POINT PHASE 1 PUBLIC INFRASTRUCTURE DISTRICT NOS. 1-9

JOINT MEETING

July 29, 2025, at 1:30 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: 212 282 392 372 7 PASSCODE: dQ9Rt3Uh DIAL IN: 720-721-3140

PHONE CONFERENCE ID: 474 639 552#

Trustees	Terms
Jay Hardy - Chair	Term from June 28, 2024, to 4 years from appointment
Robert Booth – Treasurer/Vice Chair	Term from June 28, 2024, to 6 years from appointment
Zachary Clegg – Clerk/Secretary	Term from June 28, 2024, to 6 years from appointment
Trever Nicoll - Trustee	Term from June 28, 2024, to 4 years from appointment
Michael Ambre – Trustee	Term from June 28, 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.
- 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 July 7, 2025, Joint Meeting.
 - b. Ratification of Declaration of Covenants Imposing and Implementing the Event Center Sales and Parking Add on Public Improvement Fee.
 - c. Ratification of Service Agreement between Pinnacle Consulting Group, Inc. and the Point Phase 1 Public Infrastructure District No. 1 for PIF Collection Services.
 - d. Ratification of Service Agreement between Pinnacle Consulting Group, Inc. and the Point Phase 1 Public Infrastructure District No. 1 for Accounting Services.
 - e. Approval of First Amendment to the Joint Resolution Adopting Procurement and Administrative Rules.

- f. Approval of Pre-Opening Services and Management Agreement Between the Point Phase 1 Public Infrastructure District No. 1 and Oak View Group.
- g. Approval of Contract for Geotechnical Study Services Between the Point Phase 1 Public Infrastructure District No. 1 and GSH Geotechnical, Inc.
- h. Approval of Contract for Parking Consulting Services with Metropolis.(To be distributed under a separate cover)
- i. Approval of Assignment and Assumption of Standard Form of Agreement
 Between Owner and Architect with Arcadis Inc.
- j. Approval of Assignment and Assumption of Professional Services Agreement with Kimley-Horn and Associates, Inc.
- k. Approval of Assignment and Assumption of Event Venue Professional Services Agreement with Kimley-Horn and Associates, Inc.
- Approval of Assignment and Assumption of Landscape Architectural Professional Services Agreement with Rios, Inc.
- m. Approval of Assignment and Assumption of Contract with Rios, Inc.
- 5. Discussion Items.
 - a. Insurance Coverage.
 - b. Regular Meeting Schedule.
- 6. Administrative Non-Action Items.
- 7. Adjourn.

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

HELD July 7, 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 at 1:30 p.m.

ATTENDANCE

Trustees in Attendance:

Jay Hardy – Chair

Robert Booth – Treasurer/Vice Chair Zachary Clegg – Clerk/Secretary

Trever Nicoll – Trustee Michael Ambre - Trustee

Also in Attendance:

Megan Murphy, Esq., and Blair Dickhoner, Esq.; WBA Local

Government Law

Shannon McEvoy, Brendan Campbell, and Jake Downing; Pinnacle

Consulting Group, Inc.

Adam Daly, Esq.; Gilmore & Bell, P.C.

Christian Jaramillo; Zions Bank.

Barrett Marrocco; The Connextion Group.

Benjamin Becker; Piper Sandler.

ADMINISTRATIVE ITEMS

<u>Call to Order</u>: The Meeting of the Board of Trustees (collectively, the "Board") of the Point Phase 1 Public Infrastructure District Nos. 1-9 (collectively, the "Districts") was called to order by Mr. McEvoy.

<u>Declaration of Quorum</u>: Mr. McEvoy noted that a quorum was present, with five out of five 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 presented.

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RECORD OF PROCEEDINGS

<u>PUBLIC COMMENT</u> There were no public comments to come before the board.

ACTION ITEMS

<u>Minutes – May 21, 2025, Joint Meeting</u>: Mr. McEvoy presented the minutes of the May 21, 2025, Joint Meeting to the Board. Upon a motion duly made by Mr. Booth, seconded by Mr. Hardy, and upon vote, unanimously carried, it was

RESOLVED to approve the minutes of the May 21, 2025, Joint Meeting, as presented.

Resolution Regarding Acceptance of District Eligible Costs (Cost Certification #01) and Administrative Costs: Ms. Murphy, Mr. Marrocco, and Mr. Campbell presented the Resolution Regarding Acceptance of District Eligible Costs (Cost Certification #01) and Administrative Costs to the Board and answered questions. After 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 Resolution Regarding Acceptance of District Eligible Costs (Cost Certification #01) and Administrative Costs in a total amount of \$3,911,068.01, subject to final legal review.

<u>Investment options for Bond Revenue</u>: Mr. McEvoy and Mr. Jaramillo presented the Investment options for Bond Revenue to the Board and answered questions. After 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 Utah Public Treasurers' Investment Fund (PTIF) as the Investment Option for Bond Revenue.

DISCUSSION ITEMS

Mr. Hardy discussed with the Board and Mr. Jaramillo the necessary documents to be completed to move forward with the distribution of Bond Revenues to PTIF. Mr. Jaramillo stated that documents would be distributed for the Board to sign.

<u>ADMINISTRATIVE</u> Th

Non-Action Items

There were no Administrative Non-Action items discussed among the Boards.

RECORD OF PROCEEDINGS

ADJOURNMENT There being no further business to come before the Boards, upon a motion duly made by Mr. Booth, seconded by Mr. Clegg, and upon vote, unanimously carried, the meeting was adjourned. 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.

WHEN RECORDED, RETURN TO:

POINT PHASE I PUBLIC INFRASTRUCTURE DISTRICT NO. 1 c/o White Bear Ankele Tanaka & Waldron 350 E 400 S, #2301 Salt Lake City, UT 84111

Affects Parcel No(s).: See Exhibit A

DECLARATION OF COVENANTS IMPOSING AND IMPLEMENTING THE EVENT CENTER SALES AND PARKING ADD ON PUBLIC IMPROVEMENT FEE

THIS DECLARATION OF COVENANTS IMPOSING AND IMPLEMENTING THE EVENT CENTER SALES AND PARKING ADD ON PUBLIC IMPROVEMENT FEE, as it may be supplemented or amended from time to time (this "**PIF Covenant**") is made as of the 27th day of June, 2025 (the "**Effective Date**"), by POINT PHASE I PUBLIC INFRASTRUCTURE DISTRICT NO. 1, an independent political subdivision of the State of Utah (the "**Declarant**").

RECITALS

- A. Except as otherwise expressly provided herein or unless the context requires otherwise, capitalized terms used in this PIF Covenant have the meanings set forth in <u>Section 1</u> of this PIF Covenant, and references to Sections and Exhibits will refer to Sections and Exhibits of this PIF Covenant.
- B. As of the Effective Date, the State owns the fee interest in the real property more particularly described on **Exhibit A**, attached hereto and incorporated herein (the "**Property**"), which is located in the City of Draper, Salt Lake County, Utah.
- C. The Declarant ground leases the Property from POINT OF THE MOUNTAIN STATE LAND AUTHORITY, an independent entity of the State of Utah ("POMSLA") pursuant to a Ground Lease Agreement dated June 12, 2025 (the "Ground Lease"), as evidenced by that certain Memorandum of Ground Lease recorded on June 23, 2025 as Entry No. 14400690 in the real property records of the County. Section 10.5 of the Ground Lease authorizes the Declarant to record and enforce this PIF Covenant on the Property.
- D. To accommodate and advance the Project, significant investment will be required to bring all systems in the vicinity of the Project up to appropriate standards and to provide necessary infrastructure to benefit this area and the community as a whole.
- E. The Declarant intends to develop and construct or cause to be developed and constructed the Eligible Improvements for the benefit of the Project.
- F. In consideration of the benefits to be provided to the Property with respect to Eligible Improvements, the Declarant desires to impose a public improvement fee on the Property

in accordance with the terms of this PIF Covenant for the purpose of generating revenues to pay the costs of constructing, operating, maintaining, repairing, and replacing the Eligible Improvements.

- G. The District (defined later) has been duly and validly organized as an independent political subdivision of the State of Utah, in accordance with the provisions of the Public Infrastructure District Act (defined later) and the Governing Document (defined later).
- H. The District is organized to provide for the design, acquisition, financing, construction, completion, operation, and maintenance of Eligible Improvements within or without its boundaries, including, without limitation, the construction and installation of grading improvements, water, sanitation, street, safety protection, and park and recreation improvements, facilities, and services along with all reasonable and necessary soft costs, fees, and organizational expenses authorized pursuant to the Governing Document.
- I. The District intends to issue the District Bonds in order to finance, construct, and/or complete certain Eligible Improvements on the Property. The initial PIF Receiving Party owns all right, title, and interest in the PIF Revenue until such time the Declarant designates a new PIF Receiving Party or terminates this PIF Covenant, as more particularly provided herein.
- J. Subject to and in accordance with the terms of this PIF Covenant, the Declarant desires to impose the obligation to collect and pay, and to provide for the implementation of the collection and payment of, a Sales PIF on certain Taxable Sales and a Parking PIF on certain Parking Transactions that occur from or within the Property.

DECLARATION

NOW, THEREFORE, in consideration of the facts set forth in the Recitals, incorporated herein and made a part hereof by this reference, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the Declarant, the Declarant hereby declares that this PIF Covenant will run with the land and be binding upon, and effective against all successors-in-title, assigns, and transferees of any portion of the Property as follows:

- 1. <u>Defined Terms</u>. Except as otherwise expressly provided herein or unless the context requires otherwise, the singular of any term includes the plural of such term. The following terms, when used in this PIF Covenant, will have the following meanings:
 - (a) "Auditor" has the meaning set forth in Section 7 below.
 - (b) "City" means the City of Draper, State of Utah.
 - (c) "Code" means the Utah Code Annotated, Title 59, as may be amended.
- (d) "<u>Commencement Date</u>" means the date on which this PIF Covenant is recorded in the real property records of the County.
 - (e) "County" means the County of Salt Lake, State of Utah.

