through a central angle of 16°13'29", chord bears North 08°11'12" East 330.07 feet; thence North 16°17'57" East 10.09 feet; thence East 344.63 feet; thence South 45°00'00" East 15.66 feet; thence South 511.93 feet; thence West 405.77 feet; thence North 00°04'28" East 27.80 feet to the Point of Beginning.

*Contains 206,485 Square Feet or 4.740 Acres.*

Basis of Bearing is South 89°39'24" East between the Southwest corner and the witness corner (Salt Lake County monument No. 4S1W011B) to the Southeast corner of Section 1, Township 4 South, Range 1 West, Salt Lake Base and Meridian.

**EXHIBIT D**

-4-

**EXHIBIT E****CONFIRMATION OF GROUND LEASE TERMS**


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When Recorded Return To:

POINT PHASE I PUBLIC INFRASTRUCTURE DISTRICT NO. 1  
 WHITE BEAR ANKELE TANAKA & WALDRON  
 Attorneys at Law  
 350 E 400 S, #2301  
 Salt Lake City, UT 84111

**CONFIRMATION OF GROUND LEASE TERMS**

THIS CONFIRMATION OF GROUND LEASE TERM (“**Confirmation**”) is made as of the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ by and between **POINT OF THE MOUNTAIN STATE LAND AUTHORITY**, an independent entity of the State of Utah (“**Lessor**”), and **POINT PHASE I PUBLIC INFRASTRUCTURE DISTRICT NO. 1**, a quasi-municipal corporation and independent political subdivision of the State of Utah (“**Lessee**”). Lessor and Lessee agree as follows:

1. Lessor and Lessee have entered into a Ground Lease, dated \_\_\_\_\_, 2025 (the “**Ground Lease**”), pursuant to which Lessor leased to Lessee and Lessee leased from Lessor certain unimproved real property located in Salt Lake County, Utah, as more particularly described on Exhibit A attached hereto (the “**Leased Premises**”), as evidenced by that certain Memorandum of Ground Lease dated as of \_\_\_\_\_, 2025 and recorded in the official records of Salt Lake County, Utah on \_\_\_\_\_ as Entry No. \_\_\_\_\_.

2. Lessor and Lessee hereby confirm the following dates under the terms of the Ground Lease:

- a. \_\_\_\_\_, 20\_\_\_\_ is the Rent Commencement Date; and
- b. \_\_\_\_\_, 20\_\_\_\_ is the Expiration Date of the Initial Term.
- c. \_\_\_\_\_, 20\_\_\_\_ is the Expiration Date of the first Extension Term.
- d. \_\_\_\_\_, 20\_\_\_\_ is the Expiration Date of the second Extension Term.
- e. \_\_\_\_\_, 20\_\_\_\_ is the Expiration Date of the third Extension Term.
- f. \_\_\_\_\_, 20\_\_\_\_ is the Expiration Date of the fourth Extension Term.
- g. \_\_\_\_\_, 20\_\_\_\_ is the Expiration Date of the fifth Extension Term.

**EXHIBIT F**

- h. \_\_\_\_\_, 20\_\_ is the Expiration Date of the sixth Extension Term.
3. Lessee and Lessor confirm that:
- a. The Ground Lease has not been modified, altered, or amended, except as provided in this Confirmation and as follows: \_\_\_\_\_; and
- b. The Ground Lease is in full force and effect.
4. Lessee hereby confirms that Lessee is responsible for the public improvement fee established by that certain [COVENANT] dated as of \_\_\_\_\_, and recorded in the official records of Salt Lake County, Utah as Entry No. \_\_\_\_\_.

The provisions of this Confirmation shall inure to the benefit, or bind, as the case may require, Lessor, Lessee, and their respective permitted successors and assigns.

DATED as of the date first written above.

LESSOR:

**POINT OF THE MOUNTAIN STATE LAND  
AUTHORITY**, an independent entity of the State of  
Utah

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

LESSEE:

**POINT PHASE I PUBLIC INFRASTRUCTURE  
DISTRICT NO. 1**, a quasi-municipal corporation and  
independent political subdivision of the State of Utah

By: \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Its: \_\_\_\_\_

**[ATTACH NOTARY ACKNOWLEDGEMENTS ON FOLLOWING PAGES]**

EXHIBIT F

-2-

**EXHIBIT A**  
**LEGAL DESCRIPTION**

**The Point – Event Venue**

*State of Utah Department of Adm Serv. Div. Fac Const. Mgmnt*

*Parcel No.: 33-01-300-007*

*2-27-2025*

A parcel of land located in the Southeast Quarter of Section 1 and the Northeast Quarter of Section 12, Township 4 South, Range 1 West, Salt Lake Base & Meridian, more particularly described as:

Beginning at a point being 3421.08 feet South 89°39'24" East from the Southwest Corner of Section 1, Township 4 South, Range 1 West, Salt Lake Base and Meridian and running thence North 00°04'28" East 158.81 feet; thence northerly 331.18 feet along the arc of a 1169.50 foot radius curve to the right, through a central angle of 16°13'29", chord bears North 08°11'12" East 330.07 feet; thence North 16°17'57" East 10.09 feet; thence East 344.63 feet; thence South 45°00'00" East 15.66 feet; thence South 511.93 feet; thence West 405.77 feet; thence North 00°04'28" East 27.80 feet to the Point of Beginning.

*Contains 206,485 Square Feet or 4.740 Acres.*

Basis of Bearing is South 89°39'24" East between the Southwest corner and the witness corner (Salt Lake County monument No. 4S1W011B) to the Southeast corner of Section 1, Township 4 South, Range 1 West, Salt Lake Base and Meridian.

**EXHIBIT F**

-3-

## EXHIBIT F

### ENVIRONMENTAL MATTERS

1. **Environmental Definitions.** For purposes of this Exhibit F, the following terms shall have the following meanings:

**“Baseline Report”** shall mean that certain Phase I Environmental Site Assessment for the Leased Premises prepared by \_\_\_\_\_ dated \_\_\_\_\_.

**“Claims”** shall mean all costs, claims, damages, liabilities, losses, demands, liens, expenses (including reasonable attorneys’ fees and costs), agency orders, requirements or enforcement actions, fines, fees, remediation costs, costs of evaluation, testing, analysis, cleanup, remediation, removal, disposal, monitoring and maintenance related to the presence of Hazardous Materials on, beneath, migrating to or migrating from the Leased Premises.

**“Environmental Conditions”** means the Release, presence or likely presence of any Hazardous Materials in, on or under a parcel of real property, including but not limited to any conditions arising out of the Release, disposal, storage or treatment of Hazardous Materials on or from the Leased Premises or overall project area of The Point (**“Overall Project”**) or the migration of such Hazardous Materials on, from or underneath the Leased Premises or Overall Project.

**“Environmental Laws”** collectively shall mean and include all Applicable Laws (whether common law, statute, rule, order, regulation or otherwise), permits and other requirements of governmental authorities applicable to the Leased Premises or the Improvements, or any portion thereof, relating to the environment, health or safety, environmental conditions or to any Hazardous Materials (including, without limitation the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. § 9601 et seq. (**“CERCLA”**), the Resource Conservation and Recovery Act, 42 U.S.C. § 6901 et seq. (**“RCRA”**), the Hazardous Materials Transportation Act, 49 U.S.C. §§ 1801 et seq., the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. §§ 136 to 136y, the Federal Water Pollution Control Act, as amended by the Clean Water Act, 33 U.S.C. §§ 1251 et seq., the Clean Air Act, 42 U.S.C. §§ 7401 et seq., the Toxic Substances Control Act, 15 U.S.C. §§ 2601 – 2671, the Safe Drinking Water Act, 42 U.S.C. §§ 300f – 300j-26, the Emergency Planning and Community Right-To-Know Act, 42 U.S.C. §§ 101 et seq. and any laws or regulations administered by the EPA, other applicable federal agencies and any similar laws or regulations of the State of Utah, Draper City, Salt Lake County, Utah, all amendments thereto, and all regulations, orders, decisions and decrees, now or hereafter promulgated thereunder.

**“Hazardous Materials”** shall mean and include: those substances included within the definitions of “hazardous substances,” “pollutants,” “contaminants,” “hazardous materials,” “toxic substances,” or “solid waste” in Environmental Laws, including but not limited to CERCLA, RCRA and the Clean Water Act; and petroleum and its constituents, including crude oil or any fraction thereof, natural gas, natural gas liquids, liquefied natural

gas, synthetic gas usable for fuel or any mixture thereto.

**“Lessee Indemnitees”** shall mean Lessee, any permitted Transferee or Subtenant, and their respective employees, officers, directors, managers, shareholders, members, partners, owners, representatives, agents, affiliates, consultants, successors and assigns.

**“Lessor Indemnitees”** shall mean Lessor, and its employees, officers, managers, representatives, agents, consultants, successors and assigns.

**“Release”** means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing of Hazardous Materials into the environment.

2. **Remediation of Environmental Conditions.** Lessor has disclosed to Lessee all reports, assessments, surveys, studies, sampling results or other materials relevant to Environmental Conditions existing or within the Leased Premises and the Overall Project or potentially impacting the Leased Premises and Overall Project, in its possession or control. Lessor will diligently investigate and remediate in accordance with Environmental Laws all Pre-Existing Environmental Conditions on the Leased Premises and the Overall Project; will keep Lessee informed of the status of Lessor’s investigation and remediation efforts by providing written updates no less frequently than monthly until Lessor’s investigation and remediation efforts are complete; and will provide to Lessee all reports, correspondence, permits, sampling results and other documentation relating to its investigation and remediation of any Environmental Conditions impacting the Leased Premises or Overall Project within thirty (30) days of the completion of Lessor’s investigation and remediation activities.

3. **Indemnification by Lessor.** Lessor shall indemnify, defend, and hold harmless the Lessee Indemnitees from and against any and all Claims arising from (a) Environmental Conditions existing prior to the Effective Date of this Ground Lease, regardless of whether the Hazardous Materials were discovered or documented in the Baseline Report (“**Pre-Existing Environmental Conditions**”), and (b) any Hazardous Materials that were Released onto, beneath or from the Leased Premises by, or Environmental Conditions exacerbated by, Lessor or Lessor’s agents, employees or contractors, on or after the Effective Date, except to the extent the Claims or Environmental Conditions are caused or exacerbated by Lessee Indemnitees.

4. **Indemnification by Lessee.** Lessee shall indemnify, defend, and hold harmless the Lessor Indemnitees from and against any and all Claims arising from Environmental Conditions caused or exacerbated by Lessee Indemnitees on or after the Effective Date, except to the extent the Claims or Environmental Conditions are exacerbated by Lessor Indemnitees.

5. **Indemnification Procedures.** In the event that any Claim under this Exhibit F arises, the party seeking indemnity shall promptly notify the indemnifying party in writing and the indemnifying party shall assume the defense of the Claim, including the employment of counsel and the payment of all expenses incident to such defense. The indemnitee shall have the right to employ separate counsel in any such action and participate in the defense thereof, but the fees and expenses of such counsel shall be paid by such indemnitee unless the employment of such counsel has been authorized by the indemnifying party or counsel for the indemnifying party shall have



advised the indemnitee in writing that there exists actual or potential conflicts of interest which make representation by the same counsel inappropriate. An indemnifying party shall not be liable for any settlement of any such action without its consent but, if any such action is settled with the consent of the indemnifying party or if there be final judgment for the plaintiff of any such action, the indemnifying party agrees to indemnify and hold harmless the indemnitee from and against any loss or liability by reason of such settlement or judgment.

EXHIBIT F

-3-

*Environmental Matters*

**EXHIBIT G**  
**PERMITTED TITLE EXCEPTIONS**

[\*\*TO BE CONFORMED TO CURRENT TITLE REPORT APPROVED BY LESSEE\*\*]

## EXHIBIT H

### Insurance Requirements During Construction

1. **Builder's Risk Coverage During the Course of Construction**. At all times during the period of construction of any Improvements or any related offsite infrastructure, Lessee shall maintain, or cause to be maintained (in addition to all other insurance required of Lessee pursuant to the Ground Lease), builder's risk insurance or coverage under Lessee's property insurance insuring Lessor and the Lessor Indemnitees, as their interests may appear. Such coverage shall, on a completed values basis for the full insurable value (including hard costs, soft costs, and delay in completion/loss of income costs) at all times, insure against loss or damage by fire, flood, earthquake/earth movement, terrorism, vandalism and malicious mischief and other such risks as are customarily covered by the so-called "All-Risk" or "Special Form" form, including permission for early occupancy, upon all Improvements or Alterations. Coverage for flood may be sub-limited. Lessor shall not be responsible for any deductible, for a claim under such insurance. Such insurance shall contain an express waiver of any right of subrogation and waiver of all rights of recovery by the insurer and insured against Lessor and the Lessor Indemnitees, and shall name Lessor and any other party designated by Lessor as loss payees as their interests may appear. The builder's risk policy shall include no coinsurance penalty provisions (or include an agreed amount endorsement waiving coinsurance). Lessor may, at its reasonable discretion but not more than once every five years, require minimum insurance policy limits to be maintained by Lessee's contractors to be increased to market standard levels for comparable projects and improvements.

2. **Lessee's Contractors' Insurance**. Lessee shall be responsible for requiring all of Lessee's contractors performing any Alterations or Improvements upon the Leased Premises to purchase and maintain insurance consistent with the requirements set forth in this Exhibit H. All of Lessee's contractors, including subcontractors, shall carry the same coverages and limits and name the same additional insureds as specified herein, unless different limits are reasonably approved by Lessee and Lessor. Lessee's Contractors shall maintain insurance as shall protect against the following types of claims which may arise out of or result from any Improvements or Alterations upon the Leased Premises:

a. Claims under workers' compensation, disability benefit and other similar employee benefit acts which are applicable to the work to be performed.

b. Claims for damages because of bodily injury, occupational sickness or disease, or death of employees under any applicable employer's liability law.

c. Claims for damages because of bodily injury, or death of any person other than Lessee's or Lessee's Contractors' employees.

d. Claims for damages insured by personal injury liability coverage which are sustained (a) by any person as a result of an offense directly or indirectly related to the employment of such person by Lessee or Lessee's contractors or (b) by any other Person.

## EXHIBIT H

e. Claims for damages, other than to the Alterations or Improvements, because of injury to or destruction of tangible property, including loss of use therefrom.

f. Claims for damages because of bodily injury or death of any person or property damage arising out of the ownership, maintenance or use of any motor vehicle, including non-owned liability.

3. **Limits of Liability:** Lessee's contractors shall maintain, at a minimum, the following insurance coverages on an occurrence basis: Commercial General Liability, Automobile Liability, Workers' Compensation and Employer's Liability, and Umbrella/Excess Liability Coverage may be provided through any combination of primary and excess/umbrella policies, provided the combined limits meet or exceed the following minimum requirements:

a. <b>Commercial General Liability:</b> Bodily Injury, including death, and Property Damage	Commercially reasonable amounts, but in any event no less than Five Million Dollars (\$5,000,000) per occurrence, with a Five Million Dollar (\$5,000,000) project-specific general aggregate (or, if no project-specific aggregate is available, a general aggregate limit of not less than Ten Million Dollars (\$10,000,000)), One Million Dollars (\$1,000,000) personal and advertising injury limit, and Five Million Dollars (\$5,000,000) products and completed operations aggregate.
b. <b>Commercial Automobile Liability:</b> Bodily Injury, including death, and Property Damage	Five Million Dollars (\$5,000,000) per accident covering any owned, hired, and non-owned autos.
c. <b>Workers' Compensation and Employer's Liability:</b>	Workers' Compensation insurance as is required by statute or law, or as may be available on a voluntary basis and Employers' Liability insurance with limits of not less than the following: One Million Dollars (\$1,000,000) bodily injury each accident; One Million Dollars (\$1,000,000) bodily injury due to disease each employee; One Million Dollars (\$1,000,000) bodily injury due to disease policy limit. Contractor's policies shall be endorsed to waive subrogation against Lessee, Lessor, and the Lessor Indemnities.

## EXHIBIT H

<p>d. <b>Umbrella/Excess Liability:</b> Bodily Injury and Property Damage</p>	<p>Umbrella/excess liability, written on an occurrence form, with commercially reasonable amounts (excess of coverages a, b and c above), but in any event no less than Ten Million Dollars (\$10,000,000) per occurrence with a Ten Million Dollar (\$10,000,000) annual aggregate. Any such umbrella/excess policy shall be true follow-form to the underlying liability coverages and shall satisfy all applicable requirements of this Exhibit (including naming the Required Additional Insureds, providing primary coverage, and not imposing any self-insured retention that cannot be satisfied by Lessee or Lessor). Umbrella/excess liability insurance limits for subcontractors may be determined by the general contractor within its reasonable discretion pursuant to each subcontractor's operations.</p>
<p>e. <b>Contractor's Pollution Liability:</b></p>	<p>If the work or project involves environmental hazards (including but not limited to the transportation, disturbance, or removal of hazardous materials such as asbestos or lead), contractors' pollution legal liability insurance with limits of not less than One Million Dollars (\$1,000,000) per occurrence or claim, and Two Million Dollars (\$2,000,000) aggregate.</p>
<p>f. <b>Professional Liability (Errors &amp; Omissions):</b></p>	<p>If any design, engineering, or professional services are included in the construction scope (e.g. design-build contracts), professional liability insurance covering errors and omissions in the rendering of such services, with limits of not less than Two Million Dollars (\$2,000,000) per claim and Two Million Dollars (\$2,000,000) in the aggregate.</p>

3. **Additional Insureds:** Lessee, Lessor and the Lessor Indemnitees (the "**Required Additional Insureds**") shall be named as additional insureds on a primary and non-contributory basis under all the Lessee's Contractors' Commercial General Liability, Commercial Automobile Liability, Contractors Pollution Liability (if applicable) and Umbrella/Excess Liability Insurance policies for both ongoing and completed operations as respects liability arising from work or operations performed, or ownership, maintenance or use of autos, by or on behalf of Lessee's Contractors.

## EXHIBIT H

## **EXHIBIT I**

### **LESSEE'S RIGHT OF FIRST OFFER**

From and after the Effective Date and throughout during the Term of this Ground Lease, Lessee shall have an ongoing right of first offer to purchase the Lessor Interest (defined below) on the terms and conditions set forth in this Exhibit I ("**Lessee's Right of First Offer**").

A. **Notice of Lessor's Decision To Sell.** In the event that Lessor decides, from and after the Effective Date or otherwise during the Term of this Ground Lease, to offer for sale all or any portion of the fee simple ownership interest of Lessor in the Leased Premises (the "**Lessor Interest**"), Lessor shall deliver to Lessee written notice of such intention to Lessee ("**Lessor's Notice of Decision to Sell**"). Lessor's Notice of Decision to Sell shall summarize the price and general terms upon which Lessor intends to offer the Lessor Interest for sale.

B. **Lessee's ROFO Notice.** Lessee shall have sixty (60) days after receipt of Lessor's Notice of Decision to Sell within which to provide written notice of Lessee's interest in purchasing the Lessor Interest ("**Lessee's ROFO Notice**"). Lessee's ROFO Notice, if given, shall summarize the price and general terms upon which Lessee would be willing to purchase such interest. The price and general terms so described by Lessee may, but need not, be the same as those described in Lessor's Notice of Decision to Sell.

C. **Negotiations for Binding Purchase and Sale Agreement.** In the event that the price and general terms described in Lessee's ROFO Notice are the same as those described in Lessor's Notice of Decision to Sell, the parties shall negotiate in good faith over a period not exceeding thirty (30) days for a binding agreement of purchase and sale at the same price and with specific, more detailed terms that are reasonably consistent with the general terms described in the said notices. In the event the parties do so negotiate in good faith but are unable to agree on such specific terms, no binding agreement of purchase and sale shall be entered into, and either of the parties may then terminate their negotiations for such an agreement.

D. **Negotiations of Price and General Terms.** In the event that the price or any of the general terms described in Lessee's ROFO Notice are not the same as those described in Lessor's Notice of Decision to Sell, Lessor and Lessee shall promptly meet and negotiate in good faith the terms of a binding agreement of purchase and sale at a price, if any, and on specific terms, if any, that are mutually acceptable to both parties.

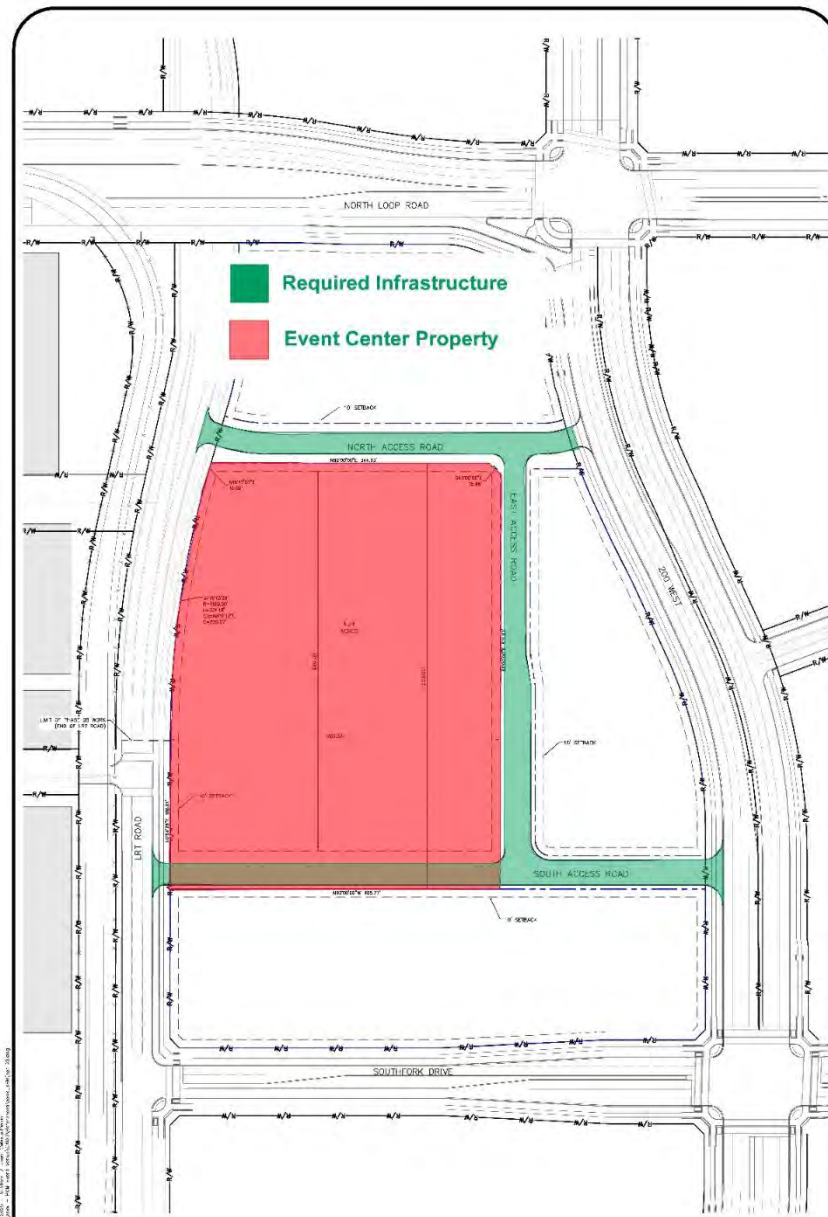
E. **Third Party Sale of Lessor's Interest.** In the event that Lessor issues a Lessor's Notice of Decision to Sell, and in the further event that either (a) Lessee does not respond within sixty (60) days of its receipt thereof, (b) Lessee does so respond with a Lessee's ROFO Notice at the same price and general terms described in Lessor's Notice of Decision to Sell, but the parties' good faith negotiations under Paragraph C above fail to produce a mutually acceptable binding agreement of purchase and sale within thirty (30) days thereafter, or (c) Lessee does so respond with a Lessee's ROFO Notice, but not at the same price and same general terms described in Lessor's Notice of Decision to Sell, then, Lessor shall be entitled to sell the Lessor Interest to a third party provided that: (1) the aggregate economic value of all terms and conditions of such third party sale must not be equal to or less than ninety-five percent (95%) of the aggregate

economic value of the terms and conditions offered in Lessor's Notice of Decision to Sell; (2) the terms and conditions of such third party sale must not otherwise be materially more favorable to the buyer than those terms and conditions offered in Lessor's Notice of Decision to Sell; and (3) such third party sale must close within one (1) year after the date of Lessor's Notice of Decision to Sell. In the event that any of the foregoing conditions is not met, then Lessor shall provide Lessee with a new Lessor's Notice of Decision to Sell in accordance with Paragraphs A through D above. Notwithstanding anything to the contrary herein, any purchaser and its successors and assigns shall acquire the Lessor Interest subject to Lessee's Right of First Offer, which shall survive any such sale or transfer and be triggered anew in the event of any subsequent offers for sale of Lessor's Interest.