- (f) "<u>Declarant</u>" means the Declarant named in this PIF Covenant for so long as such named party is an Occupant or is designated as the Declarant in an instrument recorded in the real property records of the County, and executed by the immediately preceding Declarant.
- (g) "<u>Default Rate</u>" means eighteen percent (18%) per annum, but if such rate exceeds the maximum interest rate permitted by State law, such rate will be reduced to the highest rate allowed by State law under the circumstances.
- (h) "<u>District</u>" means the POINT PHASE I PUBLIC INFRASTRUCTURE DISTRICT NO. 1, which has been duly and validly organized as an independent political subdivision of the State of Utah in accordance with the Public Infrastructure District Act and the Governing Document, together with its successors and assigns.
- (i) "<u>District Bond Documents</u>" means, collectively, any indenture, resolution, loan agreement, District Pledge Agreement, and any other similar documents pursuant to which the District Bonds are issued and secured as to repayment.
- (j) "<u>District Bond Trustee</u>" means the trustee in connection with the issuance of any District Bonds.
- (k) "<u>District Bonds</u>" means, collectively, one or more series of bonds, which may be in the form of a note, loan, or other debt obligation identified as a District Bond, issued or incurred by the District which is (i) secured by any portion of the PIF Revenue and (ii) issued to finance or refinance the Eligible Costs, including any bonds, notes, loans, or other debt obligations issued by the District to refund District Bonds.
- (l) "<u>District Pledge Agreement</u>" means any pledge agreement by the District with the issuer of the District Bonds and the District Bond Trustee to secure repayment of the District Bonds.
- (m) "<u>Eligible Costs</u>" means any expenditure the District is authorized to make pursuant to the Public Infrastructure District Act, the POMSLA Act, or expenditures on operating, maintaining, repairing, or replacing Eligible Improvements.
- (n) "<u>Eligible Improvements</u>" means any public infrastructure and improvements allowed under the Public Infrastructure District Act, including, without limitation, the public infrastructure and improvements enumerated in Utah Code Ann. § 17D-4-102(14)(a)-(b), as amended from time to time, any public infrastructure and improvements allowed under the POMSLA Act, or such improvements that benefit the Project or the public areas leading to or from the Project.
- (o) "Governing Document" means that certain governing document for the District approved by POMSLA on June 11, 2024 and recorded on July 18, 2024 as Entry No. 14265933 in the real property records of the County, as amended from time to time.
- (p) "Occupancy Agreement" means any deed, lease, sublease, license, concession or other occupancy agreement between an Owner or an Occupant and a Retailer or a Parking Operator

under which the Retailer or Parking Operator is given the right to possess or occupy any portion of the Owned/Leased Property owned or occupied by the Owner or the Occupant.

- (q) "Occupant" means any Owner or other Person that has the legal right, pursuant to any agreement of any type or nature, to possess or occupy any portion of the Property, including, without limitation, any space within or without any building constructed on any Property; provided, however, that a mortgagee, a trustee or a beneficiary of a deed of trust, or any other Person that has such a right of possession primarily for the purpose of securing a debt or other obligation owed to such Person will not constitute an "Occupant," unless and until such Person becomes a mortgagee in possession or otherwise possesses or occupies a portion of the Property pursuant to such right by an intentional or voluntary act of its own, whereupon the subject mortgagee, trustee, beneficiary, or other Person will be an "Occupant" hereunder.
- (r) "Owned/Leased Property" means with respect to any Owner, the portion of the Property to which such Owner owns fee title and with respect to any Occupant, the portion of the Property which such Occupant has the right to possess or occupy pursuant to an Occupancy Agreement.
- (s) "Owner(s)" means an individual or entity that owns a fee interest in any portion of the Property during the period of such ownership.
- (t) "<u>Parking Facility</u>" means any surface lot, parking structure, garage, loading area, valet staging area, or other location on the Property where a motor vehicle may be parked, stored, or staged, whether for a fee or without charge. For purposes of the Parking PIF, only Public Parking Facilities shall be subject to the Parking PIF.
- (u) "Parking Fee" means any fee, charge, rate, tariff, or other amount imposed by a Parking Operator for the right to park, store, stage, or valet a motor vehicle in a Parking Facility, including but not limited to hourly, daily, event, monthly, reserved-space, valet, validation, or other parking charges, however characterized and whether separately stated or bundled with any other product or service.
- (v) "<u>Parking Operator</u>" means any Person, including an Owner or Occupant, that (i) owns, leases, operates, manages, or controls a Public Parking Facility, directly or through a manager, contractor, or other agent; and (ii) charges or collects any Parking Fee from a Parking User.
- (w) "Parking PIF" means the public improvement fee imposed pursuant to this PIF Covenant in the amount of two percent (2.0%) of each Parking Fee charged in any Parking Transaction, which will be (i) deemed imposed at the time the Parking Fee is charged, billed, or otherwise becomes due, (ii) collected in accordance with the terms of this PIF Covenant and the PIF Collection Agreement, and (iii) spent on the Eligible Improvements and/or Eligible Costs.
- (x) "<u>Parking Transaction</u>" means each sale, lease, license, right to use, or other transaction pursuant to which a Parking Operator charges or collects, or has a contractual or other legal right to charge or collect, a Parking Fee from a Parking User for use of a Public Parking Facility located on the Property.

- (y) "<u>Parking User</u>" means any Person that pays or is obligated to pay a Parking Fee in connection with a Parking Transaction.
- (z) "Person(s)" means an individual, firm, association, unincorporated organization, corporation (for profit or nonprofit), limited liability company, partnership, company, joint stock company, joint venture, trust, or government or agency or a political subdivision thereof, any trustee, receiver, assignee, or similar representative thereof or any other entity.
- (aa) "PIF Collection Agent" means an entity retained by the Declarant or the PIF Receiving Party for the purpose of collecting, accounting for, and disbursing the PIF Revenue in accordance with this PIF Covenant. For so long as any District Bonds are outstanding under any District Bond Documents, in no event will the Declarant be permitted to change the PIF Collection Agent without the consent of the District and the District Bond Trustee. After defeasance of all the District Bonds, Declarant may designate itself or another as PIF Collection Agent.
- (bb) "<u>PIF Collection Agreement</u>" means an agreement related to the collection and remittance of the PIF Revenue between the Declarant or the PIF Receiving Party and the PIF Collection Agent.
- (cc) "<u>PIF Receiving Party</u>" means any person or entity so designated by the Declarant; provided, however, the initial PIF Receiving Party shall be the District. For so long as any District Bonds are outstanding under any District Bond Documents, in no event will the Declarant be permitted to change the PIF Receiving Party without the consent of the District and the District Bond Trustee.
 - (dd) "PIF Reports" has the meaning set forth in Section 6(b).
- (ee) "<u>PIF Revenue</u>" means the revenue derived from the imposition of the Sales PIF and the Parking PIF in accordance with this PIF Covenant, net of the costs of collection.
- (ff) "<u>POMSLA Act</u>" means Point of the Mountain State Land Authority Act, Title 11, Chapter 59, Utah Code Annotated, as amended from time to time.
- (gg) "<u>Private Parking Facility</u>" means any Parking Facility that is reserved for or restricted to use by a specific group of users, including but not limited to tenants, employees, residents, or guests of a particular business, building, or residential development, and is not open to the general public. For purposes of this PIF Covenant, if a single Parking Facility contains both public and private stalls or spaces, the classification of a Parking Transaction as subject to the Parking PIF shall be determined at the stall or transaction level, based on whether the specific stall or space involved in the transaction is designated as public (available for use by the general public) or private (reserved for or restricted to specific users).
- (hh) "<u>Project</u>" means the development of the Property to include an event center, parking facilities, retail, and other related amenities, and any other related amenities and facilities allowed by the development agreement for the event center between POMSLA and the District.
 - (ii) "**Property**" has the meaning set forth in the Recitals.

- (jj) "Public Infrastructure District Act" means Title 17D, Chapter 4 of the Utah Code Annotated, as amended from time to time.
- (kk) "Public Parking Facility" means any Parking Facility that is open to the general public for use, whether for a fee or without charge, and is not restricted to a specific group of users such as tenants, employees, residents, or guests of a particular business, building, or residential development. For purposes of this PIF Covenant, if a single Parking Facility contains both public and private stalls or spaces, the classification of a Parking Transaction as subject to the Parking PIF shall be determined by Declarant at the stall or transaction level, based on whether the specific stall or space involved in the transaction is designated as public (available for use by the general public) or private (reserved for or restricted to specific users).
- (ll) "<u>Purchaser</u>" or "<u>Purchasers</u>" means the purchaser or recipient of goods or services or both from a Retailer in a Taxable Sale.
- (mm) "<u>Records</u>" means those items that must be kept and reserved and made available (i) by every Person engaging or continuing in business within the State pursuant to Code Section 59-1-1406, and/or (ii) pursuant to this PIF Covenant.
- (nn) "<u>Retailer</u>" means any Person, including the Declarant and any Owner or Occupant, that:
- (i) has the legal right, pursuant to a deed, lease, sublease, license, concession, easement or other Occupancy Agreement of any type or nature, to possess or occupy all or any portion of the Property, including, without limitation, any space within any building constructed on all or any portion of the Property; provided that a mortgagee, a trustee under or beneficiary of a deed of trust, or any other Person that has such right of possession primarily for the purpose of securing a debt or other obligation owed to such Person, will not constitute a "Retailer" unless and until such Person becomes an Owner, Occupant, or a mortgagee in possession or otherwise possesses or occupies all or any portion of the Property pursuant to such right by an intentional or voluntary act of its own, whereupon the subject mortgagee, trustee, beneficiary or other Person will be a "Retailer" hereunder; and
- (ii) regularly engages in any Taxable Sales with a situs from or within the Property.
 - (oo) "Sale" means as defined in Code Section 59-12-102(118).
- (pp) "Sales PIF" means the public improvement fee imposed on the Property in the amount of two percent (2.0%) on Taxable Sales, which will be (i) collected in accordance with the terms of this PIF Covenant and the PIF Collection Agreement, and (ii) spent on the Eligible Improvements and/or Eligible Costs.
- (qq) "<u>Sales Tax</u>" means the sales taxes imposed by the State, County, and/or City pursuant to Chapter 12 of the Code and any applicable County and/or City law or ordinance, as administered and enforced by the Utah State Tax Commission.
 - (rr) "State" means the state of Utah.

- (ss) "Taxable Sale(s)" means a "retail sale" or "sale at retail," as defined in Code Section 59-12-102(116), with a situs from or within the geographic boundaries of the Property by a Retailer and which is subject to Sales Tax. Notwithstanding the foregoing or anything to the contrary in this PIF Covenant: (i) the only exchange of goods or services deemed Taxable Sales hereunder will be those upon which a Sales Tax would be payable and the situs of such exchange or transaction is from or within the geographic boundaries of the Property; (ii) in no event shall any exchange of goods or services for which a use tax is applicable (rather than a Sales Tax) be deemed Taxable Sales for the purpose of determining applicability of the Sales PIF; and (iii) in no event will any use tax applicable to materials incorporated into any Eligible Improvements on the Property be deemed Sales Tax for the purpose of determining applicability of the public improvement fee.
- 2. Assessment of Sales PIF: Parking PIF. The Declarant, for itself, its successors and assigns, hereby declares that the Property is hereby made subject to this PIF Covenant, and each part of such Property will, from and after the date of recording of this PIF Covenant, be owned, held, transferred, conveyed, sold, leased, rented, hypothecated, encumbered, used, occupied, maintained, altered and improved subject to the covenants, conditions, restrictions, limitations, reservations, exceptions, and other provisions set forth in this PIF Covenant, all of which will run with the title to such Property and be binding upon all parties having any right, title or interest in said Property or any part thereof and upon their successors and assigns. From and after the Commencement Date:
- (a) Every Retailer shall collect from every Purchaser in each Taxable Sale by such Retailer, in its capacity as a Retailer, and remit to the PIF Collection Agent, the Sales PIF due with respect to such transaction in accordance with this PIF Covenant.
- (b) Every Parking Operator of a Public Parking Facility shall collect from every Parking User in each Parking Transaction by such Parking Operator, in its capacity as a Parking Operator, and remit to the PIF Collection Agent, the Parking PIF due with respect to such transaction in accordance with this PIF Covenant. No Parking PIF shall be imposed or collected with respect to Parking Transactions occurring in Private Parking Facilities. In the event a Parking Facility contains both public and private stalls, the Parking PIF shall be imposed only on Parking Transactions involving stalls or spaces designated as part of the Public Parking Facility, i.e., those available for use by the general public. Parking Transactions involving stalls or spaces designated as part of the Private Parking Facility, i.e., those reserved for or restricted to specific users, shall not be subject to the Parking PIF.
- C) Every Owner or Occupant: that leases or subleases any portion of its Owned/Leased Property to a Retailer or Parking Operator; that enters into an Occupancy Agreement with a Retailer or Parking Operator; that permits a Retailer or Parking Operator to occupy any portion of its Owned/Leased Property by license, concession, or otherwise; or that a Retailer or Parking Operator will expressly require, pursuant to an Occupancy Agreement, which will contain enforceable provisions requiring the collection of the Sales PIF or the Parking PIF and subjecting the Occupant to this PIF Covenant, by virtue of which such Retailer or Parking Operator is given the right to possess or occupy such portion of Property, that such (i) Retailer collect the Sales PIF due with respect to each such transaction from each Purchaser in each Taxable Sale by such Retailer and remit the Sales PIF to the PIF Collection Agent in accordance with the terms of this

PIF Covenant; and (ii) Parking Operator collect the Parking PIF due with respect to each such transaction from each Parking User in each Parking Transaction by such Parking Operator and remit the Parking PIF to the PIF Collection Agent in accordance with the terms of this PIF Covenant.

- (d) If the initial PIF Collection Agent no longer acts as the PIF Collection Agent, the Declarant, or the PIF Receiving Party if District Bonds are still outstanding, shall appoint a new PIF Collection Agent, in which case, the Declarant shall provide, or cause to be provided, to each Retailer and Parking Operator, written notice containing the name and address of the new PIF Collection Agent. Each Retailer and Parking Operator will be entitled to rely upon such written notice of the designation of the new PIF Collection Agent.
- (e) The Declarant and PIF Receiving Party agree to cause all PIF Revenue to be remitted to the District Bond Trustee and as required by the District Bond Documents, or, when the District Bonds have been paid in full or defeased, to the PIF Receiving Party.
- (f) Notwithstanding anything to the contrary in this PIF Covenant, but subject to the provisions of Sections 10(a) and 14, upon the payment in full or defeasance of all District Bonds, the Declarant, at its election, may discontinue, continue, increase, decrease, or otherwise modify the Sales PIF and Parking PIF and use the PIF Revenue for any legal purpose in the Declarant's sole and absolute discretion.
- Imposition of Sales PIF; Parking PIF. Each Retailer and Parking Operator shall separately state on the receipt or invoice and collect and remit to the PIF Collection Agent the Sales PIF for all Taxable Sales and the Parking PIF for all Parking Transactions that occur within the Property from and after the Commencement Date. Each Retailer will have the right to make or apply adjustments, exemptions, credits and rebates to the Sales PIF to the same extent adjustments, exemptions, credits and rebates may be made to the Sales Tax payable under the Code and/or any applicable City and/or County sales tax law or ordinance. If an adjustment results in a refund of such Sales PIF, such Retailer shall process the refund or credit for such adjusted Sales PIF in a manner substantially similar to the process used and required by the State for an adjustment of the Sales Tax. Such Retailer may claim any credit or refund in the next monthly reporting period by use of standard reporting and remittance forms. From and after the Commencement Date, each Parking Operator shall separately state on every receipt, invoice, ticket, contract, application, mobile app confirmation, or other written or electronic evidence of a Parking Transaction the amount of the Parking PIF collected with respect to such transaction. If a Parking Fee is bundled with any other charge, the Parking Operator shall allocate the Parking Fee component in good faith and calculate the Parking PIF on that allocated portion. Every Owner or Occupant: that leases or subleases any portion of its Owned/Leased Property to a Retailer or Parking Operator; that enters into an Occupancy Agreement with a Retailer or Parking Operator; that permits a Retailer or Parking Operator to occupy any portion of its Owned/Leased Property by license, concession, or otherwise; or that is a Retailer or Parking Operator shall promptly provide the Declarant, the PIF Collection Agent, and the PIF Receiving Party with its name and address or the name and address of each Retailer or Parking Operator upon the Retailer's or Parking Operator's entering into any Occupancy Agreement by which such Retailer or Parking Operator is granted the right to possess or occupy a portion of the Property to conduct Taxable Sales or Parking Transactions.

Sales PIF Sales Information; Parking PIF Information. The PIF Collection Agent shall establish and circulate to all Retailers, Owners, and Parking Operators uniform written information relating to the calculation, payment and reporting of the Sales PIF and the Parking PIF, as applicable, including (a) for the Sales PIF only, uniform guidelines specifying the scope of the definition of Taxable Sales for purposes of calculating the Sales PIF due hereunder, and (b) any collection and reporting procedures which procedures will take effect no earlier than thirty (30) days after written notice has been provided to all Retailers, Owners, and Parking Operators. Each Retailer and Parking Operator will be entitled to rely on the information provided by the PIF Collection Agent for purposes of compliance with this PIF Covenant. Additionally, the PIF Collection Agent shall provide at least thirty (30) days' prior written notice to Retailers, Owners, and Parking Operators if the amount of the Sales PIF or Parking PIF changes for any reason whatsoever. The PIF Collection Agent shall also promptly notify all Retailers, Owners, and Parking Operators of any procedures that the Retailers and Parking Operators must follow with respect to informing Purchasers of the Sales PIF and Parking Users of a Parking Facility, as such procedures are established in order to comply with the District Bond Documents, applicable laws or reasonable business practices.

5. <u>Calculation and Payment of Sales PIF; Parking PIF.</u>

- (a) Whether or not collected from Purchasers (provided that the foregoing will not be construed to permit any Retailer to fail to implement, assess and collect the Sales PIF as provided in this PIF Covenant), each Retailer shall, on a monthly basis and when the Retailer reports and remits the Sales Tax to the State, pay to the PIF Collection Agent all of the Sales PIF imposed hereunder attributable to the immediately preceding month from or within any portion of the Owned/Leased Property occupied by such Retailer during such period. All of the Sales PIF will be due and payable without notice on the date required for payment of the Sales Tax under the Code. Each Retailer subject to the Sales PIF shall pay all of the Sales PIF directly to the PIF Collection Agent.
- (b) The Sales PIF will be calculated and imposed on each Taxable Sale transaction and added to the sales price of such Taxable Sale prior to the calculation and assessment of any City, County or State sales tax, including the Sales Tax, and before any sales taxes of any other taxing entity required to be imposed by law. The Sales Tax and all other taxes of the City, County, the State, and other taxing entities will, to the extent that such taxes apply to the Taxable Sale transaction, be calculated and assessed on the sum of the Taxable Sale price plus the amount of the Sales PIF.
- (c) Whether or not actually collected from Parking Users (which failure to collect shall not be permitted), each Parking Operator shall, on a monthly basis, remit to the PIF Collection Agent the full amount of Parking PIF attributable to all Parking Transactions occurring during the immediately preceding calendar month. Remittance is due on the twentieth (20th) day of the month following the month of collection, or, if such day is not a business day, on the next business day. The Parking PIF shall be calculated by multiplying the Parking Fee charged for each Parking Transaction by the Parking PIF percentage (e.g., two percent (2%)). No deductions, offsets, or credits of any kind may be taken against the Parking PIF. The PIF Collection Agent may require Parking Operators to use standardized remittance forms or electronic reporting portals, and to include such supporting documentation as the PIF Collection Agent may reasonably request to

verify the calculation of Parking PIF due. Parking Operators of mixed-use facilities must maintain clear and auditable records identifying which Parking Transactions relate to public versus private stalls. The Parking Operator shall implement procedures to ensure that only Parking Fees from public stalls are included in the Parking PIF calculation and remittance.