F. **Exceptions.** Notwithstanding anything to the contrary in this Exhibit I, the Lessee's Right of First Offer shall not apply to any of the following hypothecations, transfers, conveyances, or assignments (in the event such events do not violate the terms of the Lease): (i) if Lessor elects to convey it to any entity owned or controlled by Lessor, (ii) because of any involuntary conveyance, or (iii) by reason of any foreclosure or trustee's sale or deed in lieu of foreclosure or trustee's sale, or (iv) Lessee's Right of First Offer is specifically not applicable pursuant to the terms of a provision of this Ground Lease.

**EXHIBIT J**

**Required Infrastructure Work**



4909-0464-9520

Exhibit J  
-1-  
*Required  
Infrastructure Work*



***Recording Requested By and  
When Recorded Return to:***

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## **SUB-CAMPUS DEVELOPMENT AGREEMENT**

[Event Center]

This Sub-Campus Development Agreement (this “Agreement”) is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2025 (“Effective Date”) by and between POINT OF THE MOUNTAIN STATE LAND AUTHORITY, an independent entity of the State of Utah (“POMSLA”), and POINT PHASE I PUBLIC INFRASTRUCTURE DISTRICT NO. 1, an independent political subdivision of the State of Utah (the “PID”). POMSLA and the PID may from time to time be referred to herein each as a “Party” or collectively as the “Parties.”

### **RECITALS**

A. The capitalized terms used in this Agreement and in these Recitals are defined in Article 1 below.

B. The State of Utah (“State”) is the fee simple owner of approximately six hundred (600) acres of real property located in Salt Lake County, Utah, commonly known as “The Point” (the “Overall Project”).

C. CLW Point Partners LLC, a Delaware limited liability company (“Developer”) was selected to develop the first (1<sup>st</sup>) phase of approximately ninety-nine (99) acres of land within the Overall Project (“Phase One”).

D. POMSLA and Developer previously entered into that certain Disposition and Development Agreement, dated November 27, 2023 (“Master DDA”), that governs the disposition and development of Phase One.

E. Article 5 of the Master DDA contemplates that Developer and POMSLA may enter into ancillary development agreements governing the development of a Sub-Campus (as defined in the Master DDA) outside of Phase One.

F. Developer has assigned its rights to develop a Sub-Campus outside of Phase One for an Event Center (defined in Section 1 below) to the PID.

G. The PID desires to develop the Event Center on the approximately 4.74 acres of real property more particularly described on the attached Exhibit A-1 and generally depicted on the attached Exhibit A-2 (“Event Center Property”), which Event Center Property is located adjacent to Phase One.

H. The Event Center will benefit the residents of Phase One and the Overall Project by providing a cultural, entertainment, and recreational center for the public's use and enjoyment, while also creating economic benefits to the State, catalyzing further development and increased velocity of Phase One, and fostering broader growth through the surrounding region.

I. As contemplated by Section 5.1.2 of the Master DDA, POMSLA and the PID desire to enter into this Agreement to more fully specify the rights and responsibilities of the PID to develop the Event Center in accordance with this Agreement.

## AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

### 1. DEFINITIONS

Any term or phrase used in this Agreement that has its first letter capitalized shall have the meaning given in this Article 1, unless otherwise defined in another section of this Agreement:

“Applicable Law(s)” means the laws of the State of Utah and the United States that are in effect as of the Effective Date of this Agreement.

“Attorney Fees and Costs” means any and all reasonable attorney fees, costs, expenses and disbursements, including expert witness fees and costs, travel time and associated costs, transcript preparation fees and costs, document copying, exhibit preparation, courier, postage, facsimile, long-distance and communications expenses, court costs and the costs and fees associated with any other legal, administrative or alternative dispute resolution proceeding, fees and costs associated with execution upon any judgment or order, and costs on appeal.

“Bond Trustee” means with respect to any bond, the trustee, paying agent, custodian, or other administrative agent acting as such with respect to the applicable bond.

“Design Guidelines” means the specific design guidelines applicable to the Event Center Property and entitled The Point: Design Guidelines Event Center attached hereto as Exhibit B.

“Design Review Requirements” means the design review requirements attached hereto as Exhibit C, as the same may be amended from time to time.

“Environmental Condition(s)” means the Release or presence of any Hazardous Material in, on, or under a parcel of real property, including but not limited to any conditions arising out of the Release, disposal, storage or treatment of Hazardous Materials on or from the Overall Project or the migration of such Hazardous Materials on, from, or underneath the Overall Project.

“Environmental Laws” means and includes all Applicable Laws (whether common law, statute, rule, order, regulation or otherwise), permits and other requirements of governmental authorities applicable to the Event Center Property, or any portion thereof, relating to the environment, health or safety, environmental conditions or to any Hazardous Material (including,

without limitation, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. §§ 9601 et seq. (“CERCLA”), the Resource Conservation and Recovery Act, 42 U.S.C. §§ 6901 et seq. (“RCRA”), the Hazardous Materials Transportation Act, 49 U.S.C. §§ 1801 et seq., the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. §§ 136 to 136y, the Federal Water Pollution Control Act, , 33 U.S.C. §§ 1251 et seq. (“Clean Water Act”), the Clean Air Act, 42 U.S.C. §§ 7401 et seq., the Toxic Substances Control Act, 15 U.S.C. §§ 2601 – 2671, the Safe Drinking Water Act, 42 U.S.C. §§ 300f – 300j-26, the Emergency Planning and Community Right-To-Know Act, 42 U.S.C. §§ 101 et seq. and any laws or regulations administered by the EPA, other applicable federal agencies and any similar laws or regulations of the State, Draper City, or Salt Lake County, all amendments thereto, and all regulations, orders, decisions and decrees, now or hereafter promulgated thereunder).

“Event Center” means the event center to be constructed on the Event Center Property and includes any improvements or necessary infrastructure ancillary thereto, including, parking areas and structures, public infrastructure, and open space in a planned plaza.

“Force Majeure” means any actual prevention, delay, or stoppage of the performance of any obligation under this Agreement that is due to: strikes; labor disputes; inability to obtain labor, materials, equipment or reasonable substitutes therefor; acts of nature; governmental restrictions or regulation (not provided for in this Agreement); a lawsuit or any other form of legal action seeking to restrain, enjoin, challenge or delay the development of any portion of the Event Center or effectiveness of the Agreement; judicial orders; enemy or hostile government actions; wars; civil commotions; fires or other casualties; epidemic, pandemic and/or quarantine; or other causes beyond the reasonable control of the Party obligated to perform hereunder.

“Hazardous Material(s)” means and includes those substances included within the definitions of “hazardous substances,” “pollutants,” “contaminants,” “hazardous materials,” “toxic substances,” or “solid waste” in Environmental Laws, including but not limited to CERCLA, RCRA, and the Clean Water Act, and petroleum and its constituents, including crude oil or any fraction thereof, natural gas, natural gas liquids, liquefied natural gas, synthetic gas usable for fuel, or any mixture thereto.

“Permitted Exceptions” means those exceptions referenced in Exhibit D attached hereto and shall specifically exclude the Required Removal Items.

“Release” means a release of Hazardous Materials into the environment as defined under Environmental Laws.

“Required Removal Items” means all leases or deeds of trust, mortgages, judgment liens, mechanic’s liens and materialmen’s liens, and any other monetary liens or encumbrances created or assumed by POMSLA or the State, and any exception items not included in the Permitted Exceptions; provided, however, that any of the foregoing listed items caused by the PID or its agents shall not be deemed or construed to be Required Removal Items.

“Tax Equivalent” means with respect to any tax year, the annual privilege tax or similar ad valorem tax as set forth in Utah Code § 11-59-207 generated from the Event Center Property, and which amount is not limited to the amounts actually distributed to POMSLA.

“TE Commencement Date” means such date as agreed upon by the Parties in writing, and in the absence of a different agreed upon date, then January 1, 2028.

“TE Share” means ninety percent (90%) of the Tax Equivalent generated from the Event Center Property from the TE Commencement Date through the tenth (10<sup>th</sup>) anniversary of the TE Commencement Date, and thereafter seventy-five percent (75%) of the Tax Equivalent generated from the Event Center Property until the fortieth (40<sup>th</sup>) anniversary of the TE Commencement Date.

“Use Restrictions” means the uses restricted for the Event Center Property, as more particularly set forth on Exhibit E attached hereto.

## 2. EVENT CENTER DEVELOPMENT

2.1 Development Rights. To the maximum extent permissible under Applicable Law, POMSLA and the PID agree that this Agreement grants and confirms that, consistent with the Ground Lease (defined in Section 3.1 below), the PID is vested with: (i) all rights to develop the Event Center on the Event Center Property in accordance with and in fulfillment of this Agreement, including the requirements to develop in conformance with the Applicable Laws; and (ii) all rights to develop infrastructure necessary to facilitate the development of the Event Center, including, the required infrastructure set forth on Exhibit G attached hereto. The Parties intend that the rights granted to the PID hereunder are contractual vested rights and include the rights that exist as of the Effective Date under statute, common law and at equity. The Parties acknowledge and agree that this Agreement provides significant and valuable rights, benefits, and interests in favor of the PID and the Event Center Property.

2.2 Design Review. All proposed development plans and applications for the Event Center Property shall be reviewed and approved in accordance with the Design Review Requirements, which procedure shall control over conflicting processes, if any, in the Design Guidelines.

2.3 Design Guidelines. The Event Center shall be designed and constructed in accordance with the Design Guidelines.

2.4 Use Restrictions. The uses allowed by the Ground Lease do not violate the Use Restrictions.

2.5 Permits. POMSLA shall timely effectuate the review and processing of all permit applications in accordance with the timeline set forth in the Design Review Requirements. If the PID requests, and POMSLA agrees, POMSLA may contract with a local entity or state building authority to process building permit reviews, approvals, and inspections of infrastructure work performed for the Event Center Property.

## 3. DISPOSITION OF EVENT CENTER PROPERTY

3.1 Ground Lease. POMSLA shall ground lease to the PID, and the PID shall ground lease from POMSLA, the Event Center Property, subject to the key terms set forth in Exhibit F attached hereto, which are intended to be incorporated into a ground lease agreement to be

negotiated between the Parties prior to the Ground Lease Closing (“Ground Lease”). As a condition of maintaining the rights described herein, the PID shall act in accordance with the Ground Lease and timely cure any default in accordance with the Ground Lease terms. The Ground Lease shall include a provision allowing the PID to impose a public improvement fee as a written covenant to be recorded against the Event Center Property, on terms set forth in the covenant.

3.2 Ground Lease Closing. Closing on the execution and delivery of the Ground Lease for the Event Center Property (“Ground Lease Closing”) will be held on a date mutually agreeable by the Parties, but in no event later than sixty (60) days following the Effective Date of this Agreement, unless an extension is agreed to by the Parties in writing. At the Ground Lease Closing:

(a) POMSLA will execute and deliver, and the PID will execute and deliver, the final form of the Ground Lease and a subdivision plat of record with the Salt Lake County, Utah Recorder creating the Event Center Property with boundaries agreed to by the Parties.

(b) POMSLA will execute, acknowledge, and deliver, and the PID will execute, acknowledge, and deliver, a Memorandum of Ground Lease (in the form attached as an exhibit to the Ground Lease) (“Memorandum of Ground Lease”), in recordable form, which will be delivered by the PID to the Title Company (defined below) for recordation with the official records of the recorder of Salt Lake County, Utah.

(c) In connection with the Ground Lease Closing, the PID may obtain a title commitment covering the Event Center Property prepared by First American Title Insurance Company or other title underwriter mutually approved by POMSLA and the PID in their respective reasonable discretion (the “Title Company”) for the issuance of an ALTA leasehold policy of title insurance (the “Title Policy”) issued by the Title Company and insuring the PID’s leasehold interest, as ground lessee, in the Event Center Property and under the Ground Lease, subject only to the Permitted Exceptions, and containing extended coverage or those endorsements reasonably deemed necessary by the PID, as well as customary additional endorsements as “improvements” (as defined in the Ground Lease) are constructed on the Event Center Property. POMSLA shall remove (or shall cause, or cooperate with the PID in causing, the State to remove) the Required Removal Items. Provided that the PID has delivered all documents and satisfied all requirements applicable to the PID and required by the Title Company in connection with the issuance of the Title Policy or any endorsements issued in connection therewith, a condition precedent for the PID to the Ground Lease Closing shall be that the Title Company shall have issued and delivered to the PID, or shall have irrevocably committed to issue and deliver to the PID, with respect to the Event Center Property, the Title Policy, subject only to the Permitted Exceptions. Except as to the Required Removal Items, POMSLA shall be under no obligation to the PID for the Title Policy and the failure of the Title Company to issue (or be in a position to irrevocably issue) a Title Policy prior to the Ground Lease Closing shall not entitle the PID to any recourse or remedy from POMSLA; provided, however, the date of the applicable Ground Lease Closing shall be extended on a day-for-day basis until Title Company has issued or is in a position to irrevocably issue, the Title Policy, and the PID shall not be in default under this Agreement due to such delayed Ground Lease Closing.

(d) At the Ground Lease Closing, applicable real estate taxes and assessments, escrow fees, title charges, recording fees, and other closing costs shall be prorated or allocated between POMSLA and the PID as follows:

(i) POMSLA shall pay: (1) the premiums for the standard coverage portion of the Title Policy and all costs and expenses relative to the removal of the Required Removal Items (if any); (2) one-half (½) of the cost of recording the Memorandum of Ground Lease; (3) one-half (½) of any escrow fees or similar charges of the Title Company, and (4) one-half (½) of all documentary fees or transfer taxes, if any, payable in connection with the Ground Lease Closing.

(ii) The PID shall pay: (1) the premiums and any additional costs (including any survey costs) for ALTA extended coverage for any Title Policy; (2) the costs of any endorsements to the Title Policy, including any lender's policy or endorsement; (3) one-half (½) of the cost of recording the Memorandum of Ground Lease; (4) one-half (½) of any escrow fees or similar charges of the Title Company; and (5) one-half (½) of all documentary fees or transfer taxes, if any, payable in connection with the Ground Lease Closing.

(iii) Taxes and fees, if any, shall be prorated as of 11:59 p.m. Mountain Time on the day prior to the day of Ground Lease Closing, regardless of the year for which such taxes or assessments are assessed or accrued. POMSLA shall pay all such taxes and assessments attributable to any period prior to the Ground Lease Closing, and the PID shall pay all taxes and fees attributable thereafter.

(iv) Except to the extent otherwise specifically provided herein, all other expenses incurred by POMSLA or the PID with respect to the Ground Lease Closing, including, without limitation, POMSLA's or the PID's respective Attorney Fees and Costs, shall be borne and paid by the Party incurring the same.

(v) Except as specifically set forth above, all other items that are customarily prorated in Utah in ground lease transactions shall be prorated between POMSLA and the PID in the customary manner.

#### 4. REVENUE PLEDGE AND DISTRIBUTION

4.1 Privilege Tax. POMSLA hereby assigns and pledges to the Bond Trustee on behalf of the PID all of its right, title and interest in and to the TE Share and pledges the same to the Bond Trustee on behalf of the PID for the purpose of paying and securing bonds and any other debt obligation. The lien of such pledge on the TE Share shall constitute a first priority and exclusive lien thereon.

4.2 Sales and Use Tax. Pursuant to Utah Code § 59-12-103(17)(b), POMSLA is entitled to receive one-half (50%) of the revenue from the sales and use tax imposed by Utah Code § 59-12-103 (2)(a)(i)(A) at a four and seven-tenths percent (4.7%) rate, on transactions occurring within the Event Center Property ("Sales Tax Revenue"). POMSLA hereby assigns and pledges fifty percent (50%) of the Sales Tax Revenue to the Bond Trustee and such funds shall be paid directly to the Bond Trustee on behalf of the PID without any intervening approvals or discretionary action required by POMSLA.

4.3 Parking Revenues. The PID may earn parking revenues from parking facilities located on the Event Center Property and may pledge the same to the Bond Trustee.

4.4 Remittance of Pledged Revenues. The PID hereby authorizes and directs POMSLA to pay (or cause to be paid) the funds pledged under Subsections 4.1 and 4.2 (collectively, “Pledged Revenues”) to the Bond Trustee pursuant to written instructions provided by the Bond Trustee, as the same may from time to time be revised pursuant to written instructions provided by the Bond Trustee to POMSLA, with a copy to the PID. On and after the Effective Date, POMSLA shall remit (or cause the remittance of) the Pledged Revenues to the Bond Trustee not later than thirty (30) days following the receipt thereof.

4.5 Exclusive Obligations. POMSLA acknowledges and agrees that its obligations under this Agreement with respect to the Pledged Revenues run exclusively to the Bond Trustee on behalf of the PID for the benefit of the bondholders from time to time, and there is no prior, superior, subordinate or any other lien on the Pledged Revenues other than the lien thereon of the pledge to the Bond Trustee on behalf of the PID hereunder.

## 5. GENERAL TERMS

5.1 Default. Except as otherwise expressed herein, in the event of a failure by any Party to comply with the commitments set forth herein, within thirty (30) days of written notice of such failure from the other Party, the non-defaulting Party shall have the right to: (i) cure such default or enjoin such violation and otherwise enforce the requirements contained in this Agreement; and (ii) enforce all rights and remedies available at law and in equity including, but not limited to, injunctive relief and/or damages.

5.2 Lockout. For a period of five (5) years from the Effective Date, the PID shall not sublease or otherwise transfer any space within the Event Center Property to a third-party without POMSLA’s consent. After such five (5) year period, the PID may sublease or transfer space within the Event Center Property without POMSLA’s consent, provided that the transferee assumes all of the PID’s obligations under the Ground Lease with respect to the subleased or transferred portion of the Event Center Property.

5.3 No Agency, Joint Venture or Partnership. It is specifically understood and agreed to by and between the Parties that POMSLA and the PID hereby renounce the existence of any form of agency relationship, joint venture or partnership express or implied between POMSLA and the PID and agree that nothing contained herein or in any document executed in connection herewith shall be construed as creating any such relationship between POMSLA and the PID.

5.4 Severability. If any term or provision of this Agreement, or the application of any term or provision of this Agreement to a particular situation, is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining terms and provisions of this Agreement, or the application of this Agreement to other situations, shall continue in full force and effect unless amended or modified by mutual consent of the Parties.

5.5 Other Necessary Acts. Each Party shall execute and deliver to the other any further instruments and documents as may be reasonably necessary to carry out the objectives and intent of this Agreement.

5.6 Construction. This Agreement has been reviewed and revised by legal counsel for both POMSLA and the PID, and no presumption or rule that ambiguities shall be construed against the drafting Party shall apply to the interpretation or enforcement of this Agreement.

5.7 Other Miscellaneous Terms. The singular shall include the plural; the masculine gender shall include the feminine; “shall” is mandatory; “may” is permissive.

5.8 Notices. Any notices, requests and demands required or desired to be given hereunder shall be in writing and shall be (a) served personally upon the Party for whom intended, (b) sent by nationally recognized express delivery service, (c) or if mailed, be by certified mail, return receipt requested, postage prepaid, to such Party at its address shown below, or (d) sent by electronic mail, provided that the sending Party has an electronic receipt of delivery.

If to POMSLA:

**THE POINT OF THE MOUNTAIN  
STATE LAND AUTHORITY**

PO Box 692  
Draper, UT 84020  
Attn: Executive Director  
Email:

With a copy to:

Ballard Spahr LLP  
Attn: Jacey Skinner  
201 South Main St., Suite 800  
Salt Lake City, UT 84111-2215  
Email: skinnerj@ballardspahr.com

With an additional copy to:

Ballard Spahr LLP  
Attn: Steven P. Mehr  
201 South Main St., Suite 800  
Salt Lake City, UT 84111-2215  
Email: mehrrs@ballardspahr.com

If to the PID:

**POINT PHASE I PUBLIC  
INFRASTRUCTURE DISTRICT NO. 1**

WHITE BEAR ANKELE TANAKA &  
WALDRON

Attorneys at Law  
2154 East Commons Avenue, Suite 2000  
Centennial, Colorado 80122  
Attention: Blair M. Dickhoner  
(303) 858-1800 (phone)  
(303) 858-1801 (fax)  
bdickhoner@wbapc.com

5.9 No Third-Party Beneficiaries. This Agreement is between POMSLA and the PID. No other party shall be deemed a third-party beneficiary or have any rights under this Agreement.

5.10 Governing Law; Jurisdiction. The laws of the State shall govern the interpretation and effect of this Agreement without regard to the principles of conflicts of laws. Each Party hereby consents to the exclusive jurisdiction of the state and federal courts sitting in the District of Utah with respect to any action on a claim arising out of, under or in connection with this Agreement or the transactions contemplated by this Agreement.



5.11 Waiver of Jury Trial. EACH OF THE PARTIES TO THIS AGREEMENT HEREBY AGREES TO WAIVE ITS RESPECTIVE RIGHTS TO A JURY TRIAL OF ANY CLAIM OR CAUSE OF ACTION BASED UPON OR ARISING OUT OF THIS AGREEMENT OR ANY OTHER DOCUMENT OR INSTRUMENT BETWEEN THE PARTIES RELATING TO THIS AGREEMENT, THE OVERALL PROJECT OR ANY DEALINGS BETWEEN THE PARTIES HERETO RELATING TO THE SUBJECT MATTER OF THIS AGREEMENT. THE SCOPE OF THIS WAIVER IS INTENDED TO BE ALL-ENCOMPASSING OF ANY AND ALL DISPUTES THAT MAY BE FILED IN ANY COURT AND THAT RELATE TO THE SUBJECT MATTER OF THAT RELATIONSHIP, INCLUDING, WITHOUT LIMITATION, CONTRACT CLAIMS, TORT CLAIMS, ANTITRUST CLAIMS, BREACH OF DUTY CLAIMS, AND ALL OTHER COMMON-LAW OR STATUTORY CLAIMS. EACH PARTY HERETO ACKNOWLEDGES THAT THIS WAIVER IS A MATERIAL INDUCEMENT TO ENTER INTO THIS AGREEMENT AND ALL OTHER AGREEMENTS AND INSTRUMENTS PROVIDED FOR HEREIN. EACH PARTY HERETO FURTHER WARRANTS AND REPRESENTS THAT IT HAS REVIEWED THIS WAIVER WITH LEGAL COUNSEL OF ITS OWN CHOOSING, OR HAS HAD AN OPPORTUNITY TO DO SO, AND THAT IT KNOWINGLY AND VOLUNTARILY WAIVES ITS JURY TRIAL RIGHTS HAVING HAD THE OPPORTUNITY TO CONSULT WITH LEGAL COUNSEL. THIS WAIVER IS IRREVOCABLE, MEANING THAT IT MAY NOT BE MODIFIED EITHER ORALLY OR IN WRITING, AND THIS WAIVER SHALL APPLY TO ANY SUBSEQUENT AMENDMENTS, RENEWALS, SUPPLEMENTS, OR MODIFICATIONS TO THIS AGREEMENT OR ANY OTHER AGREEMENT OR DOCUMENT ENTERED INTO BETWEEN THE PARTIES IN CONNECTION WITH THIS AGREEMENT. IN THE EVENT OF LITIGATION, THIS AGREEMENT MAY BE FILED AS A WRITTEN CONSENT TO A TRIAL BY THE COURT WITHOUT A JURY.

5.12 Force Majeure. Notwithstanding anything to the contrary contained in this Agreement, if a Party shall be delayed or prevented from the performance of any act required by this Agreement within the timeframe that such performance is required hereunder by reason of Force Majeure, performance of such act shall be excused; provided, however, that notice has been provided in accordance with Section 5.8, for a period equivalent to the period of such commencing from the date of the occurrence that is the subject of the required notice under this Section 5.12; provided, further, that nothing in this Section 5.12 shall excuse either POMSLA or the PID from the prompt payment of amounts due under this Agreement by reason of a change in the economic circumstances of such Party. The delayed Party shall provide notice to the other of such delay or prevention (resulting from Force Majeure) within thirty (30) days of the delayed Party's actual knowledge thereof, and if the delay is ongoing or intermittent, shall thereafter keep the other Party informed (which may be through meetings, in writing or orally) from time to time of the status of such delay or prevention. Under no circumstances shall the financial inability of the PID or POMSLA (or its agents), or, in the absence of other factors described in this Section 5.12, generally applicable adverse financial market conditions, be deemed to constitute a Force Majeure event.

5.13 Amendment; Waiver. No supplement, modification, waiver, or termination of this Agreement or any provisions hereof shall be binding unless executed in writing by all Parties hereto and, as applicable, recorded in the official records of the recorder of Salt Lake County, Utah. No waiver of any of the provisions of this Agreement shall constitute a waiver of any other provisions (whether or not similar), nor shall such waiver constitute a continuing waiver unless

otherwise expressly provided. The Party's failure to insist upon strict compliance with any provision, shall not be deemed to be a waiver of such provision or right or of any other provision or right under this Agreement.

5.14 Covenants Running with the Land. The provisions of this Agreement shall constitute real covenants, contract and property rights, and equitable servitudes, which shall run with all of the land subject to this Agreement and may be enforced by POMSLA and the PID. The burdens and benefits of this Agreement shall bind and inure to the benefit of each of the Parties, and to their respective successors, heirs, assigns, and transferees, as they relate to land within Phase One and/or the Overall Project.

5.15 Public Contract Boycott Restrictions; Foreign Acquisition of Land Act. In accordance with Utah Code Ann. §§ 63G-27-101, et. seq., as may be amended ("Boycott Act"), and Utah Code Ann. §§ 63L-13-101, et. seq., as may be amended (the "Foreign Acquisitions Act"), the Parties acknowledge and the PID certifies that the PID (a) is not currently engaged in (i) a boycott of the State of Israel; or (ii) an economic boycott; (b) will not engage in a boycott of the State of Israel or an economic or other boycott prohibited by the Boycott Act; and (c) is not a "restricted foreign entity" as defined in the Foreign Acquisitions Act.

5.16 Governmental Immunity Act. Pursuant to Utah Code Ann. § 63G-7-301(1), POMSLA acknowledges and represents to the PID that all of POMSLA's obligations under this Agreement are contractual in nature and except as required by the aforementioned laws waiving immunity for contractual obligations, POMSLA does not otherwise waive its governmental immunity.

5.17 Estoppel Certificates. Upon the written request of the PID, POMSLA shall deliver to the PID within twenty (20) business days from POMSLA's receipt of the PID's notice, an estoppel certificate (each, an "Estoppel Certificate") certifying that, as to any of the following facts or matters, to the extent the same are true and applicable: (a) State is the fee simple owner of the Event Center Property (or some portion thereof); (b) there are not, to POMSLA's actual knowledge, any uncured defaults under this Agreement (or specifying such defaults if they are claimed); and (c) this Agreement is then unmodified and in full force and effect, or if modified, stating the nature of such modification and certifying that this Agreement, as so modified, is in full force and effect.

5.18 DISCLAIMER OF REPRESENTATIONS AND WARRANTIES. THE PID SPECIFICALLY ACKNOWLEDGES AND AGREES THAT, EXCEPT FOR ANY REPRESENTATIONS, WARRANTIES AND COVENANTS OF LAND AUTHORITY, EXPRESSLY SET FORTH IN THIS AGREEMENT OR IN THE GROUND LEASE, NEITHER LAND AUTHORITY NOR ANY EMPLOYEE, REPRESENTATIVE OR OTHER AGENT OF LAND AUTHORITY, HAS MADE, AND THERE IS HEREBY DISCLAIMED, ANY REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, OF ANY KIND, WITH RESPECT TO THE CONDITION OF THE OVERALL PROJECT (OR ANY PART THEREOF, INCLUDING PHASE ONE AND THE EVENT CENTER PROPERTY), THE SUITABILITY OR FITNESS OF THE OVERALL PROJECT (OR ANY PART THEREOF, INCLUDING PHASE ONE AND THE EVENT CENTER PROPERTY), OR APPURTENANCES TO THE OVERALL PROJECT (OR ANY PART THEREOF, INCLUDING PHASE ONE AND THE

EVENT CENTER PROPERTY), FOR THE DEVELOPMENT, USE, OR OPERATION THEREOF, ANY MATTER AFFECTING THE USE, VALUE, OCCUPANCY OR ENJOYMENT OF THE OVERALL PROJECT (OR ANY PART THEREOF, INCLUDING PHASE ONE AND THE EVENT CENTER PROPERTY), OR ANY OTHER MATTER WHATSOEVER PERTAINING TO THE OVERALL PROJECT (OR AN PART THEREOF, INCLUDING PHASE ONE AND THE EVENT CENTER PROPERTY), OR ANY IMPROVEMENTS THEREON.

5.19 Release of Claims. Except as otherwise set forth in this Agreement, any and all rights, title or interest to the Event Center Property that the PID may have subject to this Agreement, shall with any existing improvements thereon, if any, be in its “AS IS WITH ALL FAULTS” condition as existing on the date prior to any Ground Lease Closing, subject to the representations, warranties and covenants of POMSLA expressly contained herein, and, effective upon the Effective Date, the PID shall be deemed to waive any right to recover from, and forever release, acquit and discharge, POMSLA, and its agents of and from any and all claims, demands, losses, liabilities, or damages, liens, obligations, interest, injuries, penalties, fines, lawsuits and other proceedings, judgments and awards and costs and expenses (including Attorney Fees and Costs, and consultants’ fees and costs) of whatever kind or nature, whether direct or indirect, known or unknown, foreseen or unforeseen, that the PID may now have or that may arise on account of or in any way be connected with (i) the physical or geotechnical condition of the Event Center Property, (ii) any existing site conditions in, on, under, above or about the Event Center Property, and (iii) any Applicable Laws applicable to the Event Center Property (excluding Environmental Laws).

#### 5.20 Environmental.

(a) POMSLA has disclosed to the PID all reports, assessments, surveys, studies, sampling results or other materials relevant to Environmental Conditions existing within the Overall Project or impacting the Overall Project, in its possession or control.

(b) POMSLA has identified certain Environmental Conditions on the Overall Project that may impact the Event Center Property. The Environmental Conditions identified by POMSLA are discussed in a draft Phase I Environmental Site Assessment by Ramboll Environmental and Health dated September, 2023, a copy of which has been provided to the PID (“Phase I”). The Environmental Conditions include the following: (a) petroleum impacts related to a 4000-gallon underground storage tank (“UST Release”) identified pursuant to an investigation by Wood Consulting Services; and (b) two trash dumps (“North and West Dairy Dumps”) identified and investigated by R&R Environmental; (c) seven petroleum USTs removed from 1996 through 1998 lacking closure documentation (the “7 USTs”); and (d) imported fill material of unknown and undocumented origin (“Imported Fill”).

(c) POMSLA covenants to the PID that no later than ten (10) days after the Effective Date, POMSLA shall provide to the PID all reports, sampling data and correspondence generated as of the Effective Date relating to each Environmental Condition identified in the Phase I.

(d) If any Environmental Condition identified in the Phase I has impacted or may impact the Event Center Property, as determined by the PID in its reasonable discretion, POMSLA shall investigate and remediate the Environmental Condition as follows, and as applicable:

(i) POMSLA shall investigate and remediate the UST Release to the extent necessary to obtain a No Further Action letter (“NFA”) from the Utah Department of Environmental Quality (“UDEQ”) by no later than the Ground Lease Closing.

(ii) POMSLA shall diligently investigate and complete remediation of the North and West Dairy Dumps, in accordance with Environmental Law, prior to the Ground Lease Closing.

(iii) POMSLA and the PID shall cooperate in developing reasonable steps to determine if any of the 7 USTs remain within the Overall Project, or if any of the 7 USTs have experienced a Release. POMSLA shall be responsible for undertaking the agreed upon reasonable steps. If any Release is identified that has impacted or may impact the Event Center Property, POMSLA shall be responsible for remediating the Release with the oversight of UDEQ and obtaining an NFA for each Release.

(iv) If POMSLA does not provide documentation establishing that the Imported Fill is clean and uncontaminated, as determined by the PID, in its reasonable discretion, POMSLA and the PID shall cooperate in developing a sampling plan to establish that the Imported Fill is clean and uncontaminated, as determined by the PID, in its reasonable discretion. POMSLA shall be responsible for implementing the agreed upon sampling plan. If the sampling results indicate the Imported Fill constitutes a Release, POMSLA shall be responsible for investigation and remediating the Release in accordance with Environmental Laws.

(v) With respect to any Environmental Condition required to be remediated under this Section 5.20, POMSLA shall provide to the PID on an ongoing basis, as they are generated, all reports, sampling data and correspondence relating to its investigation and remediation of the Environmental Condition.

(e) POMSLA covenants to the PID that prior to the Ground Lease Closing, POMSLA will diligently investigate and remediate in accordance with Environmental Law and this Section 5.20, any other Environmental Conditions that have impacted or may impact the Event Center Property; will keep the PID informed of POMSLA’s investigation and remediation efforts; and will provide to the PID all reports, correspondence, permits, sampling results and other documentation relating to its investigation and remediation of any such Environmental Conditions.

(f) POMSLA shall indemnify, defend, and hold harmless the PID and its members, committee and subcommittee members, managers, officers, directors, commissioners, employees, agents, contractors, sub-contractors, or materialmen from and against any and all claims, damages, liabilities, losses, demands, liens and expenses (including Attorney Fees and Costs), agency orders, requirements or enforcement actions, fines, fees, remediation costs, costs of evaluation, testing, analysis, cleanup, remediation, removal, disposal, monitoring and maintenance (“Environmental Claims”), directly or indirectly arising from and otherwise related

to (a) any Environmental Conditions impacting the Event Center Property (or any portion of the Overall Project that may have an impact on the Event Center Property) prior to the Ground Lease Closing, whether such Environmental Conditions are known prior to the Ground Lease Closing or discovered thereafter (b) any Environmental Conditions impacting the Event Center Property (or impacting any portion of the Overall Project that may have an impact on the Event Center Property) that are caused or exacerbated by POMSLA or the State (including without limitation the Utah Division of Facilities Construction and Management (“DFCM”)) or any agent of any of the foregoing, whether before or after the Ground Lease Closing, or whether such Environmental Conditions are known prior to the Ground Lease Closing or discovered thereafter (c) violations by or responsibility under any Environmental Laws of POMSLA or the State (including without limitation DFCM) or any agent of any of the foregoing; and (d) any breach of any representation, warranty, or covenant contained in this Agreement relative to Environmental Conditions or Environmental Laws, except to the extent the Environmental Claims or Environmental Conditions are caused or exacerbated by the PID or its agents.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the Effective Date.

**LAND AUTHORITY:**

POINT OF THE MOUNTAIN STATE LAND AUTHORITY,  
an independent entity of the State of Utah

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

Name: \_\_\_\_\_

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

STATE OF UTAH                    )  
  ) ss  
COUNTY OF SALT LAKE    )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2025, by \_\_\_\_\_, the \_\_\_\_\_ of the Point of the Mountain State POMSLA.

\_\_\_\_\_  
Notary Public

*[Signature Pages Continue Below]*

**PID:**

POINT PHASE I PUBLIC INFRASTRUCTURE DISTRICT  
NO. 1, an independent political subdivision of the State of  
Utah

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

STATE OF UTAH                    )  
  ) ss  
COUNTY OF SALT LAKE    )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_,  
2025, by \_\_\_\_\_, the \_\_\_\_\_ of the Point Phase I  
Public Infrastructure District No. 1, an independent political subdivision of the State of Utah.

\_\_\_\_\_  
Notary Public

**EXHIBIT A-1**

## Legal Description of Event Center Property

**The Point – Event Venue***State of Utah Department of Adm Serv. Div. Fac Const. Mgmnt**Parcel No.: 33-01-300-007**2-27-2025*

A parcel of land located in the Southeast Quarter of Section 1 and the Northeast Quarter of Section 12, Township 4 South, Range 1 West, Salt Lake Base & Meridian, more particularly described as:

Beginning at a point being 3421.08 feet South 89°39'24" East from the Southwest Corner of Section 1, Township 4 South, Range 1 West, Salt Lake Base and Meridian and running thence North 00°04'28" East 158.81 feet; thence northerly 331.18 feet along the arc of a 1169.50 foot radius curve to the right, through a central angle of 16°13'29", chord bears North 08°11'12" East 330.07 feet; thence North 16°17'57" East 10.09 feet; thence East 344.63 feet; thence South 45°00'00" East 15.66 feet; thence South 511.93 feet; thence West 405.77 feet; thence North 00°04'28" East 27.80 feet to the Point of Beginning.

*Contains 206,485 Square Feet or 4.740 Acres.*

Basis of Bearing is South 89°39'24" East between the Southwest corner and the witness corner (Salt Lake County monument No. 4S1W011B) to the Southeast corner of Section 1, Township 4 South, Range 1 West, Salt Lake Base and Meridian.





**EXHIBIT B**

Design Guidelines

[Attached]

**EXHIBIT C**

## Design Review Requirements

[Attached]

**EXHIBIT D**

Permitted Exceptions

[Attached]

## EXHIBIT E

### Use Restrictions

The following land uses will be restricted within the Event Center Property:

- **Carwash Uses:** Any use of a standalone building equipped with facilities for washing automobiles for the exclusive purpose of self or drive-through carwash services.
- **Heavy Manufacturing Uses:** Any use involving heavy industrial processes and natural resource extraction, or the use of a standalone building that engages in manufacturing, processing, fabrication, packaging, or assembly of large volumes of raw materials, which generate excessive noise, vibration, odor, dust, and fumes.
- **Heavy Warehouse Uses:** Any use of lands, building, or structures for the storage of goods or products which will be sold elsewhere or subsequently transported to another location for sale, including the storage of goods or products by a distributor or supplier who markets the goods or products for sale at other locations; provided, however, the foregoing does not include uses which are otherwise incidental or ancillary to any retail, office, or commercial use.
- **Retail Drive-Through Uses:** Any use of a standalone retail building that utilizes a drive-through service.
- **Sexually Oriented Business Uses:** Any use involving a business which engages in an adult arcade, adult bookstore, adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, escort agency, nude model studio, or sexual encounter center, or nude or semi-nude entertainment business.
- **Unlawful Uses:** Any land uses explicitly prohibited by the laws of the State of Utah or federal laws of the United States.

This Exhibit may be amended at any time with agreement of the Parties.

## **EXHIBIT F**

### **Key Terms of Ground Lease**

The following contains a general outline of key Ground Lease terms which have been agreed to between POMSLA and the PID, which concepts will be incorporated into the Ground Lease for the Event Center Property. Capitalized terms used, but not otherwise defined herein, shall have the respective meanings given to them in that certain Sub-Campus Development Agreement [Event Center] (the “**DDA**”), by and between POMSLA and the PID, to which this Exhibit F is attached.

#### **Term**

The “**Term**” of the Ground Lease shall commence on the Rent Commencement Date (defined below) and shall be for a period of forty (40) years, unless the PID and POMSLA jointly agree otherwise. Additionally, the PID shall have the right to extend the initial Term for six (6) additional ten (10) year options.

#### **Annual Base Rent**

The Annual Base Rent shall be determined by a formula. First, the “**Land Value**” must be determined. To determine the Land Value, the size of the Event Center Property in land square feet is multiplied by the Threshold Value (defined below). The result shall be the Land Value. Next, the Land Value shall be multiplied by the Ground Rent Factor (defined below). The result shall be the “**Annual Base Rent**”.

#### **Threshold Value**

The “**Threshold Value**” shall be Twenty-Two and 96/100 Dollars (\$22.96).

#### **Rent Commencement Date**

The “**Rent Commencement Date**” for the Ground Lease shall be the date upon which (i) the improvements on the Event Center Property are substantially complete, and (ii) a certificate of completion has been issued for each component of any associated and required offsite infrastructure.

#### **Ramp Up Period**

Commencing on the Rent Commencement Date, the Annual Base Rent shall be subject to a “**Ramp Up Period**”.

The Annual Base Rent during the Ramp Up Period shall be as follows:

Lease Year 1:	50% of Annual Base Rent
Lease Year 2:	75% of Annual Base Rent
Lease Year 3+:	100% of Annual Base Rent

#### **Periodic Increases In Ground Rent**

From and after the Rent Commencement Date, and notwithstanding the Ramp Up Period, Annual Base Rent for the Ground Lease shall increase by two percent (2%) annually.

### **Revaluation of the Land Value**

A revaluation of the Land Value will occur effective as of the first day following the expiration of the twentieth (20<sup>th</sup>) lease year, and thereafter following the expiration of each 20-lease year period during the Term (each such date of adjustment being a “**Land Value Adjustment Date**”).

Six (6) months prior to each Land Value Adjustment Date, POMSLA shall retain, at POMSLA’s cost, a qualified appraiser to issue an arms’ length appraisal of the Land Value (“**Revaluation**”). Annual Base Rent shall be adjusted based on the Revaluation effective as of each Land Value Adjustment Date and such Annual Base Rent shall thereafter increase by two percent (2%) each year until the next Land Value Adjustment Date.

The instructions to the qualified appraiser shall include directions that the Revaluation shall consider the Land Value based on the then-current use of the Event Center Property at the time of the appraisal (not the highest and best use, if different), and shall exclude the value of any improvements located on the Event Center Property. If the PID objects to the new Land Value set forth in the qualified appraiser’s Revaluation, the PID shall have the right to deliver to POMSLA a written objection to such Revaluation within thirty (30) days following the PID’s receipt thereof. If POMSLA and the PID are unable to agree in good faith upon the Revaluation within sixty (60) days following delivery of the PID’s written objection, the PID, at its cost, may obtain a second arms’ length appraisal of the Land Value from a qualified appraiser of its choice. The PID’s qualified appraiser shall deliver a written Revaluation to both parties within thirty (30) days of being engaged by the PID. If the second Revaluation differs from the first Revaluation by more than five percent (5%), the new Land Value shall be deemed to be the average of the two Revaluations. If the second Revaluation differs from the first Revaluation by five percent (5%) or less, the Land Value shall be deemed to be the higher of the two Revaluations. If the PID fails to obtain a second qualified appraisal within the time and manner specified herein, the Land Value shall be deemed to be the amount determined by the first Revaluation proposed by POMSLA.

Upon final determination of the Revaluation, the Revaluation shall be multiplied by the Ground Rent Factor (defined below) and the result shall be the “**Reset Rent**” which shall be effective as of each Land Value Adjustment Date.

The “**Ground Rent Factor**” shall be established by taking the average 10-year treasury bill rate over the 12-month period prior to the applicable Land Value Adjustment Date (such average rate being the “**Treasury Rate**”) and adding 187.5 basis points (the “**Treasury Spread**”) to the Treasury Rate. The sum of the Treasury Rate plus the Treasury Spread shall be the Ground Rent Factor.