- (d) The Declarant hereby acknowledges, and any other Owner by acquiring fee title to any portion of the Property subject to this PIF Covenant and any Occupant by acquiring the right to possess or occupy any portion of the Property subject to this PIF Covenant will be deemed to have acknowledged, and each Owner and Occupant will cause any Retailer or Parking Operator whom such Owner or Occupant permits to possess or occupy any portion of its Owned/Leased Property to acknowledge, prior to conducting any business on any Owned/Leased Property, that the Sales PIF and Parking PIF are not a tax in any form and that the authority of the PIF Collection Agent to receive the Sales PIF and Parking PIF is derived through this PIF Covenant and the PIF Collection Agreement.
- (e) Every Owner or Occupant: that leases or subleases any portion of its Owned/Leased Property to a Retailer or Parking Operator; that enters into an Occupancy Agreement with a Retailer or Parking Operator; that permits a Retailer or Parking Operator to occupy any portion of its Owned/Leased Property by license, concession, or otherwise; or that is a Retailer or Parking Operator shall promptly notify in writing each Retailer or Parking Operator of the name and address of the PIF Collection Agent and provide appropriate directions for payment and reporting of the Sales PIF and Parking PIF, as applicable. For purposes of compliance with this Section 5(e), each Retailer and Parking Operator will be entitled to rely upon such written notice of the designation of the PIF Collection Agent.
- (f) No provision of this PIF Covenant will be construed, implied or applied to alter, modify, limit, or affect the Sales Tax or any other sales taxes rates that may be imposed by the City, the County or the State or any other applicable taxing authority.

6. **Reporting Requirements**.

- (a) Each Retailer that is required to pay to the PIF Collection Agent all of the Sales PIF imposed hereunder shall, on a monthly basis and when the Retailer reports and remits the Sales Tax to the State, provide true and correct copies of reporting forms to the PIF Collection Agent, including any supplements or amendments thereto made or provided to the State, the County or the City by such Retailer in connection with all sales taxes for such Retailer's location within the Owned/Leased Property for the corresponding sales tax period (collectively, the "Sales PIF Reports"), and follow procedures provided by the PIF Collection Agent that are intended to be substantially similar to those used and required by the State for the remittance of the Sales Tax.
- (b) Parking Operators shall submit, together with each monthly remittance of Parking PIF, a report in the form prescribed by the PIF Collection Agent that details gross Parking Fees, deductions or adjustments, net Parking Fees, Parking PIF due, and such other information reasonably necessary to administer, reconcile, and audit the Parking PIF (each, a "Parking PIF Report" and together with the Sales PIF Reports, the "PIF Reports"). In the case of Parking Facilities containing both public and private stalls, each monthly Parking PIF Report must

separately identify: (i) the number of public and private stalls, (ii) gross Parking Fees collected from public stalls (subject to the Parking PIF), (iii) gross Parking Fees collected from private stalls (not subject to the Parking PIF), and (iv) the methodology used to distinguish between public and private transactions. Parking Operators must maintain and provide, upon request, detailed records and operational procedures demonstrating the segregation of public and private transactions. Any failure to maintain adequate records or to properly segregate transactions may result in the Parking PIF being imposed on all Parking Fees collected from the Parking Facility.

- (c) If any subsequent adjustments, additions or modifications are made by a Retailer or Parking Operator to any Sales Taxes or Parking Fees reported in such PIF Reports, such Retailer or Parking Operator shall provide the PIF Collection Agent with true and complete copies of all revised PIF Reports and any other information issued or filed by such Retailer or Parking Operator in regard thereto. If any such adjustments include the amount of the Sales PIF which a Retailer is required to remit or pay or results in a refund of such Sales PIF, such Retailer shall process and pay such adjusted Sales PIF in a manner substantially similar to the process used and required by the State for an adjustment with respect to the Sales Tax. If any such adjustments affect the Parking Fee and therefore the related Parking PIF (calculated as 2% of the Parking Fee), the Parking Operator shall report and remit the adjusted Parking PIF in the next monthly reporting period using standard forms. Such Retailer or Parking Operator shall claim any credit or refund or shall pay such additional Sales PIF or Parking PIF in the next monthly reporting period.
- (d) All PIF Reports made or provided by a Retailer or Parking Operator will be maintained by such Retailer or Parking Operator for at least three (3) years from the date of submission thereof to the PIF Collection Agent, the City, the County and/or the State and, upon written request, will be made available to the PIF Collection Agent for inspection and audit.
- (e) All PIF Reports received by the PIF Collection Agent will remain confidential and will be used by the PIF Collection Agent and its employees, agents and consultants only for purposes of collecting the Sales PIF and the Parking PIF, enforcing the obligations of any Retailer or Parking Operator hereunder, and monitoring compliance with the provisions of this PIF Covenant, unless otherwise required to be made public by law or to be made available to others pursuant to this PIF Covenant.
- (f) If the Declarant, in its sole and absolute discretion, determines it is necessary for any Person that is not expressly entitled to receive PIF Reports pursuant to this PIF Covenant to receive such PIF Reports, then such Person shall sign, prior to receiving such PIF Reports, a confidentiality agreement, which confidentiality agreement will prohibit without exception the disclosure of the information contained in, collected to be contained in, or of the type normally contained in PIF Reports to any Person not otherwise entitled pursuant to this PIF Covenant to receive such PIF Reports or the information contained therein. The PIF Receiving Party will be responsible for having such confidentiality agreement(s) executed by the appropriate Person receiving such PIF Reports, but the PIF Receiving Party may delegate such responsibility to the PIF Collection Agent, in its sole discretion.
- (g) Notwithstanding anything to the contrary in this PIF Covenant, the PIF Collection Agent may aggregate data it receives in the PIF Reports and include such aggregated data in reports that are delivered to the PIF Receiving Party, the Declarant, the District, and the District Bond

Trustee, provided the aggregated data is anonymized such that it is not associated with any individual Retailer or Parking Operator in the reports.

7. Audits and Release of Information by PIF Collection Agent.

- (a) By acquiring a possessory interest in and to any portion of the Owned/Leased Property that is subject to the terms and conditions of this PIF Covenant, each Retailer and Parking Operator hereby specifically authorizes the PIF Collection Agent, the District Bond Trustee, the Declarant, the District, an Occupant granting an occupancy right to a Retailer or Parking Operator, and any accountant or financial consultant designated by the foregoing (collectively and, in such capacity, the "Auditor") to audit its Records with respect to that portion of the Owned/Leased Property occupied by such Retailer or Parking Operator to determine compliance with the Sales PIF or Parking PIF collection and remittance obligations of such Retailer or Parking Operator under this PIF Covenant; provided, however, that no Auditor may be engaged on a contingency-based compensation system. Each Retailer and Parking Operator agrees to release to the Auditor any PIF Reports and other documents delivered to the State or the PIF Collection Agent by the Retailer or Parking Operator, as applicable, that are related to such Retailer's Taxable Sales or Parking Operator's Parking Fees within the Owned/Leased Property.
- All information released to or gathered by the Auditor in connection with the audit will be "Confidential Information." Any Auditor will be entitled to share Confidential Information with any other Person entitled to conduct an audit pursuant to this Section 7. All Confidential Information will be deemed proprietary to each respective Retailer and Parking Operator, will be kept strictly confidential, and will not be disclosed or otherwise published by the Auditor or any Person to whom the Auditor releases Confidential Information, except for such disclosures or publications as may be required by law or required or permitted by this PIF Covenant. Each Retailer and Parking Operator will be protected by, and may rely on, the confidentiality provisions set forth in this PIF Covenant; provided, however, that notwithstanding anything in this PIF Covenant to the contrary, unless otherwise prohibited or restricted by law, the PIF Collection Agent and the District Bond Trustee are authorized to disclose information regarding specific Sales PIF and Parking PIF collections and Taxable Sales transactions and Parking Transactions of individual Retailers or Parking Operators to: (i) certain parties identified in the District Bond Documents, including but not limited to the owners or consent parties of any of the District Bonds, in the manner and to the extent required by the District Bond Documents, and (ii) any lender providing financing secured by PIF Revenue. Notwithstanding anything to the contrary, provisions of this PIF Covenant may be described in offering documents related to the issuance of any District Bonds.
- (c) Upon request by the Auditor, all of the Retailer's Records will be made available for inspection by the Auditor and: (i) the Auditor's rights in connection with such an audit will be the same as the rights of the State in connection with a tax audit pursuant to Code Section 59-1-1406; and (ii) the obligations of a Retailer in connection therewith will be the same as they are in connection with a sales tax audit pursuant to Code Section 59-1-1406. Upon request by the Auditor, all of the Parking Operators' Records will be made available for inspection by the Auditor in its commercially reasonable discretion. Parking Operators of mixed-use facilities must, upon request, provide documentation substantiating the classification of each stall or transaction as public or private, including but not limited to access logs, contracts, signage, and internal policies.

Failure to maintain adequate records or to properly segregate public and private transactions may result in the imposition of the Parking PIF on all Parking Fees collected from the Parking Facility.

- (d) A prospective purchaser or seller of a possessory interest in and to any portion of the Owned/Leased Property that is subject to the terms and conditions of this PIF Covenant may submit to the PIF Collection Agent a written request for an estoppel letter indicating that a Retailer or Parking Operator occupying such Owned/Leased Property at the time of the request is current in payment of the Sales PIF or Parking PIF, as applicable. The PIF Collection Agent shall deliver the estoppel letter within thirty (30) days of receipt of such a written request, provided that prior to the delivery of the estoppel letter the PIF Collection Agent will have the right, but not the obligation, to conduct an audit of the subject Retailer's or Parking Operator's Records pursuant to this Section 7 at the cost of the party submitting the written request.
- (e) If the Declarant, in its sole and absolute discretion, determines it is necessary for any Person that is not expressly entitled to receive Confidential Information pursuant to this PIF Covenant to receive such Confidential Information, then such Person shall sign, prior to receiving such Confidential Information, a confidentiality agreement, which confidentiality agreement will prohibit without exception the disclosure of the information contained in, collected to be contained in, or of the type normally contained in Confidential Information to any Person not otherwise entitled pursuant to this PIF Covenant to receive such Confidential Information or the information contained therein. The PIF Receiving Party will be responsible for having such confidentiality agreement(s) executed by the appropriate Person receiving such Confidential Information, but the PIF Receiving Party may designate such responsibility to the PIF Collection Agent or the Auditor, in its sole discretion.

8. <u>Compliance and Enforcement</u>.

- (a) Each Retailer and Parking Operator shall comply with all reasonable policies and requirements of the PIF Collection Agent regarding the collection and remittance of the Sales PIF and Parking PIF and notification to Purchasers or Parking Users of the imposition and collection of the Sales PIF and Parking PIF as such policies and requirements are communicated by the PIF Collection Agent to each Retailer and Parking Operator in writing from time to time. The failure or refusal of any Retailer or Parking Operator to impose, collect or remit the Sales PIF or Parking PIF or to comply with the requirements concerning notification to Purchasers or Parking Users as required in this PIF Covenant, will constitute a default by such Retailer or Parking Operator under the terms of this PIF Covenant. The PIF Collection Agent, the PIF Receiving Party, the District Bond Trustee, any designated successors of the foregoing and any other Person expressly designated in writing by the Declarant and PIF Receiving Party are expressly made third party beneficiaries of each Owners', Occupants', Retailers', and Parking Operators' obligations under this PIF Covenant, including without limitation the assessment, imposition, collection and remittance of the Sales PIF and Parking PIF.
- (b) The Declarant hereby acknowledges, and any other Owner by acquiring fee title to any portion of the Property subject to this PIF Covenant and any Occupant by acquiring the right to possess or occupy any portion of the Property subject to this PIF Covenant will be deemed to have acknowledged, and each Owner and Occupant will cause any Retailer or Parking Operator whom such Owner or Occupant authorizes to possess or occupy any portion of its Owned/Leased

Property to acknowledge, prior to conducting any business at any Owned/Leased Property, that the PIF Collection Agent, the PIF Receiving Party, and the Declarant will have a direct cause of action and full right and authority to enforce each Retailer's and Parking Operator's obligations under this PIF Covenant, and that no default under any provision of the Occupancy Agreement pursuant to which a Retailer or Parking Operator occupies any portion of such Owned/Leased Property will entitle any Occupant, Retailer, or Parking Operator to any offset, deduction or other defense to payment of all Sales PIF or Parking PIF due hereunder.

- (c) All of the Sales PIF or Parking PIF that is not paid when due hereunder will bear interest at the Default Rate and will be subject to a late fee imposed in the discretion of the PIF Collection Agent from time to time in an amount which is the greater of One Hundred Dollars and 00/100 (\$100.00) or ten percent (10%) of the amount due. Any Retailer or Parking Operator that fails to make timely remittance of any Sales PIF or Parking PIF, as applicable, shall pay, or reimburse the PIF Collection Agent, for all costs of enforcement and collection thereof, including reasonable attorney fees.
- (d) Notwithstanding anything to the contrary contained in this PIF Covenant, the Declarant, the PIF Receiving Party, the District Bond Trustee, the PIF Collection Agent, and any Person designated by any of the foregoing parties (collectively, an "**Enforcing Party**") will have the right to enforce all provisions of this PIF Covenant using any legally available remedies against any Retailer or Parking Operator that fails to comply with any term or condition of this PIF Covenant. An Enforcing Party will also be paid, awarded, and recover from any defaulting Retailer or Parking Operator all reasonable costs and expenses incurred by such Enforcing Party in successfully enforcing the obligations of such Retailer or Parking Operator under this PIF Covenant in any legal proceeding brought or defended by such Enforcing Party.
- 9. <u>Use of PIF Revenue</u>. The PIF Revenue generated pursuant to this PIF Covenant will be collected by the PIF Collection Agent and disbursed to the District Bond Trustee as soon as may be practicable for as long as any District Bonds are outstanding under the District Bond Documents. Upon the payment or defeasance in full of all outstanding District Bonds, the PIF Revenue shall be disbursed to or at the direction of the Declarant, who may use the PIF Revenue for any legal purpose.

10. No Dominion or Control by the Declarant.

(a) The Declarant hereby acknowledges, and any other Owner by acquiring fee title to any portion of the Property subject to this PIF Covenant will be deemed to have acknowledged, that the District will be relying upon this PIF Covenant in taking certain actions with respect to the Sales PIF, the Parking PIF, the District Bonds, the construction, installation, operation and maintenance of Eligible Improvements and the incurrence of Eligible Costs. Accordingly, the Declarant hereby agrees, and all other Owners will be deemed to have agreed, that no amendment or modification will be made to this PIF Covenant, nor any waiver made or accepted by the Declarant or any Owner with respect to this PIF Covenant, if: (i) District Bonds are outstanding to which PIF Revenue is pledged, unless such waiver, amendment or modification has been approved in writing by the District and the District Bond Trustee, or (ii) the District continues to receive PIF Revenue to pay Eligible Costs for operation and maintenance of Eligible Improvements, unless such waiver, amendment or modification has been approved in writing by the District. Any

purported amendment, modification or waiver made without the prior written consent of the District and District Bond Trustee to the extent required pursuant to this <u>Section 10(a)</u>, if any District Bonds are outstanding, will be void and of no force and effect.

- (b) The PIF Receiving Party will have all right, title, and interest in, and will be deemed to possess all dominion and control over and ownership interests in, the Sales PIF, the Parking PIF, and PIF Revenue, provided that the use of all PIF Revenue is subject to the limitations of Section 9 hereof. Until such time as the District Bonds are paid in full or defeased, if and to the extent that the Declarant is deemed to have any right, title, or interest in, or be deemed to exercise any dominion or control over, the Sales PIF, the Parking PIF, and PIF Revenue, which is not intended, all right, title, and interest and dominion or control of the Declarant in the Sales PIF, the Parking PIF, and PIF Revenue and the obligations of each Owner will be, and hereby are, irrevocably and unconditionally transferred, sold, assigned, and conveyed by the Declarant to the PIF Receiving Party for payment of District Bonds or otherwise to pay Eligible Costs and design, acquisition, financing, construction, completion, operation, and maintenance of the Eligible Improvements.
- SUBJECT TO THE EXPRESS TERMS OF THIS SECTION 10, IT IS (c) INTENDED AND HEREBY DECLARED THAT (I) THE SALES PIF AND PARKING PIF ARE CHARGES IMPOSED ON CERTAIN SALES OR TRANSACTIONS ON THE PROPERTY FOR THE PURPOSES STATED HEREIN AND IN ACCORDANCE WITH THE TERMS AND CONDITIONS OF THIS PIF COVENANT; (II) THE NATURE OF THE SALES PIF AND THE PARKING PIF IS THAT OF A FEE IMPOSED BY PRIVATE COVENANT FOR THE BENEFIT OF THE PROPERTY, THE DISTRICT (DURING THE TIME ANY DISTRICT BONDS ARE OUTSTANDING), AND THE PIF RECEIVING PARTY AND NOT THROUGH THE EXERCISE OF ANY POWER BY THE STATE OR ANY OTHER PUBLIC TAXING AUTHORITY; (III) PIF REVENUES ARE NOT TAX REVENUES IN ANY FORM; AND (IV) ALL PIF REVENUE RECEIVED BY THE PIF RECEIVING PARTY WILL BE USED TO PAY AND DISCHARGE DISTRICT BONDS OR TO OTHERWISE PAY AND REIMBURSE THE ELIGIBLE COSTS, OR AS MAY OTHERWISE BE PROVIDED IN THIS PIF COVENANT. The Declarant hereby acknowledges the foregoing, and any other Owner by acquiring fee title to any portion of the Property subject to this PIF Covenant and any Occupant by acquiring the right to possess or occupy any portion of the Property subject to this PIF Covenant will be deemed to have acknowledged the foregoing, and each Owner and Occupant will cause any Retailer and Parking Operator whom such Owner or Occupant permits to possess or occupy any portion of its Owned/Leased Property to acknowledge the foregoing, prior to conducting any business on any Owned/Leased Property.
- (d) Notwithstanding anything to the contrary in this PIF Covenant, only the Retailers and/or Parking Operators will be liable for nonpayment of the Sales PIF or Parking PIF, as applicable.
- 11. <u>Governing Law</u>. This PIF Covenant will be governed by, and enforced in accordance with, the laws of the State. Venue for any judicial action to interpret or enforce this PIF Covenant will only be in the Salt Lake County District Court of the Third Judicial District of Utah or the United State District Court for the District of Utah.