For clarity only, an example is provided below:

<b>Annual Base Rent at Year 20:</b>	\$875,000
<b>Revaluation:</b>	\$18,264,840 (Land Appraised Value end of Year 20)
<b>Average 10-Yr Treasury Rate:</b>	3.60% (Average for preceding 12 months)

<b>Treasury Spread:</b>	1.875% (Fixed Spread over 10-Yr Treasury Rate)
<b>Ground Rent Factor:</b>	5.475% (Average 10-Yr Treasury Rate + Treasury Spread)
<b>Reset Rent:</b>	$\$1,000,000.00 (= \text{Revaluation} * \text{Ground Rent Factor})$ $[\$18,264,840 * 5.475\% = \$1,000,000.00]$ $[(\text{Revaluation}) * (\text{Ground Rent Factor}) = (\text{Reset Rent})]$

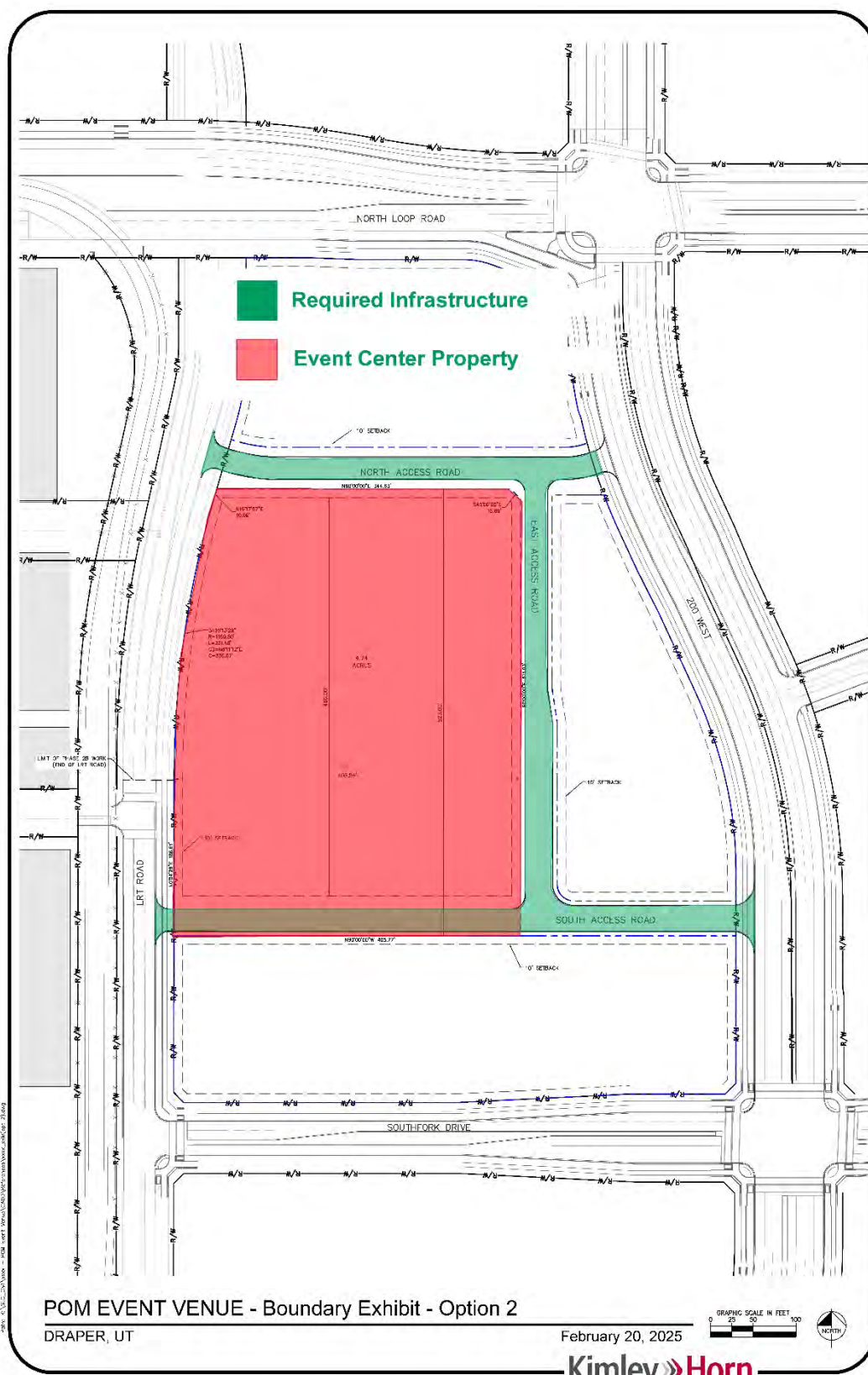
Notwithstanding the foregoing, regardless of the result of the Revaluation and the calculation for the Reset Rent, the Reset Rent shall not decrease below the Annual Base Rent paid from the previous year and in no event shall the Reset Rent be more than fifteen percent (15%) of the Annual Base Rent in effect for the immediately preceding Land Value Adjustment Date.



**EXHIBIT G**

Required Infrastructure

[Attached]



**INTERLOCAL CAPITAL PLEDGE AGREEMENT**

by and between

**POINT PHASE 1 PUBLIC INFRASTRUCTURE DISTRICT NO. 1**

and

**POINT OF THE MOUNTAIN STATE LAND AUTHORITY**

Dated [INDENTURE MONTH] 1, 2025

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## INTERLOCAL CAPITAL PLEDGE AGREEMENT

This **INTERLOCAL CAPITAL PLEDGE AGREEMENT** (the “**Agreement**”) is entered into on this 1st day of [INDENTURE MONTH], 2025 between the **POINT PHASE 1 PUBLIC INFRASTRUCTURE DISTRICT NO. 1** (the “**District**”) and the **POINT OF THE MOUNTAIN STATE LAND AUTHORITY (“POMSLA”)**. All capitalized terms used and not otherwise defined in the “Recitals” below have the respective meanings assigned in Section 1 hereof. This Agreement shall take effect on the Effective Date, as defined herein.

### RECITALS

**WHEREAS**, POMSLA is a public body, corporate and politic, and political subdivision of the State, duly created, established, and authorized to transact business and exercise its powers, pursuant to the Point of the Mountain State Land Authority Act, Title 11, Chapter 59, Utah Code Annotated 1953, as amended (the “**POMSLA Act**”); and

**WHEREAS**, POMSLA consented to the creation of the District, a public infrastructure district, a political subdivision and body corporate and politic, duly organized and existing under the Constitution and laws of the State of Utah (the “**State**”), including particularly Title 17B, Chapter 1 and Title 17D, Chapter 4, Utah Code Annotated 1953, as amended (collectively, the “**District Act**”) and the POMSLA Act; and

**WHEREAS**, the District is authorized by the District Act and Title 11, Chapter 14, Utah Code Annotated 1953, as amended (the “**Bond Act**”) to issue bonds for the purpose of paying all or part of the costs of acquiring, acquiring an interest in, constructing, improving, or extending certain improvements, facilities, or property, in accordance with the governing document for the District approved by the POMSLA Board (defined herein) on June 11, 2024 and as amended on March 11, 2025 (collectively, the “**Governing Document**”); and

**WHEREAS**, the Utah Interlocal Cooperation Act (the “**Interlocal Cooperation Act**”), Title 11, Chapter 13, Utah Code provides that two or more public agencies may, by agreement, jointly exercise any power common to the contracting parties, and may share their taxes and other revenues to accomplish their stated objectives; and

**WHEREAS**, the Point of the Mountain State Land Authority Board (the “**POMSLA Board**”) has determined that it is necessary to finance portions of infrastructure and other capital improvements as permitted by the District Act and the Disposition and Development Agreement dated November 27, 2023, as amended and supplemented in accordance with its terms (collectively, the “**Phase 1 DDA**”) between POMSLA and CLW Point Partners, LLC, a Delaware limited liability company (the “**Master Developer**”), including, but not limited to, the construction of an event center and all improvements and infrastructure; and

**WHEREAS**, the POMSLA has also entered into the Sub Campus Disposition and Development Agreement dated [\_\_\_\_], 2025 (collectively, the “**Sub Campus DDA**”) between POMSLA and The District, to further define the infrastructure and improvements to be constructed and to also assist with the financing of the Project; and

**WHEREAS**, the Board of Trustees of the District (the “**District Board**”) and the POMSLA Board (the “**Boards**”) have further determined that it is necessary to finance portions of infrastructure and other capital improvements as permitted by the District Act, the Phase 1 DDA, and the Sub Campus DDA including, but not limited to, the construction of an event center and all improvements and infrastructure related thereto (collectively, the “**Project**”) through a single bond; and

**WHEREAS**, the parties now desire to facilitate the issuance of indebtedness by the District secured by certain revenues described herein for the purpose of financing, refinancing, or reimbursing the costs of the Project; and

**WHEREAS**, the development of the Project and other projects within the Phase 1 Project (as such term is defined in the Phase 1 DDA) and within the Sub Campus Project (as such term is defined in the Sub Campus DDA) (collectively, the “**Project Area**”) will generate incremental real property taxes (the “**Tax Equivalent Revenues**”), a portion of which may be allocated to the District for payment of bonds and other obligations under the Indenture (defined below); and

**WHEREAS**, POMSLA, pursuant to the Phase 1 DDA, agreed to allocate to the Master Developer (as defined in the Phase 1 DDA), ninety (90) percent the Tax Equivalent Revenues generated and collected within the Phase 1 Project (the “**Phase 1 Tax Equivalent Revenues**”); and

**WHEREAS**, POMSLA and the District, with the written consent of the Master Developer, hereby desire to assign and pledge the Phase 1 Tax Equivalent Revenues generated and collected within the District’s boundaries (the “**District No. 1 Tax Equivalent Revenues**”) to bonds issued by the District to finance all or any portion of the Project; and

**WHEREAS**, POMSLA and the District hereby desire to acknowledge that the Tax Equivalent Revenues generated within the Sub Campus Project boundaries and distributed to POMSLA are assigned and pledged pursuant to the Sub Campus DDA and related documents (the “**Sub Campus Tax Equivalent Revenues**,” and together with the District No. 1 Tax Equivalent Revenues, the “**Pledged Tax Equivalent Revenues**”) to bonds issued by the District to finance Allowable District Costs for the Project; and

**WHEREAS**, pursuant to Section 59-12-103(17)(b), Utah Code, POMSLA is entitled to receive one-half (50%) of the of the revenue from the sales and use tax imposed by Section 59-12-103 (2)(a)(i)(A), Utah Code, on transactions occurring on the point of the mountain state land (the “**POMSLA Sales Tax Revenues**”) to finance all or any portion of the Project; and

**WHEREAS**, POMSLA hereby desires to hereby assign and pledge one-half (50%) of the POMSLA Sales Tax Revenues collected from within the boundaries of Phase 1 and the Sub Campus (the “**Pledged Sales Tax Revenues**”) to bonds issued by the District; and

**WHEREAS**, pursuant to this agreement, POMSLA desires to assign and pledge the Pledged Tax Equivalent Revenues and the Pledged Sales Tax Revenues (collectively, the “**Pledged Revenues**”) to the District for bonds and any other forms of indebtedness to finance and refinance the Project as further determined by the District in accordance with the laws and agreement recited herein; and

**WHEREAS**, for the purpose of initially financing a portion of the costs of the Project, the District Board intends to issue its Tax Assessment and General Revenue Bonds, Series 2025, in the aggregate principal amount of not to exceed \$250,000,000 (with any other title designations determined by the District Board in its discretion) (the “**Bonds**”), pursuant to a General Indenture of Trust (the “**General Indenture**”) between the District and UMB Bank, n.a., as trustee (the “**Bond Trustee**”), and the First Supplemental Indenture of Trust (the “**Supplemental Indenture**”) and together with the General Indenture, the “**Indenture**”) between the District and the Bond Trustee, which Bonds are to be secured by the Pledged Revenues and any Additional Pledged Revenues, as more particularly described herein and in the Indenture; and

**WHEREAS**, POMSLA and the District have determined that the execution of this Agreement and the issuance of the Bonds for the purpose of financing, refinancing, or reimbursing the costs of the Project is in the best interests of POMSLA and the District and the residents, occupants, property owners, and taxpayers thereof; and

**WHEREAS**, for the purpose of facilitating the issuance of the Bonds, POMSLA and the District are entering into this Agreement; and

**WHEREAS**, POMSLA has, by the terms of this Agreement, pledged the Pledged Revenues to the District for the payment of the Bonds which will fund any Allowable District Costs of the Project, and covenanted to take certain actions with respect to generating such revenues, for the benefit of the holders of the Bonds and any Additional Obligations; and

## **COVENANTS**

**NOW, THEREFORE**, for and in consideration of the promises and the mutual covenants and stipulations herein, the parties hereby agree as follows:

## **ARTICLE I**

### **DEFINITIONS**

**Section 1.01. Definitions.** As used herein, unless the context expressly indicates otherwise, the words defined below and capitalized in the text of *this* Agreement shall have the respective meanings set forth below:

“*Additional Obligations*” means all obligations of POMSLA constituting a lien or encumbrance upon any part of the Pledged Revenues pledged in this Agreement; provided that notwithstanding the foregoing, the term “Additional Obligations” does *not* include:

- (i) obligations the repayment of which is contingent upon POMSLA’s annual determination to appropriate moneys therefor, other than capital leases, which obligations do not constitute a multiple-fiscal year financial obligation and do not obligate POMSLA to impose any tax, fee, or other governmental charge;
- (ii) obligations which are payable solely from the proceeds of additional District obligations, when and if issued;

(iii) obligations payable solely from periodic, recurring service charges imposed by POMSLA for the use of any District facility or service, which obligations do not constitute a debt or indebtedness of POMSLA or an obligation required to be approved at an election under Utah law;

(iv) obligations to reimburse any person in respect of surety bonds, financial guaranties, letters of credit, or similar credit enhancements (collectively, “Credit Enhancement(s)”) so long as (A) such Credit Enhancement is issued as security for any bonds, notes, or other obligations of POMSLA permitted to be issued under this Agreement using the Pledged Revenues; (B) no reimbursement obligation under such Credit Enhancement exceeds the principal and/or interest actually paid on such bonds, notes, or other obligations secured thereby, and no reimbursement obligation arises unless and until such principal and/or interest is paid from a draw or other demand on such Credit Enhancement; and (C) such reimbursement obligations are payable from the same or fewer revenue sources, with the same or a subordinate lien priority, as the obligations secured by the Credit Enhancement(s); and

(v) any operating leases, payroll obligations, accounts payable, or taxes incurred or payable in the ordinary course of business of POMSLA.

“*Additional Pledged Revenues*” means any additional revenues from sources other than Pledged Revenues, which POMSLA may, solely in its discretion, pledge to secure the Bonds, subject to applicable laws and agreements.

“*Additional Subordinate Obligations*” means indebtedness issued by the District after the Effective Date which constitutes a Subordinate Obligation.

“*Administrative Expenses*” means an amount reasonably determined by the District and POMSLA as being necessary to pay the District’s expenses reasonably incurred in connection with the administration and operation of the District, including accounting fees, audit expenses, legal fees, insurance premiums, management expenses, and generally all expenses, under which generally accepted accounting practices are properly allocable to administration; however, only such expenses as are reasonably and properly necessary to the efficient administration and operation of the District and permitted under the District Act shall be included, but not in excess of the following: [(i) beginning with calendar year 2025, the amount of \$100,000, (ii) for each calendar year thereafter, an additional 1.0%;] and (iii) in the event of a claim by a third-party challenging (A) the creation or existence of the District; (B) the Bonds, any Parity Bonds, or any Subordinate Obligations; and (C) the District’s ability to perform its obligations under this Pledge Agreement, the Indenture or any resolution, pledge agreement, indenture, or other document relating to the issuance of Parity Bonds or Subordinate Obligations; the amount reasonably necessary to defend the District from such claim to the extent such amount exceeds the limit established in (i) and (ii).

“*Agreement*” means this Capital Pledge Agreement as the same may be amended from time to time in accordance with the provisions hereof and the Indenture.



*“Agreement Termination Date”* means the first date on which no District Obligations secured by the Pledged Revenues are Outstanding under the Indenture or any future indenture; *provided, however*, that in no event shall the term of this Agreement extend beyond fifty (40) years from the date hereof unless renewed pursuant to law and the approval of POMSLA.

*“Allowable District Costs”* means Administrative Expenses and District Obligations specific to Publicly Owned Infrastructure and Improvements as identified in Exhibit [\_\_\_\_].

*“Boards”* means, collectively, the District Board and the POMSLA Board.

*“Bondholders”* means the registered owners from time to time of the District Obligations.

*“Bonds”* means the District’s Tax Assessment and General Revenue Bonds, Series 2025, in the aggregate principal amount of not to exceed \$250,000,000.

*“Bond Trustee”* means with respect to any District Obligation, the trustee, paying agent, custodian or other administrative agent acting as such with respect to the applicable District Obligation under the applicable Indenture.

*“Consent Party”* means any Consent Party under the Indenture and any similar party under any resolution, pledge agreement, indenture, or other document relating to the issuance of Parity Bonds.

*“County”* means Salt Lake County, Utah.

*“Disposition and Development Agreement”* or *“Phase 1 DDA”* means the Disposition and Development Agreement dated November 27, 2023, as amended and supplemented in accordance with its terms between POMSLA and the Master Developer, governing the development and financing of the Phase 1 Project.

*“District”* means the Point Phase 1 Public Infrastructure District No. 1.

*“District Act”* means, collectively, the Local District Act, Title 17B, Limited Purpose Local Government Entities - Local Districts, and the Public Infrastructure District Act, Title 17D, Chapter 4.

*“District Board”* means the Board of Trustees of the District.

*“District No. 1 Tax Equivalent Revenues”* means the portion of Tax Equivalent Revenues generated and collected within the boundaries of the District and pledged to bonds issued by the District pursuant to this Agreement.

*“District Obligations”* means, collectively, all of the following, to the extent issued to finance, refinance, or reimburse the costs of the Project: (a) the Bonds; (b) any Parity Bonds; and (c) any Additional Subordinate Obligations.

*“Effective Date”* means the date on which the District issues the Bonds.

“*Fiscal Year*” means, with respect to both POMSLA and the District, the period commencing on [July 1 of the applicable year and continuing through and including June 30] of the same year, or any other fiscal year adopted or required in accordance with applicable law.

“*General Indenture*” means the General Indenture of Trust, dated [INDENTURE MONTH] 1, 2025, by and between the District and the Bond Trustee.

“*Governing Document*” means the Governing Document for the District approved by the POMSLA Board on June 11, 2024 and any amendments or supplements thereto in accordance with its terms.

“*GRAMA Act*” means Title 63G, Chapter 2, Utah Code, the Government Records Access and Management Act.

“*Indenture*” means, collectively, the General Indenture and any other indentures related to a District Obligation.

“*Master Developer*” means CLW Point Partners, LLC, a Delaware limited liability company.

“*Outstanding*” has the meaning assigned to such term in the Indenture.

“*Parity Bonds*” means any bonds, notes, debentures, or other multiple fiscal year financial obligations having a lien upon the Pledged Revenues or any part thereof on parity with the lien thereon of the Bonds. Any Parity Bonds hereafter issued may be issued pursuant to such resolutions, indentures, or other documents as may be determined by the District, and shall be designated in such resolutions, indentures or other documents as constituting Parity Bonds.

“*Parity Obligations*” means any bonds, notes, debentures, or other multiple fiscal year financial obligations issued by POMSLA having a lien upon the Pledged Revenues or any part thereof on parity with the lien thereon of this Agreement, and any other obligation secured by a lien on any Pledged Revenues of POMSLA and designated by POMSLA, in the resolutions, indentures, or other documents pursuant to which such obligations are issued, as constituting a Parity Obligation hereunder, provided that such obligations are required to be issued in accordance with the provisions of Section 2.09 hereof. Any Parity Obligations hereafter issued may be issued pursuant to such resolutions, indentures, or other documents as may be determined by POMSLA, and shall be designated in such resolutions, indentures or other documents as constituting Parity Obligations hereunder.

“*Payment Obligation*” has the meaning assigned to such term in Section 2.03(a) hereof.

“*Phase 1 Project*” means the development project described in the Phase 1 DDA, encompassing all real estate, infrastructure, and improvements within the Phase 1 boundaries as defined in the Governing Document.

“*Pledged Revenues*” shall mean (i) the Pledged Tax Equivalent Revenues, and (ii) the Pledged Sales Tax Revenues.

*“Pledged Sales Tax Revenues”* means fifty (50) percent of the portion of the POMSLA Sales Tax Revenues, under Utah Code Annotated 59-12-103, collected from within the boundaries of Phase 1 and the Sub Campus that POMSLA assigns and pledges under this Agreement for the payment and security of the Bonds which will fund Allowable District Costs, which shall be remitted directly to the Bond Trustee in accordance with the terms of this Agreement.

*“Pledged Tax Equivalent Revenues”* means, collectively, the ninety (90) percent of the Phase 1 and the Sub Campus Tax Equivalent which will fund Allowable District Costs.

*“POMSLA”* means Point of the Mountain State Land Authority.

*“POMSLA Act”* means the Point of the Mountain State Land Authority Act, Title 11, Chapter 59, Utah Code Annotated 1953, as amended.

*“POMSLA Board”* means the Board of POMSLA.

*“POMSLA Sales Tax Revenues”* means the portion of sales tax revenues allocated to POMSLA pursuant to Section 59-12-103(17)(b), Utah Code, representing fifty percent (50%) of the state’s portion of sales tax revenue generated within the designated project areas.

*“Project”* means the acquisition, construction, or installation of all or any portion of the public infrastructure and improvements as permitted under the District Act, the POMSLA Act and the DDA, including but not limited to an event center.

*“Project Area”* means the Project Area, as described and defined in the Project Area Plan. [to be amended for Phase 1?]

*“Project Area Plan”* means the Disposition and Development Agreement for the Phase 1 Project (as such term is defined therein), first approved and adopted on November 27, 2023, and includes any amendment of said plan hereafter made pursuant to law.

*“Publicly Owned Infrastructure and Improvements”* means the same as defined in Section 11-59-102 (8). *“State”* means the State of Utah.

*“Sub Campus Disposition and Development Agreement”* or *“Sub Campus DDA”* means the agreement entered into between POMSLA and The District, governing the development, financing, and obligations associated with the Sub Campus Project.

*“Sub Campus Project”* means the development project described in the Sub Campus DDA, encompassing all real estate, infrastructure, and improvements within the Sub Campus boundaries as defined in the Governing Document.

*“Sub Campus Ground Lease”* means the agreement entered into between POMSLA and The District governing the lease of the Sub Campus Project area.

*“Sub Campus Tax Equivalent Revenues”* means ninety (90) percent of the Tax Equivalent Revenues generated and collected within the boundaries of the Sub Campus Project and pledged to bonds issued by the District pursuant to this Agreement.

“*Subordinate Obligations*” means any bonds, notes, debentures, or other multiple fiscal year financial obligations issued by POMSLA having a lien upon the Pledged Revenues or any part thereof junior and subordinate to the lien thereon of the District Obligations, and any other obligation secured by a lien on any Pledged Revenues of POMSLA and designated by POMSLA, in the resolutions, indentures, or other documents pursuant to which such obligations are issued, as constituting a Subordinate Obligation hereunder, provided that such obligations are required to be issued in accordance with the provisions of Section 2.09 hereof. Any Subordinate Obligations hereafter issued may be issued pursuant to such resolutions, indentures, or other documents as may be determined by POMSLA.

“*Supplemental Indenture*” means the First Supplemental Indenture of Trust, dated [INDENTURE MONTH] 1, 2025, by and between the District and the Bond Trustee.