- 12. Covenants Run with the Land. The covenants, agreements, promises, and duties as set forth in this PIF Covenant will run with the Property and be enforceable against Owners, Occupants, and the Property, and will constitute equitable servitudes burdening the respective Owner, Occupant, and the Property for the benefit of those designated by Declarant. This PIF Covenant (a) is a burden upon the Property and is for the benefit of those designated by Declarant, (b) constitutes a covenant running with the land with respect to those both burdened and benefited by this PIF Covenant, and (c) is binding upon each Owner, Occupant, Retailer, and Parking Operator and each successor and assign to their respective interests in Property and will inure to the benefit of the Declarant and, as set forth herein, to the other parties authorized to enforce this PIF Covenant. If and to the extent that any of the covenants or other provisions herein would otherwise be unlawful or void for violation of (i) the rule against perpetuities, (ii) the rule restricting restraints on alienation, or (iii) any other applicable statute or common law rule analogous thereto or otherwise imposing limitations upon the time for which such covenants may be valid, then the provisions concerned will continue and endure only until the expiration of a period of ninety (90) years after the Commencement Date, or if applicable, the maximum period of time allowed by State law.
- 13. <u>Severability</u>. Invalidation of any of the provisions contained in this PIF Covenant, or of the application thereof to any Person by judgment or court order, will in no way affect any of the other provisions of this PIF Covenant or the application thereof to any other Person or circumstance, and the remainder of this PIF Covenant will remain in effect; <u>provided</u>, <u>however</u>, that in the event such invalidation would render the remaining portions of this PIF Covenant ineffective to carry out the intentions of the Declarant as expressed or implied by this PIF Covenant, then the objectionable provision(s) hereof will be construed, and this PIF Covenant will be presumed amended, as if such provision was replaced with an enforceable provision which effectuates, as nearly as possible, the intentions of the Declarant.
- 14. Amendments. Subject to Section 10, the Declarant will be entitled to make amendments to this PIF Covenant, to the provisions of this PIF Covenant without the consent of any Owner, Occupant, Retailer, or Parking Operator or other third party and to record any such amendments in the real property records of the County, even if any portion of the Property is not then owned by the Declarant; provided, however, for so long as any District Bonds are outstanding under any District Bond Documents, in no event will the Declarant be permitted to reduce the rate of the Sales PIF or Parking PIF until after the date upon which the District Bonds are paid in full or defeased, change the PIF Receiving Party without the consent of the District and the District Bond Trustee, or make amendments to this PIF Covenant without satisfying the requirements set forth for such amendments in any District Bond Documents.
- 15. No Operating Covenant. This PIF Covenant is not intended to, and does not, create or impose any obligation on an Owner, Occupant, Retailer, or Parking Operator to operate, continuously operate, or cause to be operated a business or any particular business on the Property. If such an obligation exists in any other agreement, this PIF Covenant is not intended to and does not modify, limit, or enlarge such other obligation.
- 16. <u>Assignment; Successor Declarant</u>. The Declarant may assign its right, title, and interest in and to this PIF Covenant to any Person having an interest in the Property ("<u>Assignment</u>") and

such Assignment will be effective immediately upon recording a document in the real property records for the County evidencing such Assignment.

- 17. **Recitals**. The Recitals will be deemed incorporated into the terms and conditions of this PIF Covenant as if fully set forth herein.
- 18. <u>Association Exemption</u>. The Declarant does not intend that the recording of this PIF Covenant or that imposition of the Sales PIF or Parking PIF or that collection and utilization of the PIF Revenue will create or be construed to create an "association" within the meaning of the Utah Community Association Act (Title 57, Chapter 8a, Utah Code Ann.), as amended.

[Signatures on Following Page]

IN WITNESS WHEREOF, the Declarant has executed this PIF Covenant as of the date first set forth above.

DECLARANT:

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

By:	
Name:	
Its:	
State of)	
State of)	
The foregoing was acknowledged before me as of POIN	this day of, 2025, by Γ PHASE I PUBLIC INFRASTRUCTURE
DISTRICT NO. 1, an independent political su	
Witness my hand and official seal.	
	Notary Public

CONSENTED TO BY POMSLA:

Pursuant to Section 9.1.7 of the DDA, POMSLA consents to this PIF Covenant.

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

By:				
Name:				
Title:				
G				
State of)			
County of) SS.			
County of)			
The foregoing was a	cknowledged bef	ore me this	day of	2025 by
as	ckilowicagea bei	of POINT OF	THE MOUN	TAIN STATE LAND
AUTHORITY, an in				
,	1 3			
Witness my hand and	d official seal.			
		No	tary Public	

EXHIBIT A LEGAL DESCRIPTION OF THE 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.



AGREEMENT WITH RESPECT TO PROFESSIONAL CONSULTING SERVICES

This Agreement, to be effective the 11th day of July 2025 by and between, The Point Improvement Corporation, a Utah non-profit corporation hereinafter referred to as "Owner", and Pinnacle Consulting Group, Inc., a Colorado corporation hereinafter referred to as "Consultant". Witnesseth that, collectively Owner and Consultant are referred to as the "Parties" or individually as a "Party".

WHEREAS, the Owner desires to procure professional consulting services which Consultant has experience in providing and as further described in Exhibit A (Scope of Services) attached hereto, for purposes of public improvement fee collection services at The Point in Draper, Utah.

Now, therefore, in consideration of the mutual covenants and obligations herein expressed, the Parties agree as follows:

1. SCOPE OF SERVICES:

Consultant agrees to provide Owner with the specific professional services set forth on Exhibit A (Scope of Services) attached hereto and incorporated herein by this reference. Consultant and Owner acknowledge the Scope of Services may be modified annually or as described in Section 4 below.

2. SERVICES BY OWNER:

Owner and Owner's representatives will be available on a reasonable basis for reviews and meetings, final review and approval, and such other contact as may be required to carry out Consultant's obligations hereunder. At Owner's expense, Owner will provide such documents and payment of expenses as are reasonably necessary for Consultant to carry out the duties hereunder.

3. COMPENSATION:

- A. Owner shall pay Consultant for contracted services which are specifically stated in Exhibit A (Scope of Services). This Agreement may be renewed for successive terms under which the compensation will be determined prior to the beginning of each annual term by written acceptance of Exhibit A by the Parties.
- B. The Fee for services shall be billed monthly for the duration of the services.
- C. Special projects and additional services not included in Exhibit A (Scope of Services) will result in additional costs to the project. Consultant will provide an estimate of costs associated with the special project or additional services. Consultant will acquire written approval of the estimated costs from the Owner prior to commencement of services. Owner shall pay Consultant for all approved special projects and additional services.
- D. Reimbursable Expenses are in addition to compensation for Consultant's services and include expenses incurred by the Consultant and its employees in the direct interest of the Owner, as identified in the following Clauses:

- i. Fees paid for securing approval of authorities having jurisdiction over the Owner;
- ii. Reproductions, postage and handling of Drawings, Specifications, and other documents;
- iii. Travel expenses as required for services directly related to the Owner;
- iv. Facsimile services, courier services, overnight deliveries or other similar project related expenditures; and
- v. If authorized in advance by the Owner in writing, required out-of-state travel expenses.

4. CHANGES IN SCOPE OF SERVICES:

The Parties may mutually determine that changes in the Scope of Services for the project are necessary. Such changes shall be mutually agreed upon by the Parties and shall be incorporated in written addendums to this Agreement.

5. CONSULTANT CONTACT:

Owner will designate in writing the individual members of the Owner's staff with whom the Consultant shall directly consult with respect to the services to be provided hereunder.

6. TERM:

The term of this Agreement shall commence effective the 11th day of July 2025 and may terminate upon thirty (30) days written notice by either Party. In the event of such notice of termination, Consultant shall continue its duties to the date of termination and shall be paid for services rendered to the effective date of termination by the Owner. Consultant shall be entitled to receive compensation for all unpaid services within fifteen (15) days of the date of termination.

7. INDEMNIFICATION:

- A. Consultant, to the fullest extent permitted by law, shall defend, indemnify, assume all responsibility for and hold harmless the Owner and its directors, officers, employees, and agents, from and against any and all claims, suits, demands, liabilities, damages, losses, costs, and expenses of any nature whatsoever (including court costs and reasonable attorneys' fees) arising out of or resulting from the performance, acts, errors, omissions, or breach of this Agreement by the Consultant or its agents or representatives, including, without limitation, any damages to property or injury to persons, including death; provided, however, that the provisions of this section shall not apply to loss, damage or claims to the extent caused by the intentional acts, omissions, willful misconduct or negligence of the Owner. The obligations under this section shall survive the expiration or earlier termination of this Agreement.
- B. Owner, to the fullest extent permitted by law, shall defend, indemnify, assume all responsibility for and hold harmless the Consultant and its directors, officers, employees, and agents, from and against any and all claims suits, demands, liabilities, damages, losses, costs, attorney fees and expenses of any nature whatsoever to the extent such claims are caused by the negligence or willful misconduct of Owner in any actions undertaken by the Owner pursuant to this Agreement. The obligations under this section shall survive the expiration or earlier termination of this Agreement.

8. INSURANCE:

A. The Consultant shall carry, provide and maintain, in full force and effect at all times during the term of this Agreement, at its sole costs and expense, any and all insurance coverage

required for all of its employees, including worker's compensation insurance, commercial general liability insurance of not less than \$1,000,000.00, errors and omission liability insurance, and automobile insurance in conjunction with the performance of its obligations under the terms of this Agreement.

B. Consultant shall, upon request, provide Owner with certificates of insurance evidencing the policies listed above at any time during the term of this Agreement. Such policies shall include a provision requiring a minimum of thirty (30) days written notice to the Owner of any change or cancelation and shall list Owner as an additional insured.

9. OWNERSHIP OF WORK PRODUCT:

The originals of all project specific documents, other materials or information relating to the Owner that are produced, shall be delivered and become the property of the Owner; however, Consultant may retain copies of any such documents. In addition, all documentation provided by the Owner or specific documents created by the Consultant for the Owner are strictly confidential.

10. QUALITY OF WORK:

The work performed by the Consultant shall be done in a competent, timely and workmanlike manner in accordance with generally accepted industry standards and practices.

11. INDEPENDENT CONTRACTOR:

Consultant is and shall be considered an independent contractor under this Agreement and shall not be considered as an employee or agent of Owner for any purpose.

12. ASSIGNMENT:

It is understood that the Owner enters into this Agreement based on the knowledge, experience and special abilities of the Consultant. Accordingly, the Consultant shall not assign any responsibilities or delegate any duties of the Consultant without the prior written consent of Owner. This shall not prevent Consultant from hiring such staff to assist in the performance of any duties that may be determined appropriate.

13. NOTICES:

Any notice required or permitted by this Agreement shall be in writing and shall be deemed to have been sufficiently given for all purposes if sent by certified mail or registered mail, postage and fees prepaid, or by electronically confirmed facsimile transmission addressed to the Party to whom such notice is to be given at the address set forth below, or at such other address as has been previously furnished in writing, to the other Party or Parties.

a. If to the Owners:

The Point Improvement Corporation Attn: Robert Booth 166 E 14000 S., Suite 210 Draper, UT 84020

b. If to the Consultant:

Pinnacle Consulting Group, Inc.

Attn: Jason Woolard 550 W. Eisenhower Blvd Loveland, CO 80537 970-669-3611

14. EXHIBITS:

All Exhibits referred to in this Agreement are, by reference, incorporated herein for all purposes.

15. FORCE MAJEURE:

Any delays in or failure of performance by any Party of the obligations under this Agreement shall be excused if such delays or failure are a result of acts of God, fires, floods, strikes, labor disputes, accidents regulations or orders of civil or military authorities, shortages of labor or materials, or other causes, similar or dissimilar, which are beyond the control of any such Party.

16. CAPTIONS:

The captions of the paragraphs are set forth only for the convenience and reference of the Parties and are not intended in any way to define, limit or describe the scope or intent of this Agreement.

17. ADDITIONAL DOCUMENTS OR ACTION:

The Parties agree to execute any additional documents or take any additional actions that are reasonably necessary to carry out the intent of this Agreement.

18. INTEGRATION AND AMENDMENT:

This Agreement represents the entire agreement between the Parties and there are no oral or collateral agreements or understandings. This Agreement may be amended only by an instrument in writing signed by the Parties. If any other provision of this Agreement is held invalid or unenforceable, no other provision shall be affected by such holding and all of the remaining provisions of this Agreement shall continue in full force and effect.

19. DEFAULT:

Time is of the essence. If either Party fails to timely make any payment or reasonably perform any condition, obligation, or duty under this Agreement, and such failure continues for ten (10) days after written notice of default is provided, then this Agreement may be terminated by the non-defaulting Party. Upon termination, the non-defaulting Party may recover all damages available at law or in equity. If the non-defaulting Party elects to treat this Agreement as continuing in effect, it may pursue an action for specific performance, damages, or both.

20. WAIVER OF BREACH:

A waiver by any Party to this Agreement of the breach of any term or provision of this Agreement shall not operate or be construed as a waiver of any subsequent breach by either Party.

21. GOVERNING LAW:

This Agreement shall be governed by the laws of the State of Utah.

22. BINDING EFFECT:

This Agreement shall inure to the benefit of, and be binding upon, the Parties, their respective legal representatives, and assigns; provided, however, that nothing in this paragraph shall be construed to permit the assignment of this Agreement except as otherwise expressly authorized herein.

23. COMPLIANCE WITH APPLICABLE LAW.

Consultant shall provide the Services set forth in attached Exhibit A (Scope of Services) and as set forth herein in a manner which, to the best knowledge of Consultant's belief is in full compliance with all applicable laws, ordinances, rules, and regulations of any federal, state, county, or municipal body or agency thereof having jurisdiction in which this Agreement is performed. Consultant declares that Consultant has complied with all federal, state and local laws regarding business permits, certificates and licenses that may be required to carry out this Scope of Services to be provided under this Agreement.

24. INSPECTION:

Each Party shall have access to any books, documents, papers and records of the other that are directly related to this Agreement for the purpose of making audit, examination, excerpts and transcriptions.

[Remainder of this page intentionally left blank.]

In witness whereof, the Parties hereto have made and executed this Agreement to be effective as of the 11th day of July 2025.

The Point Improvement Corporation				
Signature:	Robert Booth Robert Booth (Jul 11, 2025 16:16 MDT)			
Printed Name:	Robert Booth			
Title:	President			
CONSULTANT:				
Pinnacle Consulting Group, Inc.				
Signature:	Jason Woolard			
Printed Name:	Jason Woolard			

Partner

OWNER:

Title:

[Remainder of this page intentionally left blank.]

EXHIBIT A SERVICES

PUBLIC IMPROVEMENT FEE (PIF) COLLECTION SERVICES

Summary Description of Services

Establish and maintain systems for receiving, collecting, administering, remitting, and disbursing Public Improvement Fees (PIF) at The Point. Establish and service PIF to existing businesses and to new businesses as they begin business operations at The Point.

System Initial Set-Up

- Review and establish familiarity with PIF covenants and governing documents.
- Establish uniform guidelines specifying the scope and definition of PIF sales.
- Develop a PIF brochure, informational card, and remittance form.
- Establish reporting systems, forms, and reports for monthly/annual submittal.

Business Initial Set-Up

- Work with developer to contact business' corporate offices on PIF collection and remittance requirements.
- Work with businesses to set up registers for the performance of periodic register checks.
- Set up banking and funds transfers.

Ongoing Collection Services

- Provide ongoing communication and clarification with businesses specifying the scope and definition of PIF sales.
- Maintain and update the PIF brochure, informational card, and remittance forms.
- Perform periodic register checks to verify placard displays and obtain copies of receipts.
- Manage PIF collection receipts and cash flow following established procedures for collection.
- Maintain monthly/annual reporting systems and supporting documents.
- Prepare an annual budget for PIF sales.

2025 SERVICE FEE STRUCTURE

System Initial Set-Up: \$185 per hour with an amount not to exceed \$5,000

Business Initial Set-Up: \$500 per business (new or existing)

Ongoing Collection Services: \$800 per month base fee + \$25 per month per form



AGREEMENT WITH RESPECT TO PROFESSIONAL CONSULTING SERVICES

This Agreement, to be effective the 11th day of July 2025 by and between, The Point Improvement Corporation, a Utah non-profit corporation hereinafter referred to as "Owner", and Pinnacle Consulting Group, Inc., a Colorado corporation hereinafter referred to as "Consultant". Witnesseth that, collectively Owner and Consultant are referred to as the "Parties" or individually as a "Party".

WHEREAS, the Owner desires to procure professional consulting services which Consultant has experience in providing and as further described in Exhibit A (Scope of Services) attached hereto, for purposes of accounting services at The Point in Draper, Utah.

Now, therefore, in consideration of the mutual covenants and obligations herein expressed, the Parties agree as follows:

1. SCOPE OF SERVICES:

Consultant agrees to provide Owner with the specific professional services set forth on Exhibit A (Scope of Services) attached hereto and incorporated herein by this reference. Consultant and Owner acknowledge the Scope of Services may be modified annually or as described in Section 4 below.

2. SERVICES BY OWNER:

Owner and Owner's representatives will be available on a reasonable basis for reviews and meetings, final review and approval, and such other contact as may be required to carry out Consultant's obligations hereunder. At Owner's expense, Owner will provide such documents and payment of expenses as are reasonably necessary for Consultant to carry out the duties hereunder.

3. COMPENSATION:

- A. Owner shall pay Consultant for contracted services which are specifically stated in Exhibit A (Scope of Services). This Agreement may be renewed for successive terms under which the compensation will be determined prior to the beginning of each annual term by written acceptance of Exhibit A by the Parties.
- B. The Fee for services shall be billed monthly for the duration of the services.
- C. Special projects and additional services not included in Exhibit A (Scope of Services) will result in additional costs to the project. Consultant will provide an estimate of costs associated with the special project or additional services. Consultant will acquire written approval of the estimated costs from the Owner prior to commencement of services. Owner shall pay Consultant for all approved special projects and additional services.
- D. Reimbursable Expenses are in addition to compensation for Consultant's services and include expenses incurred by the Consultant and its employees in the direct interest of the Owner, as identified in the following Clauses:

- i. Fees paid for securing approval of authorities having jurisdiction over the Owner;
- ii. Reproductions, postage and handling of Drawings, Specifications, and other documents;
- iii. Travel expenses as required for services directly related to the Owner;
- iv. Facsimile services, courier services, overnight deliveries or other similar project related expenditures; and
- v. If authorized in advance by the Owner in writing, required out-of-state travel expenses.

4. CHANGES IN SCOPE OF SERVICES:

The Parties may mutually determine that changes in the Scope of Services for the project are necessary. Such changes shall be mutually agreed upon by the Parties and shall be incorporated in written addendums to this Agreement.

5. <u>CONSULTANT CONTACT:</u>

Owner will designate in writing the individual members of the Owner's staff with whom the Consultant shall directly consult with respect to the services to be provided hereunder.

6. TERM:

The term of this Agreement shall commence effective the 11th day of July 2025 and may terminate upon thirty (30) days written notice by either Party. In the event of such notice of termination, Consultant shall continue its duties to the date of termination and shall be paid for services rendered to the effective date of termination by the Owner. Consultant shall be entitled to receive compensation for all unpaid services within fifteen (15) days of the date of termination.

7. INDEMNIFICATION:

- A. Consultant, to the fullest extent permitted by law, shall defend, indemnify, assume all responsibility for and hold harmless the Owner and its directors, officers, employees, and agents, from and against any and all claims, suits, demands, liabilities, damages, losses, costs, and expenses of any nature whatsoever (including court costs and reasonable attorneys' fees) arising out of or resulting from the performance, acts, errors, omissions, or breach of this Agreement by the Consultant or its agents or representatives, including, without limitation, any damages to property or injury to persons, including death; provided, however, that the provisions of this section shall not apply to loss, damage or claims to the extent caused by the intentional acts, omissions, willful misconduct or negligence of the Owner. The obligations under this section shall survive the expiration or earlier termination of this Agreement.
- B. Owner, to the fullest extent permitted by law, shall defend, indemnify, assume all responsibility for and hold harmless the Consultant and its directors, officers, employees, and agents, from and against any and all claims suits, demands, liabilities, damages, losses, costs, attorney fees and expenses of any nature whatsoever to the extent such claims are caused by the negligence or willful misconduct of Owner in any actions undertaken by the Owner pursuant to this Agreement. The obligations under this section shall survive the expiration or earlier termination of this Agreement.