“*Tax Assessment Area*” means the property within the Project Area, as more fully described by the property descriptions found in Exhibit A attached hereto.

“*Tax Equivalent Revenues*” shall mean, collectively, any incremental real property taxes or property tax equivalent dedicated and distributed to POMSLA under Utah Code 11-59-207, generated in the Sub Campus Project area and Phase 1 Project area. “*Utah Code*” means Utah Code Annotated 1953, as amended.

**Section 1.02. Construction.** In this Agreement, except where the context by clear implication herein otherwise requires, shall be construed as follows:

(a) The terms “hereby,” “hereof,” “herein,” “hereto,” “hereunder”, and any similar terms used in this Agreement shall refer to this Agreement in its entirety unless the context clearly indicates otherwise.

(b) Words in the singular number include the plural, and words in the plural include the singular.

(c) Words in the masculine gender include the feminine and the neuter, and when the sense so indicates, words of the neuter gender refer to any gender.

(d) Articles, sections, subsections, paragraphs and subparagraphs mentioned by number, letter, or otherwise, correspond to the respective articles, sections, subsections, paragraphs and subparagraphs hereof so numbered or otherwise so designated.

(e) The titles or leadlines applied to articles, sections and subsections herein are inserted only as a matter of convenience and ease in reference and in no way define, limit or describe the scope or intent of any provisions of this Agreement.

## ARTICLE II

### PAYMENT OBLIGATION

**Section 2.01. The Project.** The District shall issue the Bonds for the purpose of financing, refinancing, and/or reimbursing the Allowable District Costs of the Project. Additional District

Obligations may also be issued from time to time, subject to the limitations of the Indenture, for the purpose of financing, refinancing, and/or reimbursing the costs of the Project. POMSLA hereby acknowledges and agrees that the completion of the Project provides benefits to POMSLA, and in consideration of the issuance of the Bonds by the District for purposes of financing the Project, POMSLA agrees to pay the Pledged Revenues to the Bond Trustee on behalf of the District for the purpose of paying and securing the Bonds and any additional District Obligations.

**Section 2.02. Prepayment Prohibited.** Because the actual dollar amount of POMSLA's obligations hereunder cannot be ascertained with any certainty at any time, POMSLA acknowledges that it shall not be permitted to prepay its obligations hereunder.

**Section 2.03. Pledged Revenues.**

(a) ***Financial Obligation.*** The obligations of POMSLA to (i) enforce collection of the Pledged Revenues; and (ii) pay the Pledged Revenues to the Bond Trustee on behalf of the District in accordance with the terms hereof (collectively, the "**Payment Obligation**") shall constitute an obligation of POMSLA within the meaning of the POMSLA Act.

(b) ***Pledge of Tax Equivalent Revenues.*** POMSLA hereby assigns to the Bond Trustee on behalf of the District all of its right, title and interest in and to the Pledged Tax Equivalent Revenues and pledges the same to the Bond Trustee on behalf of the District for the purpose of paying and securing the Bonds and any other approved District Obligations. The lien of such pledge on the Pledged Tax Equivalent Revenues shall constitute a first priority and exclusive lien thereon. The District shall take whatever action may be necessary to further assure the pledge of the Pledged Tax Equivalent Revenues to the Bond Trustee under the Indenture and any other applicable Indenture for the benefit of the Bondholders from time to time, and the pledge of the Pledged Tax Equivalent Revenues to the various District Obligations Outstanding from time to time shall have the priority set forth in the applicable Indenture.

(c) ***Pledge of Sales Tax Revenues.*** POMSLA further assigns and pledges 50% of the POMSLA Sales Tax Revenues as Pledged Sales Tax Revenues. The Pledged Sales Tax Revenues shall be paid directly to the Bond Trustee on behalf of the District without any discretionary action required by POMSLA.

(d) ***Remittance of Pledged Revenues.*** The District hereby authorizes and directs POMSLA to pay (or cause to be paid) all Pledged Revenues to the Bond Trustee pursuant to written instructions provided by the Bond Trustee, as the same may from time to time be revised pursuant to written instructions provided by the Bond Trustee to POMSLA, with a copy to the District. On and after the Effective Date, POMSLA shall remit (or cause the remittance of) the Pledged Revenues to the Bond Trustee not later than thirty (30) days following the receipt thereof.

(e) ***Exclusive Obligations.*** POMSLA acknowledges and agrees that its obligations under this Agreement with respect to the Pledged Revenues run exclusively to the Bond Trustee on behalf of the District for the benefit of the Bondholders from time to

time, and there is no prior, superior, subordinate or any other lien on the Pledged Revenues other than the lien thereon of the pledge to the Bond Trustee on behalf of the District hereunder.

**Section 2.04. Covenant of Further Assurances.** POMSLA covenants that it will do, execute, acknowledge, and deliver or cause to be done, executed, acknowledged, and delivered, such further acts, instruments, and transfers as the District or the Bond Trustee may reasonably require for the better assuring, transferring, and pledging unto the Bond Trustee the Pledged Revenues.

**Section 2.05. Appropriation.** The amounts of Pledged Revenues required under this Agreement to be paid by POMSLA to the Bond Trustee on behalf of the District are hereby appropriated for that purpose, and said amounts for each applicable year shall be included in the annual budget and the appropriation resolution or measures to be adopted or passed by the POMSLA Board in each Fiscal Year through and including the Fiscal Year immediately preceding the year in which the Agreement Termination Date occurs. No provisions of any constitution, statute, resolution or other order or measure enacted after the execution of this Agreement shall in any manner be construed as limiting or impairing the obligations of POMSLA set forth in Section 2.03(a) hereof in the manner provided herein.

**Survival of Payment Obligation.** In addition, the Payment Obligation of POMSLA shall survive any court determination of the invalidity of this Agreement as a result of a failure, or alleged failure, of the directors of POMSLA to properly disclose, pursuant to Utah law, any potential conflicts of interest related hereto in any way.

**Section 2.06. Limited Defenses; Specific Performance.** It is understood and agreed by POMSLA that its obligations hereunder are absolute, irrevocable, and unconditional and so long as this Agreement has not been terminated, POMSLA agrees that, notwithstanding any fact, circumstance, dispute, or any other matter, it will not assert any rights of setoff, counterclaim, estoppel, or other defenses to its obligations hereunder, or take or fail to take any action which would delay performance of such obligations. Notwithstanding that this Agreement specifically prohibits and limits defenses and claims of POMSLA, in the event that POMSLA reasonably believes that it has valid defenses, setoffs, counterclaims, or other claims other than specifically permitted by this Section 2.07, it shall, nevertheless, collect and enforce the collection of the Pledged Revenues, and pay all amounts derived therefrom to the Bond Trustee on behalf of the District, and then may attempt or seek to recover such payments by actions at law or in equity for damages or specific performance, respectively.

**Section 2.07. Payment of Administrative Expenses.** The District and POMSLA shall first apply any moneys derived under this Agreement to the payment of the District and POMSLA's (as applicable) budgeted Administrative Expenses for the coming Fiscal Year prior to application thereof as Pledged Revenues.

**Section 2.08. Additional Obligations.**

(a) POMSLA shall not incur any additional debt or other financial obligation having a lien upon the Pledged Revenues superior to the lien of this Agreement.

(b) Any Additional Obligations secured by a lien on the Pledged Revenues shall be issued as either Parity Obligations or Subordinate Obligations. POMSLA shall not issue or incur any other Additional Obligations except as provided in subparagraph (c) of this Section with respect to Parity Obligations and in subparagraph (d) of this Section with respect to Subordinate Obligations, unless such issuance is consented to by the Consent Parties with respect to a majority in aggregate principal amount of the District Obligations then outstanding.

(c) The District may issue Additional Obligation only upon consent of POMSLA.

(d) The District may refinance District Obligations approved in Exhibit [\_\_\_\_] without the consent of POMSLA.

(e) The District may issue Additional Obligations constituting Subordinate Obligations without the consent of the Consent Parties and the terms of such Subordinate Obligations shall be as provided in the documents pursuant to which they are issued, provided that:

(i) the failure to make a payment when due on the Subordinate Obligations shall not constitute an event of default thereunder; and

(ii) the Subordinate Obligations shall be payable as to both principal and interest on a subordinate basis to the District Obligations.

(f) POMSLA shall not pledge, assign, or otherwise encumber the Pledged Sales Tax Revenues beyond the allocations established under Section 59-12-103(17)(b), Utah Code, nor shall it impose any restrictions or limitations that could delay or interfere with the direct remittance of such revenues to the Bond Trustee.

(g) A written certificate by POMSLA that the conditions set forth herein are met shall conclusively determine the right of POMSLA to authorize, issue, sell, and deliver Additional Obligations in accordance herewith.

(h) Nothing herein shall affect or restrict the right of POMSLA to issue or incur obligations that are not Additional Obligations hereunder.

## **Section 2.09. Additional Covenants.**

(a) Except as provided in Section 2.09, POMSLA will not issue or incur any Additional Obligations, and will not otherwise assign or pledge the Pledged Revenues or any portion thereof to any person other than the District (or the Bond Trustee on behalf of the District) as provided herein.

(b) POMSLA shall not enter into any agreement, or amend or supplement or consent to the amendment or supplement of any agreement to which it is a party or by which it or its property is bound which, in the reasonable judgment of POMSLA, would

impair its Payment Obligation or the ability of POMSLA to perform its obligations hereunder.

(c) The POMSLA Board shall take all necessary and proper steps to enforce promptly the payment of the Pledged Revenues to the District.

(d) POMSLA acknowledges that the Pledged Sales Tax Revenues shall be paid directly to the Bond Trustee without any discretionary approvals by POMSLA. POMSLA further covenants that it will take no action, or fail to take any action, that could reasonably be expected to delay, diminish, or obstruct the remittance of these revenues to the Bond Trustee.

(e) POMSLA shall keep and maintain, or cause to be kept and maintained, accurate records and accounting entries reflecting all moneys received or delivered pursuant to this Agreement and the use(s) of such moneys.

(f) POMSLA will maintain its existence and shall not merge or otherwise alter its corporate structure in any manner or to any extent as might impair its obligations hereunder, and POMSLA will continue to operate and manage POMSLA in an efficient and economical manner in accordance with all applicable laws, rules, and regulations. POMSLA will comply with all the conditions of Utah Code Annotated 11-59-501, if Utah Law changes in relation to its corporate structure.

(g) At the request and reasonable expense to the District, as often as once a year POMSLA will cause an audit to be performed of the records relating to its revenues and expenditures, and POMSLA shall use its commercially reasonable efforts to have such audit report completed no later than December 31 of each calendar year. The foregoing covenant shall apply notwithstanding any State law audit exemptions that may exist.

(h) At least once a year the District, as part of the annual POMSLA audit, will cause an audit to be performed of the records relating to its revenues and expenditures, and the District shall use its commercially reasonable efforts to have such audit report completed no later than December 31 of each calendar year. The foregoing covenant shall apply notwithstanding any State law audit exemptions that may exist. In addition, at least once a year in the time and manner provided by law, the District will cause a budget to be prepared and adopted. Copies of the budget and the audit will be filed and recorded in the places, time, and manner provided by law.

(i) POMSLA will carry general liability, public officials' liability, and such other forms of insurance coverage on insurable property of POMSLA upon the terms and conditions as in the judgment of POMSLA would ordinarily be carried by entities having similar properties of equal value, such insurance being in such amounts as will protect POMSLA and its operations, respectively.

(j) Any official of POMSLA or other person having custody of any funds described herein of POMSLA or responsible for the handling of such funds, shall be reasonably bonded or insured against theft or defalcation at all times.



(k) POMSLA and the District covenant that any portion of the Pledged Revenues available to be disbursed to the District in accordance with Section 3.6 of the Supplemental Indenture shall be applied in accordance with the Phase 1 DDA and the Sub Campus DDA or as otherwise permitted by law.

(l) Prior to issuance of any debt to which any portion of the Pledged Revenues are pledged, POMSLA agrees to deliver or cause to be delivered the following:

(i) a certificate, dated the Closing Date, of POMSLA executed by an authorized officer of POMSLA to the effect that (A) there is no action, suit, proceeding or investigation at law or in equity before or by any court, public board or body which has been served on POMSLA or, to the knowledge of POMSLA, threatened against or affecting POMSLA (1) to restrain or enjoin POMSLA's participation in, or in any way contest the existence of POMSLA or the adoption and validity of the proceedings described in (E) below or the Project Area Plan or the powers of POMSLA with respect to the consummation of the transactions contemplated by, or performance of POMSLA's obligations under, this Agreement, the resolution of POMSLA approving of this Agreement and any related development agreements between POMSLA and the Master Developer (the "**POMSLA Documents**"); or (2) which, if successful, would materially and adversely affect the financial condition or operations of POMSLA, the Project Area, or POMSLA's ability to perform its obligations under the Project Area Plan or the POMSLA Documents; (B) no authority or proceedings for the execution of the POMSLA Documents has or have been repealed, revoked or rescinded; (C) so far as is known, nothing exists to hinder or prevent POMSLA from executing the POMSLA Documents; (D) the representations and warranties of POMSLA contained in the POMSLA Documents are true and correct in all material respects, and POMSLA has complied with all agreements and covenants and satisfied all conditions required to be satisfied prior to the Closing Date as contemplated by the POMSLA Documents; (E) the proceedings related to the adoption of the Project Area Plan (including the resolution or resolutions approving the Project Area Plan ("**Project Area Resolutions**")) have been duly adopted and since the adoption thereof, the Project Area Resolutions have remained in full force and effect and have not been modified or rescinded; (F) the Project Area Plan has been duly and validly approved by POMSLA; and (G) such other representations as are customary in similar debt transactions; and

(ii) an opinion of counsel to POMSLA, in form and substance satisfactory to the District and addressed to the District and the underwriter of bonds issued by the District pursuant to this Agreement (or, in lieu thereof, with a reliance letter to the Underwriter), stating that: (A) this Agreement constitutes valid and binding obligations of POMSLA, (B) relating to the due organization and existence of POMSLA; (C) stating that the POMSLA resolution approving this Agreement has been duly authorized and adopted by POMSLA and addressing the qualification of the members of the Board of Trustees of POMSLA to serve in such capacity; (D) that the POMSLA Documents have been duly authorized, executed and delivered by POMSLA; (E) that no governmental or other approvals are required

by law in order for POMSLA to effectuate the transactions contemplated by the POMSLA Documents, except those obtained as of the date hereof; (F) that entering into the POMSLA Documents will not constitute a violation of any judgment, order or decree, or a breach of any contract to which POMSLA is a party; (G) that to the best of its actual knowledge there is no action, suit, or proceeding pending in which the POMSLA is a party, nor is there any inquiry or investigation pending against the POMSLA by any governmental agency, public agency, or authority; (H) that the proceedings related to the adoption of the Project Area Plan (including the Project Area Resolutions) have been duly adopted; (I) that the Project Area Plan has been duly and validly approved; and (J) such other opinions as are customary in similar debt transactions.

### **ARTICLE III**

#### **REPRESENTATIONS AND WARRANTIES**

**Section 3.01. Representations and Warranties.** The District and POMSLA, respectively, hereby makes the following representations and warranties to the best of its respective knowledge:

(a) ***The District.***

(i) The District is a public infrastructure district, a political subdivision and body corporate and politic, duly organized and validly existing under the laws of the State of Utah.

(ii) The District has all requisite corporate power and authority to execute, deliver, and to perform its obligations under this Agreement. The District's execution, delivery, and performance of this Agreement has been duly authorized by all necessary action.

(iii) The District is not in violation of any applicable provisions of law or any order of any court having jurisdiction in the matter, which violation could reasonably be expected to materially adversely affect the ability of the District to perform its obligations hereunder. The execution, delivery and performance by the District of its obligations under this Agreement (A) will not violate any provision of any applicable law or regulation or of any order, writ, judgment or decree of any court, arbitrator, or governmental authority; (B) will not violate any provision of any document or agreement constituting, regulating, or otherwise affecting the operations or activities of the District in a manner that could reasonably be expected to result in a material adverse effect; and (C) will not violate any provision of, constitute a default under, or result in the creation or imposition of any lien, mortgage, pledge, charge, security interest, or encumbrance of any kind on any of the revenues or other assets of the District pursuant to the provisions of any mortgage, indenture, contract, agreement, or other undertaking to which the District is a party or which purports to be binding upon the District, or upon any of its

revenues or other assets which could reasonably be expected to result in a material adverse effect.

(iv) The District has obtained all consents and approvals of, and has made all registrations and declarations with any governmental authority or regulatory body required for the execution, delivery, and performance by the District of this Agreement.

(v) There is no action, suit, inquiry, investigation, or proceeding to which the District is a party, at law or in equity, before or by any court, arbitrator, governmental or other board, body, or official which is pending or, to the best knowledge of the District, threatened, in connection with any of the transactions contemplated by this Agreement nor, to the best knowledge of the District is there any basis therefor, wherein an unfavorable decision, ruling, or finding could reasonably be expected to have a material adverse effect on the validity or enforceability of, or the authority or ability of the District to perform its obligations under, this Agreement.

(vi) This Agreement constitutes a valid and binding obligation of the District, legally enforceable against the District in accordance with its terms (except as such enforceability may be limited by bankruptcy, moratorium, or other similar laws affecting creditors' rights generally and provided that the application of equitable remedies is subject to the application of equitable principles).

(b) ***POMSLA.***

(i) POMSLA is a public body, corporate and politic duly created, established, and authorized to transact business and exercise its powers, pursuant to the POMSLA Act.

(ii) POMSLA has all requisite corporate power and authority to execute, deliver, and to perform its obligations under this Agreement. POMSLA's execution, delivery, and performance of this Agreement has been duly authorized by all necessary action.

(iii) POMSLA is not in violation of any applicable provisions of law or any order of any court having jurisdiction in the matter, which violation could reasonably be expected to materially adversely affect the ability of POMSLA to perform its obligations hereunder. The execution, delivery and performance by POMSLA of this Agreement (A) will not violate any provision of any applicable law or regulation or of any order, writ, judgment or decree of any court, arbitrator, or governmental authority; (B) will not violate any provision of any document or agreement constituting, regulating, or otherwise affecting the operations or activities of POMSLA in a manner that could reasonably be expected to result in a material adverse effect; and (C) will not violate any provision of, constitute a default under, or result in the creation or imposition of any lien, mortgage, pledge, charge, security interest, or encumbrance of any kind on any of the revenues or

other assets of POMSLA pursuant to the provisions of any mortgage, indenture, contract, agreement, or other undertaking to which POMSLA is a party or which purports to be binding upon POMSLA or upon any of its revenues or other assets which could reasonably be expected to result in a material adverse effect.

(iv) POMSLA has obtained all consents and approvals of, and has made all registrations and declarations with any governmental authority or regulatory body required for the execution, delivery, and performance by POMSLA of this Agreement.

(v) There is no action, suit, inquiry, investigation, or proceeding to which POMSLA is a party, at law or in equity, before or by any court, arbitrator, governmental or other board, body, or official which is pending or, to the best knowledge of POMSLA threatened, in connection with any of the transactions contemplated by this Agreement nor, to the best knowledge of POMSLA is there any basis therefor, wherein an unfavorable decision, ruling, or finding could reasonably be expected to have a material adverse effect on the validity or enforceability of, or the authority or ability of POMSLA to perform its obligations under, this Agreement.

(vi) The lien of this Agreement on the Pledged Revenues is a superior and exclusive pledge and has priority over any and all other obligations and liabilities of POMSLA which purport to pledge or assign the Pledged Revenues or any portion thereof.

(vii) POMSLA finds that the Project, including portions that are privately owned, provides long term benefits to the development or use of the Project Area. POMSLA covenants and agrees that so long as this Agreement is in place, it will not revoke such finding.

## ARTICLE IV

### NON-COMPLIANCE AND REMEDIES

**Section 4.01. Events of Non-Compliance.** The occurrence or existence of any one or more of the following events shall be an “Event of Non-Compliance” hereunder, and there shall be no default or Event of Non-Compliance hereunder except as provided in this Section:

(a) POMSLA fails or refuses to impose (as applicable), collect or enforce the collection of the Pledged Revenues or any portion thereof;

(b) POMSLA fails to remit the Pledged Revenues or any portion thereof as required by the terms of this Agreement;

(c) any representation or warranty made by any party to this Agreement proves to have been untrue or incomplete in any material respect when made and which untruth

or incompleteness would have a material adverse effect upon any other party to this Agreement;

(d) POMSLA's pledge of the Pledged Revenues for the purposes stated herein fails to be enforceable with the priority required hereunder;

(e) any party to this Agreement materially fails in the performance of any other of its covenants in this Agreement, the Sub Campus DDA, or Sub Campus Ground Lease, and such material failure continues for 60 days after receipt of written notice from the other party specifying such default and requiring the same to be remedied; or

(f) (i) any party to this Agreement shall commence any case, proceeding, or other action (A) under any existing or future law of any jurisdiction relating to bankruptcy, insolvency, reorganization, or relief of debtors, seeking to have an order for relief entered with respect to it or seeking to adjudicate it insolvent or a bankrupt or seeking reorganization, arrangement, adjustment, winding up, liquidation, dissolution, composition, or other relief with respect to it or its debts, or (B) seeking appointment of a receiver, trustee, custodian, or other similar official for itself or for any substantial part of its property, or any party shall make a general assignment for the benefit of its creditors; or (ii) there shall be commenced against any party any case, proceeding, or other action of a nature referred to in clause (i) and the same shall remain not dismissed within 90 days following the date of filing; or (iii) there shall be commenced against any party any case, proceeding, or other action seeking issuance of a warrant of attachment, execution, distraint, or similar process against all or any substantial part of its property which results in the entry of an order for any such relief which shall not have been vacated, discharged, stayed, or bonded pending appeal within 90 days from the entry thereof; or (iv) any party shall take action in furtherance of, or indicating its consent to, approval of, or acquiescence in, any of the acts set forth in clause (i), (ii) or (iii) above; or (v) any party shall generally not, or shall be unable to, or shall admit in writing its inability to, pay its debts as they become due.

**Section 4.02. Remedies for Events of Non-Compliance.** Subject to Section 2.06 hereof, upon the occurrence and continuance of an Event of Non-Compliance, any party may proceed to protect and enforce its rights against the party or parties causing the Event of Non-Compliance by mandamus or such other suit, action, or special proceedings in equity or at law, in any court of competent jurisdiction, including an action for specific performance. In the event of any litigation or other proceeding to enforce any of the terms, covenants or conditions hereof, the party in such litigation or other proceeding shall obtain, as part of its judgment or award, its reasonable attorneys' fees and costs.

## ARTICLE V

### MISCELLANEOUS

**Section 5.01. Pledge of Revenue.** This Agreement creates a valid and binding pledge and assignment of security interest in all of the Pledged Revenues by POMSLA to secure or pay the Payment Obligation. Under the laws of the State, such pledge and assignment and security interest

is automatically perfected by Section 11-14-501, Utah Code, and is and shall have priority as against all parties having claims of any kind in tort, contract, or otherwise hereafter imposed on the Pledged Revenue.

**Section 5.02. No Recourse Against Officers and Agents.** No recourse shall be had for the payment of the Payment Obligation or for any claim based thereon or upon any obligation, covenant or agreement herein contained against any past, present or future officer, or other public official, employee, or agent of POMSLA or the District. Such recourse shall not be available either directly or indirectly through the POMSLA Board, the District Board, or otherwise, whether by virtue of any constitution, statute, rule of law, enforcement of penalty, or otherwise. By the acceptance of this Agreement and as a part of the consideration hereof, POMSLA and the District specifically waive any such recourse.

**Section 5.03. Notices.** Except as otherwise provided herein, all notices, certificates, or other communications required to be given to any of the persons set forth below pursuant to any provision of this Agreement shall be in writing, shall be given either in person or by certified or registered mail, and if mailed, shall be deemed received three (3) days after having been deposited in a receptacle for United States mail, postage prepaid, addressed as follows:

The District:           Point Phase 1 Public Infrastructure District No. 1  
                                   c/o Point of the Mountain State Land Authority  
                                   120 East Capitol Street  
                                   Salt Lake City, UT 84114  
                                   Attention: Chair  
                                   E-mail: [Add email address]

POMSLA:               Point of the Mountain State Land Authority  
                                   120 East Capitol Street  
                                   Salt Lake City, UT 84114  
                                   Attention: Executive Director  
                                   E-mail: michaelambre@utah.gov

(a)     In lieu of mailed notice to any person set forth above, the persons designated above may provide notice by email to any email address set forth above for any other person designated above, or by facsimile transmission to any facsimile number set forth above for such person, and any such notices shall be deemed received upon receipt by the sender of an email or facsimile transmission from such person confirming such receipt, or upon receipt by the sender of such other confirmation of receipt as may be reasonably reliable under the circumstances.

(b)     The persons designated above may, by notice given hereunder, designate any further or different addresses to which subsequent notices, certificates, or other communications shall be sent.

(c) Where this Agreement provides for notice in any manner, such notice may be waived in writing by the person entitled to receive such notice, either before or after the event, and such waiver shall be the equivalent of such notice.

#### **Section 5.04. Miscellaneous.**

(a) This Agreement constitutes the final, complete, and exclusive statement of the terms of the agreement between the parties pertaining to the subject matter of this Agreement and supersedes all prior and contemporaneous understandings or agreements of the parties. This Agreement may not be contradicted by evidence of any prior or contemporaneous statements or agreements. No party has been induced to enter into this Agreement by, nor is any party relying on, any representation, understanding, agreement, commitment, or warranty outside those expressly set forth in this Agreement.

(b) If any term or provision of this Agreement is determined to be illegal, unenforceable, or invalid in whole or in part for any reason, such illegal, unenforceable, or invalid provisions or part thereof shall be stricken from this Agreement, and such provision shall not affect the legality, enforceability, or validity of the remainder of this Agreement. If any provision or part thereof of this Agreement is stricken in accordance with the provisions hereof, then such stricken provision shall be replaced, to the extent possible, with a legal, enforceable, and valid provision that is as similar in tenor to the stricken provision as is legally possible.

(c) This Agreement may not be assigned or transferred by any party without the prior written consent of each of the other parties.

(d) This Agreement shall be governed by and construed under the applicable laws of the State.

(e) This Agreement may be amended or supplemented by the parties, but any such amendment or supplement must be in writing and must be executed by all parties.

(f) Each party has participated fully in the review and creation of this Agreement. Any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply in interpreting this Agreement. The language in this Agreement shall be interpreted as to its fair meaning and not strictly for or against any party.

(g) This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

(h) Time is of the essence hereof; provided, however, that if the last day permitted or the date otherwise determined for the performance of any act required or permitted under this Agreement falls on a Saturday, Sunday or legal holiday, the time for performance shall be extended to the next succeeding business day, unless otherwise expressly stated.

(i) The District and POMSLA shall have the right to access and review each other's records and accounts, on reasonable times during regular office hours, for purposes of determining compliance by POMSLA and the District with the terms of this Agreement. Such access shall be subject to the provisions of the GRAMA Act. In the event of disputes or litigation between the parties hereto, all access and requests for such records shall be made in compliance with the GRAMA Act.

(j) The District covenants that it will do, execute, acknowledge, and deliver or cause to be done, executed, acknowledged, and delivered, such acts, instruments, and transfers as may reasonably be required for the performance of its obligations hereunder.

**Section 5.05. Third Party Beneficiaries.** It is intended that there be no third-party beneficiaries of this Agreement and nothing contained herein, expressed or implied, is intended to give to any person other than POMSLA and the District any claim, remedy, or right under or pursuant hereto, and any agreement, condition, covenant, or term contained herein required to be observed or performed by or on behalf of any party hereto shall be for the sole and exclusive benefit of the other party.

**Section 5.06. Interlocal Cooperation Act.** In satisfaction of the requirements of the Interlocal Cooperation Act in connection with this Agreement, POMSLA and the District agree as follows:

(a) This Agreement shall be authorized and adopted by resolution of each Board pursuant to and in accordance with the provisions of Utah Code Ann. Section 11-13-202.5;

(b) This Agreement shall be reviewed as to proper form and compliance with applicable law by a duly authorized attorney on behalf of each of POMSLA and the District pursuant to and in accordance with Utah Code Ann. Section 11-13-202.5(3);

(c) A duly executed original counterpart of this Agreement shall be filed immediately with the keeper of records of POMSLA and the District pursuant to Utah Code Ann. Section 11-13-209;

(d) POMSLA and the District agree that they do not, by this Agreement, create an interlocal entity;

(e) As required by Utah Code Ann. Section 11-13-207, POMSLA and the District agree that the undertaking under this Agreement shall be administered by one member of each Board, each to be appointed by their respective Board. Any real or personal property used and POMSLA and the District's cooperative undertaking herein shall be acquired, held, and disposed of as determined by such administrators; and

(f) No budget shall be established or maintained except as described herein.

**Section 5.07. Applicable Law and Jurisdiction; Interpretation.** This Agreement shall be governed by and interpreted in accordance with the internal laws of the State of Utah, without regard to choice of law principles. The District and POMSLA each hereby consent to the exclusive



jurisdiction of any State court situated in Salt Lake County, Utah, and waive any objections based on *forum non conveniens*, with regard to any actions, claims, disputes, or proceedings relating to this Agreement of any of the transactions contemplated hereunder, or enforcement and/or interpretation of any of the foregoing.

**Section 5.08. Effective Date and Agreement Termination Date.** This Agreement shall become effective on the Effective Date and shall remain in effect until the Agreement Termination Date unless earlier terminated pursuant to mutual written agreement of POMSLA and the District; provided, however, that if any District Obligations are Outstanding, any such earlier termination of this Agreement shall be subject to the applicable provisions of all Indenture then in effect. On the Agreement Termination Date this Agreement shall be deemed fully satisfied, all obligations of the parties hereto shall be discharged, and this Agreement shall terminate and no longer be of any force or effect.

**Section 5.09. Notice of Interlocal Agreement.** The parties agree to publish and post notice of this agreement in accordance with the Interlocal Cooperation Act, Utah Code §11-13-219(c) and as a class A notice under Utah Code §63G-30-102, for 30 days. After the notice of this Agreement has been posted for 30 days, no one may contest the regularity, formality, or legality of the Agreement or any action performed or instrument issued under the authority of the Agreement for any cause whatsoever.

[End of Capital Pledge Agreement; Signatures Appear on Following Page]

IN WITNESS WHEREOF, the authorized officers of the District and POMSLA have executed this Capital Pledge Agreement as of the day and year first above written.

POINT PHASE 1 PUBLIC  
INFRASTRUCTURE DISTRICT NO. 1

By \_\_\_\_\_

[SEAL]

ATTEST:

\_\_\_\_\_

APPROVED AS TO FORM:

WHITE BEAR ANKELE TANAKA &  
WALDRON  
Attorneys at Law

\_\_\_\_\_  
General Counsel to the District

POINT OF THE MOUNTAIN STATE LAND  
AUTHORITY

By \_\_\_\_\_  
Executive Director

[SEAL]

ATTEST:

\_\_\_\_\_  
POMSLA Records Officer

APPROVED AS TO PROPER FORM AND  
COMPLIANCE WITH APPLICABLE  
LAW:

\_\_\_\_\_  
Counsel to POMSLA

[Signature Page to Capital Pledge Agreement]

EXHIBIT A

## TAX ASSESSMENT AREA

Phase 1

[need real property description or reference to other document or statute]

Sub Campus

[need real property description or reference to other document or statute]

## EVENT CENTER REVENUE PLEDGE AGREEMENT

This EVENT CENTER REVENUE PLEDGE AGREEMENT (the “**Agreement**”) is made and entered into as of the \_\_\_\_ day of \_\_\_\_\_, 2025, by and among **POINT PHASE 1 PUBLIC INFRASTRUCTURE DISTRICT NO. 1**, a political subdivision and body corporate and politic of the State of Utah (the “**District**”), **CLW POINT PARTNERS LLC**, a Delaware limited liability company (the “**Developer**”), and **ZIONS BANCORPORATION, N.A.**, a national banking association organized under the laws of the United States with its principal office located in Salt Lake City, Utah, as trustee (the “**Trustee**”). The District, the Developer, and Trustee are collectively referred to herein as the “**Parties**.”

### RECITALS

WHEREAS, the District has been duly and validly organized as a political subdivision and body corporate and politic of the State of Utah, in accordance with the provisions of Title 17D, Chapter 4 of the Utah Code Annotated 1953 (the “**Utah Code**”), as amended from time to time and any successor statute thereto (the “**PID Act**”), Title 17B of the Utah Code, as amended from time to time and any successor statute thereto (the “**Special District Act**”) and the Governing Document for Point Phase 1 Public Infrastructure District Nos. 1 through 9 approved by the Point of the Mountain State Land Authority (“**POMSLA**”) on June 11, 2024, and as may be amended from time to time (the “**Governing Document**”); and

WHEREAS, simultaneous with the execution of this Agreement, the District issued its Tax Assessment and General Revenue Bonds, Series 2025 in the par amount of \$\_\_\_\_\_, and any subsequent refunding or refinancing of the same (collectively, the “**Bonds**”); and

WHEREAS, terms that are not defined in this Agreement shall have the meanings ascribed to them in the Official Statement dated \_\_\_\_\_, 2025 or the General Indenture of Trust dated \_\_\_\_\_, 2025 between the District and the Trustee (the “**General Indenture**”) for the Bonds; and

WHEREAS, the Bonds were issued to pay, in part, all or a portion of the costs of publicly owned infrastructure and improvements as permitted and defined under the Point of the Mountain State Land Authority Act, Title 11, Chapter 59, Utah Code (the “**POMSLA Act**”), consisting of a an event center within the District and the infrastructure and improvements related thereto; and

WHEREAS, the District anticipates entering into a Pre-Opening Services and Management Agreement with Global Spectrum, L.P. d/b/a Oak View Group (“**OVG**”) to engage OVG to provide certain pre-opening consulting services and to manage and operate the Event Center (defined herein); and

WHEREAS, the District anticipates that the net revenues of the District attributable to the Event Center (defined herein), including the net revenues of the District attributable to an event center within the District, including certain parking revenues generated from within the District, will be available to pay debt service on the Bonds; and

WHEREAS, it is anticipated that the District will engage an operator to provide management services for the parking structure but that entity has not been selected as of the date of this Agreement; and

WHEREAS, the Event Center Revenues (defined herein) will not be pledged or hypothecated in any other manner or for any purpose at the time of the issuance of the Bonds, and the District desires to pledge the Net Event Center Revenues (defined herein) toward the payment of the principal of and interest on the Bonds pursuant to the First Supplemental Indenture of Trust dated as of \_\_\_\_\_, 2025 between the District and the Trustee (the “**First Supplemental Indenture**”), the Tax Sharing Agreement (as defined in the \_\_\_\_\_), and this Agreement; and

WHEREAS, pursuant to the Local Government Bonding Act, Title 11, Chapter 14, Utah Code Annotated 1953, as amended, and/or the Utah Refunding Bond Act, Title 11, Chapter 27, Utah Code Annotated 1953, as amended (collectively, the “**Act**”), the District is authorized to issue bonds payable from, in part, a special fund into which the Event Center Revenues may be pledged; and

WHEREAS, the Parties have authorized their respective officers or representatives to execute this Agreement and to take all other actions necessary and desirable to effectuate the purposes of this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and agreements set forth in this Agreement, the Parties agree as follows:

### COVENANTS AND AGREEMENTS

1. Incorporation of Recitals. All of the Recitals of this Agreement are hereby incorporated into the Agreement.

2. Purpose of Agreement. The purpose of this Agreement is to memorialize the details of the pledge of the Net Event Center Revenues to the payment of the principal of and interest of the Bonds.

3. Definitions. As used in this Agreement, the following terms shall have the following meanings unless the context otherwise clearly indicates:

a. “Bond Fund” means the Point Phase 1 Public Infrastructure District No. 1 Tax Assessment and General Revenue Bonds Bond Fund created in the General Indenture and together with the First Supplemental Indenture (the “**Indenture**”) for the Bonds to be held by the Trustee and administered pursuant to the Indenture for the Bonds.

b. “Event Center” means an event center within the Project Area related parking facilities supporting the event center and the infrastructure and improvements related thereto that will [\_\_\_\_\_].

**Commented [BD1]:** Add additional information.

**Commented [BD2]:** Reworked and pulled this definition over to the Event Center Pledge Agreement so they’re consistent.

- c. “Event Center Revenues” means all gross income and revenues of any kind, from any source whatsoever, derived from the ownership and operation of the Event Center, including, without limitation, all parking revenues generated from the Event Center parking facility and the gross revenue of all improvements, additions, and extensions of the Event Center hereafter constructed or acquired.
- d. “Event Center Revenue Fund” means an account controlled by the District and operated as an enterprise fund where all Event Center Revenues are held and utilized by the District for the purpose of paying all Operation and Maintenance Expenses (as defined below).
- e. “Fiscal Year” means a calendar year (January 1–December 31).
- f. “Net Event Center Revenues” means the Event Center Revenues after provision has been made for the payment therefrom of Operation and Maintenance Expenses.
- g. “Operation and Maintenance Expenses” means all expenses reasonably incurred in connection with the operation and maintenance of the Event Center, whether incurred by the District or paid to any other entity pursuant to contract or otherwise, repairs and renewals (other than capital improvements) necessary to keep the Event Center in efficient operating condition, including cost of audits, payment of promotional and marketing expenses and real estate brokerage fees, payment of premiums for the insurance required, administrative costs and, generally all expenses, exclusive of depreciation (including depreciation related expenses of any joint venture) and, any in-lieu of tax transfers to District funds, interest expense for interfund loans from District funds, and reimbursement to the District for general overhead and administration of the District, which under generally accepted accounting practices are properly allocable to operation and maintenance; however, only such expenses as are reasonably and properly necessary to the efficient operation and maintenance of the Event Center shall be included.
- h. “Project Area” means that area as defined in that certain Disposition and Development Agreement dated November 27, 2023.

4. Event Center Revenues. Unless otherwise provided herein, the Parties hereby agree that all Event Center Revenues shall be deposited in the Event Center Revenue Fund. The Event Center Revenue Fund shall be operated as an enterprise fund with all Event Center Revenues accounted for separate and apart from all other moneys of the District.

- a. As a first charge and lien on the Event Center Revenues, the District shall cause to be paid from the Event Center Revenue Fund, from time to time as the District shall determine, all Operation and Maintenance Expenses of the Event Center as the same become due and payable, and thereupon such expenses shall be promptly paid.
- b. So long as any Bonds are Outstanding, as a second charge and lien on the Event Center Revenues after payment of Operation and Maintenance Expenses, the Net Event Center Revenues shall be transferred to the Bond Fund on or before January

31 each year for the payment of principal of and interest on the Bonds and other uses as described in the Indenture.

5. District Covenants. The District hereby covenants and agrees with the Developer and the Trustee as follows:

- a. Expeditious Construction. The District shall complete the construction of the Event Center with all practical dispatch and will cause all construction to be effected in a sound and economical manner.
- b. Management of Event Center. The District, in order to assure the efficient management and operation of the Event Center will employ competent and experienced management for the Event Center, will use its best efforts to see that the Event Center is at all times operated and maintained in first-class repair and condition, and ensure that the operating efficiency thereof shall be of the highest character.
- c. Use of Legally Available Moneys. Notwithstanding any other provisions hereof, nothing herein shall be construed to prevent the District from (i) paying all or any part of the Operation and Maintenance Expenses from any funds available to the District for such purpose, or (ii) depositing any funds available to the District for such purpose in any account in the Bond Fund for the payment of the interest on, premium, if any, or the principal of any Bonds issued under the Indenture or for the redemption of any such Bonds.
- d. Payment of Taxes and Other Charges. The District covenants that all taxes and assessments or other municipal or governmental charges lawfully levied or assessed upon the Event Center or upon any part thereof or upon any income therefrom will be paid when the same shall become due, that no lien or charge upon the Event Center or any part thereof or upon any Event Center Revenues thereof, except for the lien and charge thereon created hereunder and under the Indenture securing the Bonds, will be created or permitted to be created ranking equally with or prior to the Bonds, and that all lawful claims and demands for labor, materials, supplies or other objects which, if unpaid, might by law become a lien upon the Event Center or any part thereof or upon the Event Center Revenues thereof will be paid or discharged, or adequate provision will be made for the payment or discharge of such claims and demands within 60 days after the same shall accrue; provided, however, that nothing in this Section shall require any such lien or charge to be paid or discharged or provision made therefor so long as the validity of such lien or charge shall be contested in good faith and by appropriate legal proceedings.
- e. Insurance. The District, in its operation of the Event Center, will maintain the following insurance coverage: Commercial Property Insurance, to the extent applicable, Worker's Compensation and Employer's Liability Insurance and public liability insurance, in such amounts and to such extent as is normally carried by other public improvement districts in the State of Utah. The cost of such insurance shall be considered an Operation and Maintenance Expense of the Event Center. In



the event of loss or damage, insurance proceeds shall be used first for the purpose of restoring or replacing the property lost or damaged. Any remainder shall be paid into the Bond Fund.

- f. Instruments of Further Assurance. The District and the Trustee mutually covenant that they will, from time to time, each upon the written request of the other, to execute and deliver such further instruments and take or cause to be taken such further actions as may be reasonable and as may be required by the other to carry out the purposes hereof; provided, however, that no such instruments or action shall involve any personal liability of the Trustee or members of the governing body of the District or any official thereof.
- g. Covenant Not to Sell. The District will not sell, lease, mortgage, encumber, or in any manner dispose of the Event Center or any substantial part thereof, including the infrastructure and improvements related thereto, until all principal of, and interest on, the Bonds has been paid in full, except as follows:
  - i. The District may sell any portion of the Event Center which shall have been replaced by other property of like kind and of at least equal value. The District may sell, lease, abandon, mortgage, or otherwise dispose of any portion of the Event Center which shall cease to be necessary for the efficient operation of the Event Center the disposition of which will not, as reasonably determined by the governing body of the District, result in a material reduction in Net Event Center Revenues in any year; and the value of which, as reasonably determined by the governing body of the District (together with any other property similarly disposed of within the 12 calendar months preceding the proposed disposition) does not exceed 10% of the value of the Event Center, provided, however, that in the event of any sale or lease as aforesaid, the proceeds of such sale or lease not needed to acquire other Event Center property shall be paid into the Bond Fund.
  - ii. The District may lease or make contracts or grant licenses for the operation of, or make arrangements for the use of, or grant easements or other rights with respect to, any part of the Event Center, provided that any such lease, contract, license, arrangement, easement or right does not impede the operation of the Event Center; and any payment received by the District under or in connection with any such lease, contract, license, arrangement, easement or right in respect to the Event Center or any part thereof shall constitute Event Center Revenues. [more detail needed here?]
- h. Annual Budget. Prior to the beginning of each Fiscal Year the District shall prepare and adopt a budget for the Event Center for the next ensuing Fiscal Year. At the end of the first six months of each Fiscal Year, the District shall review its budget for such Fiscal Year, and in the event actual Event Center Revenues, Operation and Maintenance Expenses or other requirements do not substantially correspond with such budget, the District shall prepare an amended budget for the remainder of such

**Commented [MM3]:** Gilmore Bell - do we need more detail here?

Fiscal Year. The District also may adopt at any time an amended budget for the remainder of the then current Fiscal Year.

- i. [Add covenant that will operate event center/parking in compliance with tax-exempt covenants on bonds/covenants in tax certificate]

**Commented [MM4]:** Gilmore Bell - can you add language here?

6. Termination of Agreement. At such time as all principal of, and interest on, the Bonds has been paid in full, this Agreement shall automatically terminate without further action of the Parties.

7. Time Is of the Essence. Time is of the essence hereof; provided, however, that if the last day permitted or otherwise determined for the performance of any required act under this Agreement falls on a Saturday, Sunday, or legal holiday, the time for performance shall be extended to the next succeeding business day, unless otherwise expressly stated.

8. Notices and Place for Payments. All notices, demands and communications (collectively, “**Notices**”) under this Agreement shall be delivered or sent by: (a) first class, registered or certified mail, postage prepaid, return receipt requested; (b) nationally recognized overnight carrier, addressed to the address of the intended recipient set forth below or such other address as either party may designate by notice pursuant to this Section 8; or (c) sent by confirmed facsimile transmission, PDF, or email. Notices shall be deemed given either one (1) business day after delivery by the overnight carrier, three (3) days after being mailed as provided in clause (a) above, or upon confirmed delivery as provided in clause (c) above.

District: Point Phase 1 Public Infrastructure District No. 1  
WHITE BEAR ANKELE TANAKA & WALDRON  
Attorneys at Law  
350 E. 400 S. #2301,  
Salt Lake City, UT 84111  
Attention: Blair M. Dickhoner  
(303) 858-1800 (phone)  
(303) 858-1801 (fax)  
[bdickhoner@wbapc.com](mailto:bdickhoner@wbapc.com)

With a copy to:

Pinnacle Consulting Group, Inc.  
550 W. Eisenhower Boulevard  
Loveland, CO 80537  
Attention: Brendan Campbell, CPA  
(970) 669-3611  
[brendanc@pcgi.com](mailto:brendanc@pcgi.com)

Developer: CLW Point Partners LLC  
8111 Douglas Avenue, Ste. 600  
Dallas, TX 75225

LPC West LP  
 915 Wilshire Blvd., Suite 2050  
 Los Angeles, CA 90017  
 Attn: Patrick Gilligan  
 Email: [pgilligan@lpc.com](mailto:pgilligan@lpc.com)

With a copy to:

LPC West LP  
 8111 Douglas Avenue, Suite 600  
 Dallas, TX 75225  
 Attn: Gregory S. Courtwright  
 Email: [gcourtwright@lpc.com](mailto:gcourtwright@lpc.com)

Colmena Group  
 Attn: Kyle Leishman  
 1201 E. Wilmington Ave, #115  
 Salt Lake City, UT 84106  
 Email: [kyle@colmenagroup.com](mailto:kyle@colmenagroup.com)

Wadsworth Development Group, LLC  
 166 E 14000 S., Suite 210  
 Draper, UT 84020  
 Attn: Roman Groesbeck  
 Email: [roman@wadsdev.com](mailto:roman@wadsdev.com)

With an additional copy to:

Snell & Wilmer L.L.P.  
 Attn: Wade Budge  
 15 West South Temple, Suite 1200  
 Salt Lake City, UT 84106  
 Email: [wbudge@swlaw.com](mailto:wbudge@swlaw.com)

Trustee: Zions Bancorporation, N.A.  
 One South Main Street, 12<sup>th</sup> Floor  
 Salt Lake City, UT 84133  
 Attention: Corporate Trust Department  
 Email: [Christian.Jaramillo@zionsbank.com](mailto:Christian.Jaramillo@zionsbank.com)

9. Amendments. This Agreement may only be amended or modified by a writing executed by the Parties.

10. Severability. If any portion of this Agreement is declared by any court of competent jurisdiction to be void or unenforceable, such decision shall not affect the validity of any remaining portion of this Agreement, which shall remain in full force and effect. In addition, in lieu of such

void or unenforceable provision, there shall automatically be added as part of this Agreement a provision similar in terms to such illegal, invalid or unenforceable provision so that the resulting reformed provision is legal, valid and enforceable.

11. Applicable Laws. This Agreement and all claims or controversies arising out of or relating to this Agreement shall be governed and construed in accordance with the law of the State of Utah, without regard to conflict of law principles that would result in the application of any law other than the law of the State of Utah. Venue for all actions arising from this Agreement shall be in the District Court in and for the county in which the District is located.

12. Assignment. In no event shall either party assign, transfer or convey all or any portion of its rights or obligations under this Agreement. Any purported assignment, transfer or conveyance is void.

13. Authority. By execution hereof, the Parties represent and warrant that their respective representatives signing hereunder have full power and authority to execute this Agreement and to bind the respective party to the terms hereof.

14. Entire Agreement. This Agreement constitutes and represents the entire, integrated agreement between the Parties with respect to the matters set forth herein and hereby supersedes any and all prior negotiations, representations, agreements, or arrangements of any kind with respect to those matters, whether written or oral. This Agreement shall become effective upon the date of full execution hereof.

15. Legal Existence. The District will maintain its legal identity and existence so long as the Bonds remain Outstanding. The foregoing statement shall apply unless, by operation of law, another legal entity succeeds to the liabilities and rights of the District.

16. Governmental Immunity. Nothing in this Agreement shall be construed to waive, limit, or otherwise modify, in whole or in part, any governmental immunity that may be available by law to the District, its respective officials, employees, contractors, or agents, or any other person acting on behalf of the District and, in particular, governmental immunity afforded or available to the District, pursuant to the Governmental Immunity Act of Utah, [Utah Code Section 63G-7-101](#), *et seq.*

17. Negotiated Provisions. This Agreement shall not be construed more strictly against one party than against another merely by virtue of the fact that it may have been prepared by counsel for one of the Parties, it being acknowledged that each party has contributed substantially and materially to the preparation of this Agreement.

18. Parties Interested Herein/No Third-Party Beneficiaries. Nothing expressed or implied in this Agreement is intended or shall be construed to confer upon, or to give to, any person other than the Parties any right, remedy, or claim under or by reason of this Agreement or any covenants, terms, conditions, or provisions thereof, and all the covenants, terms, conditions, and provisions in this Agreement by and on behalf of the Parties shall be for the sole and exclusive benefit of the Parties. It is expressly understood and agreed that enforcement of the terms and conditions of this Agreement, and all rights of action relating to such enforcement, shall be strictly reserved to the Parties. Nothing contained in this Agreement shall give or allow any such claim or right of action by any other third parties. It is the express intention of the Parties

that any person other than the Parties receiving services or benefits under this Agreement shall be deemed to be an incidental beneficiary only.

19. Electronic Storage and Execution. The Parties agree that the transactions described in this Agreement may be conducted, and related documents may be signed and stored by electronic means. Copies, telecopies, facsimiles, electronic files, and other reproductions of electronically signed and stored documents shall be deemed to be authentic and valid counterparts of such original documents for all purposes, including the filing of any claim, action, or suit in the appropriate court of law. Any electronic signature affixed to this Agreement or any amendments or consents thereto shall carry the full legal force and effect of any original, handwritten signature.

20. Counterpart Execution. This Agreement may be executed in several counterparts, each of which may be deemed an original, but all of which together shall constitute one and the same instrument. Executed copies hereof may be delivered by facsimile or email of a PDF document, and, upon receipt, shall be deemed originals and binding upon the signatories hereto, and shall have the full force and effect of the original for all purposes, including the rules of evidence applicable to court proceedings.

*[Signature Page Follows]*

IN WITNESS WHEREOF, the Parties have executed this Agreement on the date and year first above written. By the signature of its representative below, each Party affirms that it has taken all necessary action to authorize said representative to execute this Agreement.

**DISTRICT:**

**POINT PHASE 1 PUBLIC  
INFRASTRUCTURE DISTRICT NO. 1**  
a body politic and corporate created and validly  
existing under the laws of the State of Utah

By: \_\_\_\_\_  
Officer of the District

Attest:

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

**APPROVED AS TO FORM:**

WHITE BEAR ANKELE TANAKA & WALDRON  
Attorneys at Law

\_\_\_\_\_  
General Counsel to the District

**DEVELOPER:**

**CLW POINT PARTNERS, LLC**  
a Delaware limited liability company

\_\_\_\_\_

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

**TRUSTEE:**

**ZIONS BANCORPORATION, N.A.**, a national  
banking association, as trustee

---

---

Printed Name

---

Title

## PARKING REVENUE PLEDGE AGREEMENT

---

This PARKING REVENUE PLEDGE AGREEMENT (the “**Agreement**”) is made and entered into as of the \_\_\_\_ day of \_\_\_\_\_, 2025, by and among **POINT PHASE 1 PUBLIC INFRASTRUCTURE DISTRICT NO. 1**, a political subdivision and body corporate and politic of the State of Utah (the “**District**”), **CLW POINT PARTNERS LLC**, a Delaware limited liability company (the “**Developer**”), and **ZIONS BANCORPORATION, N.A.**, a national banking association organized under the laws of the United States with its principal office located in Salt Lake City, Utah, as trustee (the “**Trustee**”). The District, the Developer, and Trustee are collectively referred to herein as the “**Parties**.”

### RECITALS

WHEREAS, the District has been duly and validly organized as a political subdivision and body corporate and politic of the State of Utah, in accordance with the provisions of Title 17D, Chapter 4 of the Utah Code Annotated 1953 (the “**Utah Code**”), as amended from time to time and any successor statute thereto (the “**PID Act**”), Title 17B of the Utah Code, as amended from time to time and any successor statute thereto (the “**Special District Act**”) and the Governing Document for Point Phase 1 Public Infrastructure District Nos. 1 through 9 approved by the Point of the Mountain State Land Authority (“**POMSLA**”) on June 11, 2024, and as may be amended from time to time (the “**Governing Document**”); and

WHEREAS, simultaneous with the execution of this Agreement, the District issued its Tax Assessment and General Revenue Bonds, Series 2025 in the par amount of \$\_\_\_\_\_, and any subsequent refunding or refinancing of the same (collectively, the “**Bonds**”); and

WHEREAS, terms that are not defined in this Agreement shall have the meanings ascribed to them in the Official Statement dated \_\_\_\_\_, 2025 or the General Indenture of Trust dated \_\_\_\_\_, 2025 between the District and the Trustee (the “**General Indenture**”) for the Bonds; and

WHEREAS, the Bonds were issued to pay, in part, all or a portion of the costs of publicly owned infrastructure and improvements as permitted and defined under the Point of the Mountain State Land Authority Act, Title 11, Chapter 59, Utah Code (the “**POMSLA Act**”), consisting of a parking infrastructure within the District and the infrastructure and improvements related thereto; and

WHEREAS, the District anticipates entering into various agreements with qualified vendors to property certain pre-opening consulting services and to manage and operate the Parking Facilities (defined herein); and

WHEREAS, the District anticipates that the net revenues of the District attributable to the Parking Facilities (defined herein), will be available to pay debt service on the Bonds; and

WHEREAS, the Parking Facilities Revenues (defined herein) will not be pledged or hypothecated in any other manner or for any purpose at the time of the issuance of the Bonds, and



the District desires to pledge the Net Parking Facilities Revenues (defined herein) toward the payment of the principal of and interest on the Bonds pursuant to the First Supplemental Indenture of Trust dated as of \_\_\_\_\_, 2025 between the District and the Trustee (the “**First Supplemental Indenture**”), the Tax Sharing Agreement (as defined in the \_\_\_\_\_), and this Agreement; and

WHEREAS, pursuant to the Local Government Bonding Act, Title 11, Chapter 14, Utah Code Annotated 1953, as amended, and/or the Utah Refunding Bond Act, Title 11, Chapter 27, Utah Code Annotated 1953, as amended (collectively, the “**Act**”), the District is authorized to issue bonds payable from, in part, a special fund into which the Net Parking Facilities Revenues (defined herein) may be pledged; and

WHEREAS, the Parties have authorized their respective officers or representatives to execute this Agreement and to take all other actions necessary and desirable to effectuate the purposes of this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and agreements set forth in this Agreement, the Parties agree as follows:

#### **COVENANTS AND AGREEMENTS**

1. **Incorporation of Recitals.** All of the Recitals of this Agreement are hereby incorporated into the Agreement.

2. **Purpose of Agreement.** The purpose of this Agreement is to memorialize the details of the pledge of the Net Parking Facilities Revenues to the payment of the principal of and interest of the Bonds.

3. **Definitions.** As used in this Agreement, the following terms shall have the following meanings unless the context otherwise clearly indicates:

- a. “Bond Fund” means the Point Phase 1 Public Infrastructure District No. 1 Tax Assessment and General Revenue Bonds Bond Fund created in the General Indenture and together with the First Supplemental Indenture (the “**Indenture**”) for the Bonds to be held by the Trustee and administered pursuant to the Indenture for the Bonds.
- b. “Event Center” means an event center within the Project Area related parking facilities supporting the event center and the infrastructure and improvements related thereto that will [\_\_\_\_\_].
- c. “Fiscal Year” means a calendar year (January 1–December 31).
- d. “Net Parking Facility Revenues” means the Parking Facility Revenues after provision has been made for the payment therefrom of Operation and Maintenance Expenses.

**Commented [BD1]:** Add additional information.

- e. "Operation and Maintenance Expenses" means all expenses reasonably incurred in connection with the operation and maintenance of a Parking Facility, whether incurred by the District or paid to any other entity pursuant to contract or otherwise, repairs and renewals (other than capital improvements) necessary to keep a Parking Facility in efficient operating condition, including cost of audits, payment of promotional and marketing expenses and real estate brokerage fees, payment of premiums for the insurance required, administrative costs and, generally all expenses, exclusive of depreciation (including depreciation related expenses of any joint venture) and, any in-lieu of tax transfers to District funds, interest expense for interfund loans from District funds, and reimbursement to the District for general overhead and administration of the District, which under generally accepted accounting practices are properly allocable to operation and maintenance; however, only such expenses as are reasonably and properly necessary to the efficient operation and maintenance of a Parking Facility shall be included.
- f. "Parking Facility" means public or private property used, wholly or partly, for restricted or paid vehicle parking within the Project Area. Parking Facility expressly excludes any public or private property used, wholly or partly, for restricted or paid vehicle parking adjacent to the Event Center.
- g. "Parking Facility Revenues" means all gross income and revenues of any kind, from any source whatsoever, derived from the ownership and operation of a Parking Facility, including, without limitation, all parking revenues generated from a Parking Facility.
- h. "Parking Facility Revenue Fund" means an account controlled by the District and operated as an enterprise fund where all Parking Facility Revenues are held and utilized by the District for the purpose of paying all Operation and Maintenance Expenses (as defined above).
- i. "Project Area" means that area as defined in that certain Disposition and Development Agreement dated November 27, 2023.

**Commented [MM2]:** Robert - please confirm if this should be parking within the District/Project Area/or some other area?

**Commented [MM3]:** There might be a better word here to clarify how the parking for the Event Center is different from the remainder of the parking for the Project.

**Commented [MM4]:** Added to clarify that Parking Facilities adjacent to the Event Center are not part of this pledge agreement because they are covered under the Event Center Revenue Pledge Agreement.

4. Parking Facility Revenues. Unless otherwise provided herein, the Parties hereby agree that all Parking Facility Revenues shall be deposited in the Parking Facility Revenue Fund. The Parking Facility Revenue Fund shall be operated as an enterprise fund with all Parking Facility Revenues accounted for separate and apart from all other moneys of the District.

- a. As a first charge and lien on the Parking Facility Revenues, the District shall cause to be paid from the Parking Facility Revenue Fund, from time to time as the District shall determine, all Operation and Maintenance Expenses of the Parking Facilities as the same become due and payable, and thereupon such expenses shall be promptly paid.
- b. Until such time as all principal of, and interest on, the Bonds has been paid in full, as a second charge and lien on the Parking Facility Revenues after payment of Operation and Maintenance Expenses, the Net Parking Facility Revenues shall be

transferred to the Bond Fund on or before January 31 each year for the payment of principal of and interest on the Bonds and other uses as described in the Indenture.

5. District Covenants. The District hereby covenants and agrees with the Developer and the Trustee as follows:

- a. Expeditious Construction. The District and or the Developer, as applicable, shall complete the construction of all Parking Facilities with all practical dispatch and will cause all construction to be effected in a sound and economical manner.
- b. Management of Parking Facilities. The District, in order to assure the efficient management and operation of the Parking Facilities will employ competent and experienced management for a Parking Facility, will use its best efforts to see that a Parking Facility is at all times operated and maintained in first-class repair and condition, and ensure that the operating efficiency thereof shall be of the highest character.
- c. Use of Legally Available Moneys. Notwithstanding any other provisions hereof, nothing herein shall be construed to prevent the District from (i) paying all or any part of the Operation and Maintenance Expenses from any funds available to the District for such purpose, or (ii) depositing any funds available to the District for such purpose in any account in the Bond Fund for the payment of the interest on, premium, if any, or the principal of any Bonds issued under the Indenture or for the redemption of any such Bonds.
- d. Payment of Taxes and Other Charges. The District covenants that all taxes and assessments or other municipal or governmental charges lawfully levied or assessed upon a Parking Facility or upon any part thereof or upon any income therefrom will be paid when the same shall become due, that no lien or charge upon a Parking Facility or any part thereof or upon any Parking Facility Revenues thereof, except for the lien and charge thereon created hereunder and under the Indenture securing the Bonds, will be created or permitted to be created ranking equally with or prior to the Bonds, and that all lawful claims and demands for labor, materials, supplies or other objects which, if unpaid, might by law become a lien upon a Parking Facility or any part thereof or upon Parking Facility Revenues thereof will be paid or discharged, or adequate provision will be made for the payment or discharge of such claims and demands within 60 days after the same shall accrue; provided, however, that nothing in this Section shall require any such lien or charge to be paid or discharged or provision made therefor so long as the validity of such lien or charge shall be contested in good faith and by appropriate legal proceedings.
- e. Insurance. The District, in its operation of a Parking Facility, will maintain the following insurance coverage: Commercial Property Insurance, to the extent applicable, Worker's Compensation and Employer's Liability Insurance and public liability insurance, in such amounts and to such extent as is normally carried by other public improvement districts in the State of Utah. The cost of such insurance shall be considered an Operation and Maintenance Expense of a Parking Facility.

In the event of loss or damage, insurance proceeds shall be used first for the purpose of restoring or replacing the property lost or damaged. Any remainder shall be paid into the Bond Fund.

- f. Instruments of Further Assurance. The District and the Trustee mutually covenant that they will, from time to time, each upon the written request of the other, to execute and deliver such further instruments and take or cause to be taken such further actions as may be reasonable and as may be required by the other to carry out the purposes hereof; provided, however, that no such instruments or action shall involve any personal liability of the Trustee or members of the governing body of the District or any official thereof.
- g. Covenant Not to Sell. The District will not sell, lease, mortgage, encumber, or in any manner dispose of a Parking Facility or any substantial part thereof, including the infrastructure and improvements related thereto, until all principal of, and interest on, the Bonds has been paid in full, except as follows:
  - i. The District may sell any portion of a Parking Facility which shall have been replaced by other property of like kind and of at least equal value. The District may sell, lease, abandon, mortgage, or otherwise dispose of any portion of a Parking Facility which shall cease to be necessary for the efficient operation of a Parking Facility the disposition of which will not, as reasonably determined by the governing body of the District, result in a material reduction in Net Parking Facility Revenues in any year; and the value of which, as reasonably determined by the governing body of the District (together with any other property similarly disposed of within the 12 calendar months preceding the proposed disposition) does not exceed 10% of the value of a Parking Facility, provided, however, that in the event of any sale or lease as aforesaid, the proceeds of such sale or lease not needed to acquire other Parking Facility property shall be paid into the Bond Fund.
  - ii. The District may lease or make contracts or grant licenses for the operation of, or make arrangements for the use of, or grant easements or other rights with respect to, any part of a Parking Facility, provided that any such lease, contract, license, arrangement, easement or right does not impede the operation of a Parking Facility; and any payment received by the District under or in connection with any such lease, contract, license, arrangement, easement or right in respect to a Parking Facility or any part thereof shall constitute Parking Facility Revenues.
- h. Annual Budget. Prior to the beginning of each Fiscal Year the District shall prepare and adopt a budget for the Parking Facilities for the next ensuing Fiscal Year. At the end of the first six months of each Fiscal Year, the District shall review its budget for such Fiscal Year, and in the event actual Parking Facility Revenues, Operation and Maintenance Expenses or other requirements do not substantially correspond with such budget, the District shall prepare an amended budget for the

remainder of such Fiscal Year. The District also may adopt at any time an amended budget for the remainder of the then current Fiscal Year.

- i. [Add covenant that will operate Parking Facilities in compliance with tax-exempt covenants on bonds/covenants in tax certificate]

**Commented [MM5]:** Gilmore Bell - can you add language here?

6. Termination of Agreement. At such time as all principal of, and interest on, the Bonds has been paid in full, this Agreement shall automatically terminate without further action of the Parties.

7. Time Is of the Essence. Time is of the essence hereof; provided, however, that if the last day permitted or otherwise determined for the performance of any required act under this Agreement falls on a Saturday, Sunday, or legal holiday, the time for performance shall be extended to the next succeeding business day, unless otherwise expressly stated.

8. Notices and Place for Payments. All notices, demands and communications (collectively, “**Notices**”) under this Agreement shall be delivered or sent by: (a) first class, registered or certified mail, postage prepaid, return receipt requested; (b) nationally recognized overnight carrier, addressed to the address of the intended recipient set forth below or such other address as either party may designate by notice pursuant to this Section 8; or (c) sent by confirmed facsimile transmission, PDF, or email. Notices shall be deemed given either one (1) business day after delivery by the overnight carrier, three (3) days after being mailed as provided in clause (a) above, or upon confirmed delivery as provided in clause (c) above.

District: Point Phase 1 Public Infrastructure District No. 1  
WHITE BEAR ANKELE TANAKA & WALDRON  
Attorneys at Law  
350 E. 400 S. #2301,  
Salt Lake City, UT 84111  
Attention: Blair M. Dickhoner  
(303) 858-1800 (phone)  
(303) 858-1801 (fax)  
[bdickhoner@wbapc.com](mailto:bdickhoner@wbapc.com)

With a copy to:

Pinnacle Consulting Group, Inc.  
550 W. Eisenhower Boulevard  
Loveland, CO 80537  
Attention: Brendan Campbell, CPA  
(970) 669-3611  
[brendanc@pcgi.com](mailto:brendanc@pcgi.com)

Developer: CLW Point Partners LLC  
8111 Douglas Avenue, Ste. 600  
Dallas, TX 75225

LPC West LP  
 915 Wilshire Blvd., Suite 2050  
 Los Angeles, CA 90017  
 Attn: Patrick Gilligan  
 Email: [pgilligan@lpc.com](mailto:pgilligan@lpc.com)

With a copy to:

LPC West LP  
 8111 Douglas Avenue, Suite 600  
 Dallas, TX 75225  
 Attn: Gregory S. Courtwright  
 Email: [gcourtwright@lpc.com](mailto:gcourtwright@lpc.com)

Colmena Group  
 Attn: Kyle Leishman  
 1201 E. Wilmington Ave, #115  
 Salt Lake City, UT 84106  
 Email: [kyle@colmenagroup.com](mailto:kyle@colmenagroup.com)

Wadsworth Development Group, LLC  
 166 E 14000 S., Suite 210  
 Draper, UT 84020  
 Attn: Roman Groesbeck  
 Email: [roman@wadsdev.com](mailto:roman@wadsdev.com)

With an additional copy to:

Snell & Wilmer L.L.P.  
 Attn: Wade Budge  
 15 West South Temple, Suite 1200  
 Salt Lake City, UT 84106  
 Email: [wbudge@swlaw.com](mailto:wbudge@swlaw.com)

Trustee: Zions Bancorporation, N.A.  
 One South Main Street, 12<sup>th</sup> Floor  
 Salt Lake City, UT 84133  
 Attention: Corporate Trust Department  
 Email: [Christian.Jaramillo@zionsbank.com](mailto:Christian.Jaramillo@zionsbank.com)

9. Amendments. This Agreement may only be amended or modified by a writing executed by the Parties.

10. Severability. If any portion of this Agreement is declared by any court of competent jurisdiction to be void or unenforceable, such decision shall not affect the validity of any remaining portion of this Agreement, which shall remain in full force and effect. In addition, in lieu of such

void or unenforceable provision, there shall automatically be added as part of this Agreement a provision similar in terms to such illegal, invalid or unenforceable provision so that the resulting reformed provision is legal, valid and enforceable.

11. Applicable Laws. This Agreement and all claims or controversies arising out of or relating to this Agreement shall be governed and construed in accordance with the law of the State of Utah, without regard to conflict of law principles that would result in the application of any law other than the law of the State of Utah. Venue for all actions arising from this Agreement shall be in the District Court in and for the county in which the District is located.

12. Assignment. In no event shall either party assign, transfer or convey all or any portion of its rights or obligations under this Agreement. Any purported assignment, transfer or conveyance is void.

13. Authority. By execution hereof, the Parties represent and warrant that their respective representatives signing hereunder have full power and authority to execute this Agreement and to bind the respective party to the terms hereof.

14. Entire Agreement. This Agreement constitutes and represents the entire, integrated agreement between the Parties with respect to the matters set forth herein and hereby supersedes any and all prior negotiations, representations, agreements, or arrangements of any kind with respect to those matters, whether written or oral. This Agreement shall become effective upon the date of full execution hereof.

15. Legal Existence. The District will maintain its legal identity and existence so long as the Bonds remain Outstanding. The foregoing statement shall apply unless, by operation of law, another legal entity succeeds to the liabilities and rights of the District.

16. Governmental Immunity. Nothing in this Agreement shall be construed to waive, limit, or otherwise modify, in whole or in part, any governmental immunity that may be available by law to the District, its respective officials, employees, contractors, or agents, or any other person acting on behalf of the District and, in particular, governmental immunity afforded or available to the District, pursuant to the Governmental Immunity Act of Utah, [Utah Code Section 63G-7-101](#), *et seq.*

17. Negotiated Provisions. This Agreement shall not be construed more strictly against one party than against another merely by virtue of the fact that it may have been prepared by counsel for one of the Parties, it being acknowledged that each party has contributed substantially and materially to the preparation of this Agreement.

18. Parties Interested Herein/No Third-Party Beneficiaries. Nothing expressed or implied in this Agreement is intended or shall be construed to confer upon, or to give to, any person other than the Parties any right, remedy, or claim under or by reason of this Agreement or any covenants, terms, conditions, or provisions thereof, and all the covenants, terms, conditions, and provisions in this Agreement by and on behalf of the Parties shall be for the sole and exclusive benefit of the Parties. It is expressly understood and agreed that enforcement of the terms and conditions of this Agreement, and all rights of action relating to such enforcement, shall be strictly reserved to the Parties. Nothing contained in this Agreement shall give or allow any such claim or right of action by any other third parties. It is the express intention of the Parties

that any person other than the Parties receiving services or benefits under this Agreement shall be deemed to be an incidental beneficiary only.

19. Electronic Storage and Execution. The Parties agree that the transactions described in this Agreement may be conducted, and related documents may be signed and stored by electronic means. Copies, telecopies, facsimiles, electronic files, and other reproductions of electronically signed and stored documents shall be deemed to be authentic and valid counterparts of such original documents for all purposes, including the filing of any claim, action, or suit in the appropriate court of law. Any electronic signature affixed to this Agreement or any amendments or consents thereto shall carry the full legal force and effect of any original, handwritten signature.

20. Counterpart Execution. This Agreement may be executed in several counterparts, each of which may be deemed an original, but all of which together shall constitute one and the same instrument. Executed copies hereof may be delivered by facsimile or email of a PDF document, and, upon receipt, shall be deemed originals and binding upon the signatories hereto, and shall have the full force and effect of the original for all purposes, including the rules of evidence applicable to court proceedings.

*[Signature Page Follows]*



IN WITNESS WHEREOF, the Parties have executed this Agreement on the date and year first above written. By the signature of its representative below, each Party affirms that it has taken all necessary action to authorize said representative to execute this Agreement.

**DISTRICT:**

**POINT PHASE 1 PUBLIC  
INFRASTRUCTURE DISTRICT NO. 1**  
a body politic and corporate created and validly  
existing under the laws of the State of Utah

By: \_\_\_\_\_  
Officer of the District

Attest:

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

**APPROVED AS TO FORM:**

WHITE BEAR ANKELE TANAKA & WALDRON  
Attorneys at Law

\_\_\_\_\_  
General Counsel to the District

**DEVELOPER:**

**CLW POINT PARTNERS, LLC**  
a Delaware limited liability company

\_\_\_\_\_

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

**TRUSTEE:**

**ZIONS BANCORPORATION, N.A.**, a national  
banking association, as trustee

\_\_\_\_\_

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

ZIONS PUBLIC FINANCE, INC.

## Agreement for Municipal Advisory Services

THIS AGREEMENT, is being entered into as of the 25<sup>th</sup> day of September, 2024 by and between POINT OF THE MOUNTAIN PUBLIC INFRASTRUCTURE DISTRICT NO. 1, hereinafter "CLIENT" and ZIONS PUBLIC FINANCE, Inc., a wholly-owned subsidiary of Zions Bancorporation, N.A., hereinafter "Zions".

### WITNESSETH

WHEREAS, CLIENT desires to receive professional municipal advisory services from an independent Municipal Advisor; and

WHEREAS, Zions, as a registered "municipal advisor" with both the Securities Exchange Commission ("SEC") and Municipal Securities Rulemaking Board ("MSRB"), is qualified and capable to provide such services to CLIENT; and

WHEREAS, CLIENT desires to enter into this Agreement with Zions to obtain its financial advisory services relating to CLIENT's financings, with the exception of those financings specifically excluded under Section 2 below, or otherwise limited in **Exhibit A** hereof.

NOW, THEREFORE, CLIENT and Zions agree as follows:

1. Zions acknowledges that, under this Agreement and in accordance with the rules and regulations adopted by the SEC and MSRB, it owes certain duties to CLIENT and agrees to act in accordance with these rules and regulations, as applicable. Zions agrees to provide the following services to CLIENT, as requested:

(a) Render financial advice and assistance on fiscal matters pertaining to debt policies and procedures, the level and trend of fund balances, debt ratios, funding options, and the issuance and sale of CLIENT's securities, including notes, bonds, leases, loans and other forms of securities or financings.

(b) Provide written advice and recommendations concerning financing structures including revenue pledges, use of senior and subordinated tranches of bonds, length of amortization, ratings and insurance, maturity schedules, interest rates, call provisions, premiums and discounts, security provisions, coverage covenants, and other terms of the proposed debt.

(c) Assist in the selection of other financing team members as requested, including, but not limited to, bond counsel, disclosure counsel, underwriter(s), trustees, paying agents, bond registrars, escrow agents, escrow verification agents, rating agencies, bond insurers, arbitrage rebate consultants and any other parties engaged in providing services for the financing in question.

(d) Work cooperatively with CLIENT's other financing professionals to the end that securities may be legally and successfully sold and issued. All other financing professionals will be paid by CLIENT.

(e) For a negotiated underwriting, Zions will assist in the preparation and review of the PLOM and other bond documents necessary for the transaction.

(f) Zions will provide advice and recommendations regarding the underwriter's proposed bond pricing, including the appropriateness of the yields, coupons, and other terms proposed by the underwriter(s) both prior to and during the final pricing of the bonds.

(g) Attend meetings as requested by CLIENT to discuss and formulate plans about proposed financings. This may include public hearings and meetings of CLIENT's governing body, smaller groups focused on public finance funding options, meetings with state or legislative groups, and the Point of the Mountain State Land Authority.

(h) Assist CLIENT in its preparation of financing documents, data, and other information as may be required by any state or federal agency, rating agencies, bond insurers and underwriters.

(i) Assist with the review of a Preliminary Limited Offering Memorandum (PLOM) or other offering documents for each financing transaction, setting forth financial and other information about CLIENT and the bonds or other debt instrument being offered for sale.

(j) Participate in a "Due Diligence" meeting or meetings of CLIENT prior to the finalization and distribution of any Offering Document in an effort to assist the CLIENT with disclosing full and complete disclosure of all information which could be considered "material" to any purchaser of bonds. CLIENT understands that as a condition of marketing the bonds, it will be necessary to authorize and direct its appropriate officers to execute a certificate and/or other closing documents, confirming the truth and accuracy of all information contained in the preliminary and final Offering Document. Except as otherwise provided herein, Zions is not responsible for certifying as to the accuracy or completeness of any preliminary or final Offering Document, other than with respect to any information about Zions provided by Zions for inclusion in such documents.

(k) Assist in delivery of the Offering Document, together with the Notice of Sale, to underwriters or potential purchasers of CLIENT's bonds.

(l) Submit information concerning the proposed financing(s) to selected rating agencies in an effort to obtain favorable ratings on CLIENT's financings. If requested, Zions will organize, assist in the preparation of, and participate in CLIENT's presentations made to rating agencies, bond insurers, or investors in New York City, San Francisco, or other locations. The actual fees and related expenses of any such presentation are to be paid by CLIENT.

(m) Coordinate the closing of the debt issue, including the transfer of funds and the delivery of the securities to the underwriter(s) or purchaser(s).

- (n) Assist with post-closing compliance issues such as private use and tax-exemption issues, audits by regulators or federal agencies, arbitrage compliance, etc.
- (o) Monitor market conditions to identify refunding opportunities for interest savings. Analyze purported savings in refunding proposals made by other market participants.
- (p) Any additional services listed on **Exhibit A** hereof.

The CLIENT acknowledges and agrees that most tasks requested by the CLIENT will not require all services described above and, as such, the specific scope of services for such tasks shall be limited to just those services requested by the Client to be completed.

2. Zions hereby confirms that it is registered as a “municipal advisor” with the SEC and MSRB. Zions will not provide municipal advisory services to CLIENT under this Agreement with respect to any commercial banking transaction between CLIENT and Zions.
3. CLIENT agrees that in consideration for the foregoing services to be performed by Zions, CLIENT shall:
  - (a) cooperate with Zions and provide all information which is reasonably required to enable Zions to fulfill its duties to CLIENT hereunder.
  - (b) pass such resolutions and perform such reasonable acts as may be necessary to assure compliance with all applicable laws, ordinances and constitutional provisions pertaining to the issuance of its securities and other related services.
  - (c) furnish Zions with certified copies of all minutes from meetings and proceedings taken, affidavits of publications, etc., in connection with any of the securities issued by CLIENT.
  - (d) pay Zions for services herein outlined and other services incidental hereto. The CLIENT will pay Zions a fee of \$2.50 per \$1,000 of bond proceeds for services rendered leading up to and in conjunction with the issuance and sale of bonds by the Point of the Mountain Public Infrastructure District No. 1. Fees shall be due and payable only at the successful closing of a financing.

MSRB Rule G-42 requires that Zions make a reasonable inquiry as to the facts that are relevant to CLIENT’s determination whether to proceed with a course of action or that form the basis for any advice provided by Zions to CLIENT. The rule also requires that Zions undertake a reasonable investigation to determine that it is not basing any recommendation on materially inaccurate or incomplete information. Zions is also required under the rule to use reasonable diligence to know the essential facts about CLIENT and the authority of each person acting on CLIENT’s behalf.

CLIENT agrees to cooperate, and to cause its agents to cooperate, with Zions in carrying out these regulatory duties, including providing to Zions accurate and complete information and reasonable access to relevant documents, other information and personnel needed to fulfill such duties. In addition, CLIENT agrees that, to the extent CLIENT seeks to have Zions provide advice with regard to any recommendation made by a third party, CLIENT will provide to Zions written direction to

do so as well as any information it has received from such third party relating to its recommendation.

CLIENT hereby acknowledges and agrees with the Disclosure Statement attached hereto as **Exhibit B**.

4. It is understood that the execution of this Agreement secures the services of Zions as CLIENT's Municipal Advisor for a period of five (5) years. Either party may cancel and terminate this Agreement on any anniversary date of this Agreement, for any reason, upon 30 days' prior written notice to the other party of such termination.

5. The information used in developing forecast assumptions will be derived from published information and other sources that Zions considers appropriate. However, Zions does not assume responsibility for the accuracy of such material. Forecasts are subject to many uncertainties; therefore, Zions does not represent that any projections of growth will be representative of the results that actually will occur.

6. In the absence of willful misconduct, bad faith, gross negligence or reckless disregard of obligations or duties hereunder on the part of Zions or any of its associated persons, Zions and its associated persons shall have no liability to CLIENT for any act or omission in the course of, or connected with, rendering services hereunder, or for any error of judgment or mistake of law, or for any loss arising out of any issuance of municipal securities, any municipal financial product or any other investment, or for any financial or other damages resulting from CLIENT's election to act or not to act, as the case may be, contrary to any advice or recommendation provided by Zions to CLIENT. No recourse shall be had against Zions for loss, damage, liability, cost or expense (whether direct, indirect or consequential) of CLIENT arising out of or in defending, prosecuting, negotiating or responding to any inquiry, questionnaire, audit, suit, action, or other proceeding brought or received from the Internal Revenue Service in connection with any issue or product or otherwise relating to the tax treatment of any issue or product or in connection with any opinion or certificate rendered by counsel or any other party. Notwithstanding the foregoing, nothing contained in this paragraph or elsewhere in this Agreement shall constitute a waiver by CLIENT of any of its legal rights under applicable U.S. federal securities laws or any other laws whose applicability is not permitted to be contractually waived, nor shall it constitute a waiver or diminution of Zions's duties to CLIENT under SEC and MSRB rules.

7. Zions' services consist solely in providing financial advisory services to municipalities as a municipal advisor and consultant. Zions does not render any legal, accounting or actuarial advice.

8. This Agreement constitutes the entire Agreement between the parties.

9. This Agreement shall be interpreted under the laws of and enforced in the courts of the State of Utah.

10. To the extent permitted by law, any dispute, controversy or claim arising out of or based upon the terms of this Agreement or the transactions contemplated hereby shall be settled exclusively and finally by binding arbitration. Upon written demand for arbitration by any party hereto, the parties to the dispute shall confer and attempt in good faith to agree upon one arbitrator. If the parties have not agreed upon an arbitrator within thirty (30) days after receipt

of such written demand, each party to the dispute shall appoint one arbitrator and those two arbitrators shall agree upon a third arbitrator. Any arbitrator or arbitrators appointed as provided in this section shall be selected from panels maintained by, and the binding arbitration shall be conducted in accordance with the commercial arbitration rules of, the American Arbitration Association (or any successor organization), and such arbitration shall be binding upon the parties. The arbitrator or arbitrators shall have no power to add or detract from the agreements of the parties and may not make any ruling or award that does not conform to the terms and conditions of this Agreement. The arbitrator or arbitrators shall have no authority to award punitive damages or any other damages not measured by the prevailing party's actual damages. Judgment upon an arbitration award may be entered in any court having jurisdiction. The prevailing party in the arbitration proceedings shall be awarded reasonable attorney fees and expert witness costs and expenses.

11. In the event any provision of this Agreement shall be held invalid or unenforceable by a court of competent jurisdiction, to the extent permitted by law, such holding shall not invalidate or render unenforceable any other provision hereof.

12. This Agreement and the attached Exhibits and Schedules constitute the entire agreement between Zions and the CLIENT and supersedes any prior agreement between Zions and the CLIENT with respect to municipal advisory services provided hereunder, except as is set forth in an Addendum, if any, which is made a part of this Agreement and which is signed by both Zions and the CLIENT.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed as of the day and year first above written.

POINT OF THE MOUNTAIN PUBLIC  
INFRASTRUCTURE DISTRICT NO. 1

By \_\_\_\_\_  
District

ZIONS PUBLIC FINANCE, Inc.  
A wholly-owned subsidiary of  
ZIONS BANCORPORATION, N.A.

By \_\_\_\_\_  
Brian Baker, Vice President

Principal Approval

By \_\_\_\_\_  
Johnathan Ward, Senior Vice President



**Exhibit A**

**Covered Financings**

All financings of the Point of the Mountain Public Infrastructure District No. 1.

**Additional Services**

None

**Exhibit B**  
**Zions Public Finance, Inc.**  
Disclosure Statement of  
Municipal Advisor

**REGULATORY DISCLOSURES: MSRB RULE G-42**

The Municipal Securities Rulemaking Board (MSRB) Rule G-42 requires all Municipal Advisors to disclose to their clients, in writing, any actual or potential material conflicts of interest, including with respect to certain specifically identified categories in Rule G-42, if applicable. Zions Public Finance, Inc. (hereinafter “Zions”) makes the disclosures set forth below with respect to material actual or potential conflicts of interest in connection with our Agreement for Municipal Advisory Services (the “Agreement”) dated September 25, 2024 with CLIENT, together with an explanation of how Zions addresses, or intends to manage or mitigate each conflict.

**Mitigation of Conflicts of Interest**

With respect to each actual or potential conflict disclosed below, (i) for its municipal entity CLIENT, Zions mitigates such conflicts through adherence to SEC and MSRB rules, including compliance with our fiduciary duty and duty of fair dealing to the CLIENT, which includes a duty of loyalty in performing all municipal advisory activities for CLIENT and (ii) for its obligated person CLIENT, Zions mitigates such conflicts through adherence to SEC and MSRB rules, including compliance with our duty of care and duty of fair dealing, in performing all municipal advisory activities for CLIENT. Because Zions is part of a much larger banking organization, our profitability is not dependent on maximizing short-term revenues generated from our municipal advisory activities, but instead is dependent on long-term profitability built on a foundation of integrity, quality service, and compliance with SEC and MSRB rules.

**Compensation Based Conflicts**

Zions may receive compensation from CLIENT for services rendered which may be contingent upon the successful closing of a transaction, and/or where our compensation may be based in whole or in part on the size of the transaction. In other situations, our compensation may be based upon an hourly rate or rates. In still other situations, our compensation may be based upon an annual retainer or a fixed fee for a given project. While these forms of compensation are typical in the municipal securities market, each of these methods of compensation may present a potential conflict of interest regarding our ability to provide unbiased advice to enter into such transaction.

For example, fees that are (i) dependent upon the size of and successful closing of a transaction could create an incentive for Zions to recommend unnecessary, oversized, or disadvantageous financings in order to increase our compensation; (ii) based upon an hourly rate could create an incentive for Zions to recommend alternatives that result in greater hours worked; and (iii) based upon an annual retainer or fixed fee could incentivize Zions to recommend less time-consuming alternatives or fail to do a more thorough analysis of alternatives. In each case, Zions represents that the potential conflict of interest relating to compensation will not impair our ability to render unbiased and competent advice, to fulfill our duties as described above to the CLIENT, and to comply with SEC and MSRB rules.

### Relationship Based Conflicts

Zions has numerous municipal advisory relationships with various governmental entities that may from time to time have interests that could have a direct or indirect impact on CLIENT's interests. For example, Zions' other municipal advisory clients may from time to time, and depending on specific circumstances, have competing interests, such as accessing the new issue market with the most advantageous timing and with limited competition at the time of the offering. In acting in the interests of its various clients, Zions could potentially face a conflict of interest arising from these competing client interests. In addition to the general mitigations described above, Zions will mitigate any such potential conflict through full written disclosure to CLIENT in a timely manner.

In addition to serving as municipal advisor to CLIENT, Zions may, from time to time, serve as a municipal advisor to a conduit borrower. In such event, CLIENT and the conduit borrower may have conflicting interests with regard to fees, terms of the issuance, and other matters. In addition to the general mitigations described above, Zions will mitigate any such potential conflict through full written disclosure to both the conduit borrower and CLIENT in a timely manner.

### Affiliate Based Conflicts

As a part of ZIONS BANCORPORATION, N.A., a nationally-chartered banking association, Zions has many affiliated businesses that have provided, or desire to provide, services to governmental entities, including CLIENT.

These affiliates include:

- Zions Bank Corporate Trust, a service department of ZIONS BANCORPORATION, N.A, and related to Zions ("Corporate Trust"), offers corporate trustee and custodial services to municipal issuers and obligated persons. If a client engages in these services, it is done directly with Corporate Trust under a separate agreement.
- Zions Capital Advisor Institutional Liquidity Management ("ZCA"), an affiliate and SEC registered investment advisor provides discretionary money management to institutional clients for a fee. If the client engages ZCA for these services, it will be dealing directly with ZCA under its own agreement and disclosures.
- Zions Bank Capital Markets, an affiliated bank dealer, provides underwriting and dealer services to institutional clients including municipal issuers. Additionally, the dealer may take positions or underwrite securities for other municipal issuers.
- Zions Bank, a division of ZIONS BANCORPORATION, N.A, provides traditional banking services to municipal clients through their branch locations and treasury departments. Any products or services offered are subject to the terms and conditions of the bank agreement for the engagement.

Corporate Trust is the only affiliate that may be expected to provide services that are directly related to the Municipal Advisory activities to be provided by Zions within the scope of services under the Agreement. Corporate Trust acts as a Paying Agent, Registrar, Trustee, and Escrow Agent to municipal clients on municipal financings. Corporate Trust's desire to do business with CLIENT could create an

incentive for Zions to recommend a course of action that increases the level of CLIENT's business activity with this affiliate. In addition to the general mitigations described above, in the event that Zions makes a recommendation to CLIENT that could influence the level of business with Corporate Trust, Zions will consider alternatives to such recommendations which will be disclosed to CLIENT along with the potential impact such recommendations and alternatives would have on CLIENT and the affiliate.

As further described below, Zions Bank, an affiliate of Zions, may from time to time make bank loans to or purchase leases or securities from CLIENT, which such loans and purchases are expressly excluded from the scope of the Agreement.

After reviewing our list of existing affiliate relationships and upcoming transactions, we cannot identify any existing material conflicts of interest that would prevent us from serving as municipal advisor to CLIENT or that are not mitigated by compliance with SEC and MSRB rules. If Zions becomes aware of any additional potential or actual material conflicts of interest after this initial disclosure, Zions will disclose the detailed information, in writing, to CLIENT in a timely manner.

#### **Legal or Disciplinary Events**

Zions does not have any legal or disciplinary events disclosed on Zions' Form MA or any Form MA-I. These forms include information about any criminal actions, regulatory actions, investigations, terminations, judgments, liens, civil judicial actions, customer complaints, arbitrations and civil litigation. Each of Zions' most recent Form MA and Form MA-I filed with the SEC may be accessed electronically on the following website: [www.sec.gov/edgar/searchedgar/companysearch.html](http://www.sec.gov/edgar/searchedgar/companysearch.html).

If any material legal or disciplinary event is required to be disclosed on Form MA or any Form MA-I, Zions will provide such disclosure to you, allowing you to evaluate such legal or disciplinary event.

#### **Contract Exemption for Bank Transactions**

In our proposed Municipal Advisory Agreement, there is a provision that specifically excludes from the Agreement commercial banking transactions between Zions and the CLIENT ("Bank Transactions").

If a municipal entity CLIENT determines that it would like one of Zions' affiliates to directly engage in a Bank Transaction, and provided that Zions has not previously provided any advice to municipal entity CLIENT on the Bank Transaction, Zions will deliver to municipal entity CLIENT an additional disclosure document.

#### **REGULATORY DISCLOSURES: MSRB RULE G-10**

Rule G-10 requires municipal advisors to provide certain notices to clients within specified timeframes.

Zions hereby provides, and no less than once each calendar year hereafter during the course of the municipal advisory relationship will provide, in writing (which may be electronic) to the client, the following items of information:

- (i) Zions Public Finance, Inc. is registered as a "municipal advisor" with the SEC and the MSRB, as required by section 15B of the Securities Exchange Act and the rules adopted by the MSRB;

- (ii) the website address for the MSRB is [www.msrb.org](http://www.msrb.org); and
- (iii) the MSRB has made available on its website a municipal advisory client brochure that describes the protections that may be provided by MSRB rules and how to file a complaint with the appropriate regulatory authority.