8. INSURANCE:

A. The Consultant shall carry, provide and maintain, in full force and effect at all times during the term of this Agreement, at its sole costs and expense, any and all insurance coverage

required for all of its employees, including worker's compensation insurance, commercial general liability insurance of not less than \$1,000,000.00, errors and omission liability insurance, and automobile insurance in conjunction with the performance of its obligations under the terms of this Agreement.

B. Consultant shall, upon request, provide Owner with certificates of insurance evidencing the policies listed above at any time during the term of this Agreement. Such policies shall include a provision requiring a minimum of thirty (30) days written notice to the Owner of any change or cancelation and shall list Owner as an additional insured.

9. OWNERSHIP OF WORK PRODUCT:

The originals of all project specific documents, other materials or information relating to the Owner that are produced, shall be delivered and become the property of the Owner; however, Consultant may retain copies of any such documents. In addition, all documentation provided by the Owner or specific documents created by the Consultant for the Owner are strictly confidential.

10. QUALITY OF WORK:

The work performed by the Consultant shall be done in a competent, timely and workmanlike manner in accordance with generally accepted industry standards and practices.

11. INDEPENDENT CONTRACTOR:

Consultant is and shall be considered an independent contractor under this Agreement and shall not be considered as an employee or agent of Owner for any purpose.

12. ASSIGNMENT:

It is understood that the Owner enters into this Agreement based on the knowledge, experience and special abilities of the Consultant. Accordingly, the Consultant shall not assign any responsibilities or delegate any duties of the Consultant without the prior written consent of Owner. This shall not prevent Consultant from hiring such staff to assist in the performance of any duties that may be determined appropriate.

13. NOTICES:

Any notice required or permitted by this Agreement shall be in writing and shall be deemed to have been sufficiently given for all purposes if sent by certified mail or registered mail, postage and fees prepaid, or by electronically confirmed facsimile transmission addressed to the Party to whom such notice is to be given at the address set forth below, or at such other address as has been previously furnished in writing, to the other Party or Parties.

a. If to the Owners:

The Point Improvement Corporation Attn: Robert Booth 166 E 14000 S., Suite 210 Draper, UT 84020

b. If to the Consultant:

Pinnacle Consulting Group, Inc.

Attn: Jason Woolard 550 W. Eisenhower Blvd Loveland, CO 80537 970-669-3611

14. EXHIBITS:

All Exhibits referred to in this Agreement are, by reference, incorporated herein for all purposes.

15. FORCE MAJEURE:

Any delays in or failure of performance by any Party of the obligations under this Agreement shall be excused if such delays or failure are a result of acts of God, fires, floods, strikes, labor disputes, accidents regulations or orders of civil or military authorities, shortages of labor or materials, or other causes, similar or dissimilar, which are beyond the control of any such Party.

16. CAPTIONS:

The captions of the paragraphs are set forth only for the convenience and reference of the Parties and are not intended in any way to define, limit or describe the scope or intent of this Agreement.

17. ADDITIONAL DOCUMENTS OR ACTION:

The Parties agree to execute any additional documents or take any additional actions that are reasonably necessary to carry out the intent of this Agreement.

18. INTEGRATION AND AMENDMENT:

This Agreement represents the entire agreement between the Parties and there are no oral or collateral agreements or understandings. This Agreement may be amended only by an instrument in writing signed by the Parties. If any other provision of this Agreement is held invalid or unenforceable, no other provision shall be affected by such holding and all of the remaining provisions of this Agreement shall continue in full force and effect.

19. DEFAULT:

Time is of the essence. If either Party fails to timely make any payment or reasonably perform any condition, obligation, or duty under this Agreement, and such failure continues for ten (10) days after written notice of default is provided, then this Agreement may be terminated by the non-defaulting Party. Upon termination, the non-defaulting Party may recover all damages available at law or in equity. If the non-defaulting Party elects to treat this Agreement as continuing in effect, it may pursue an action for specific performance, damages, or both.

20. WAIVER OF BREACH:

A waiver by any Party to this Agreement of the breach of any term or provision of this Agreement shall not operate or be construed as a waiver of any subsequent breach by either Party.

21. GOVERNING LAW:

This Agreement shall be governed by the laws of the State of Utah.

22. BINDING EFFECT:

This Agreement shall inure to the benefit of, and be binding upon, the Parties, their respective legal representatives, and assigns; provided, however, that nothing in this paragraph shall be construed to permit the assignment of this Agreement except as otherwise expressly authorized herein.

23. COMPLIANCE WITH APPLICABLE LAW.

Consultant shall provide the Services set forth in attached Exhibit A (Scope of Services) and as set forth herein in a manner which, to the best knowledge of Consultant's belief is in full compliance with all applicable laws, ordinances, rules, and regulations of any federal, state, county, or municipal body or agency thereof having jurisdiction in which this Agreement is performed. Consultant declares that Consultant has complied with all federal, state and local laws regarding business permits, certificates and licenses that may be required to carry out this Scope of Services to be provided under this Agreement.

24. INSPECTION:

Each Party shall have access to any books, documents, papers and records of the other that are directly related to this Agreement for the purpose of making audit, examination, excerpts and transcriptions.

[Remainder of this page intentionally left blank.]

In witness whereof, the Parties hereto have made and executed this Agreement to be effective as of the 11th day of July 2025.

The Point Improvement Corporation				
Signature:	Robert Booth Robert Booth (Jul 11, 2025 16:15 MDT)			
Printed Name:	Robert Booth			
Title:	President			
CONSULTANT:				
Pinnacle Consulting Group, Inc.				
Signature:	Jason Woolard			
Printed Name:	Jason Woolard			

Partner

OWNER:

Title:

[Remainder of this page intentionally left blank.]

EXHIBIT A

ACCOUNTING AND FINANCE

Accounting

- Maintain accounting records to include the cash receipts journal, cash disbursements journal, general ledger, accounts receivable journals and ledgers.
- Administer deposits with banks and financial institutions.
- Manage and track bank account reconciliations, investment records, and developer advance receipt and repayment records.
- Maintain asset and depreciation schedules.
- Prepare journal entries.

Accounts Payable and Accounts Receivable

- Administer payments monthly.
- Process payments for approval by representatives of the Board of Directors.
- Prepare budget versus actual reports and check detail listing reports.
- Invoice and collect fees as needed.
- Prepare billings, enter cash receipts, and track revenues.

Financial Statements

- Prepare financial statements including balance sheet and income statement.
- Provide current year forecast of revenues and expenditures.
- Provide budget versus actual expense analysis.
- Prepare and present financial reports and summaries of information at Board Meetings.

Cash Management

- Administer cash transfers and investment of funds, as needed.
- Monitor district cash receipts, disbursements, and investments.
- Initiate transfers between banks.
- Assist with the coordination and execution of banking and investment transactions and documentation at the director of the Board of Directors.

Budget

- Collaborate with the Board of Directors on priorities and goals throughout a well-coordinated annual budget process.
- Prepare annual budgets including detailed schedules.
- Monitor actual expenditures against the approved budget and assist the Board of Directors with questions.

Audit

Facilitate the preparation of audit by preparing and providing audit documentation and schedules to the auditors and review of financial statements.

Compliance

Ensure compliance with all requirements and filings.

Proforma

• Prepare short-term and long-term financial modeling including the preparation of revenue and expenditure forecasts.

Financial Management

- Provide financial management through financial analysis of proposed transactions and a forwardlooking review of funding needs.
- Provide expert-level financial knowledge and opinion to the Board of Directors.

2025 SERVICE FEE STRUCTURE

Accounting/Financial Services: \$155 per hour

POINT PHASE 1 PUBLIC INFRASTRUCTURE DISTRICT NOS. 1-9

DETAILED PROCUREMENT AND ADMINSTRATIVE RULES

On March 6, 2025, the Point Phase 1 Public Infrastructure District Nos. 1-9 (collectively, the "**Districts**") adopted a Joint Resolution Adopting Procurement and Administrative Rules and a Joint Resolution Appointing Procurement Official (collectively, the "**Procurement Resolutions**").

As set forth in the Procurement Resolutions, pursuant to <u>Utah Code Section 17B-1-618</u>, all purchases or encumbrances by a special district shall be made or incurred according the purchasing procedures established for each district by the district's rule making authority, as that term is defined in <u>Utah Code Section 63G-6a-103</u>, and only on an order of approval of the person or persons duly authorized. This document sets forth the Detailed Procurement and Administrative Rules pursuant to the Procurement Resolutions as of <u>July 25, 2025</u>.

General Provisions

- 1. <u>Purchasing Agent Designated</u>. CLW Point Partners, LLC dba The Point Partners (the "**Purchasing Agent**") has been appointed as the procurement official by the Procurement Resolutions and is hereby appointed and designated as the Districts' purchasing agent. The Purchasing Agent may from time to time appoint another person to undertake all or some of the duties of the Purchasing Agent set forth herein or appointed to him.
- 2. <u>Authority to Enter into and Execute Contracts</u>. All contracts are to be approved or ratified by the Board of Trustees of the Districts. No department, office, advisory or policy board or other organization of Districts, nor any officer or employee thereof, shall be empowered to execute any purchase order or contract except as specifically authorized by the Board of Trustees, as set forth in a contract, or by other applicable law. All contracts in violation of this provision are considered void and may result in the personal obligation and liability of persons at fault for such violations.
- 3. <u>Conflict of Interests Prohibited</u>. No officer, employee, agent, representative or member of any committee of the Districts shall have a financial interest in any contract, bid, or proposal; receive any compensation or gift from any bidder or proposer; or have any other conflict of interest (See Utah Code 67-16 and 17-16a).
- 4. <u>Competitive Procurement</u>. Unless exempted by this policy, all purchases and contracts shall be awarded on a competitive basis, as required by the Procurement Resolutions and applicable State and Federal law.
- 5. <u>Participation in State Procurement Unit Agreement and Contracts</u>. Pursuant to <u>Utah Code 63G-6a-2105</u>, the Districts may make purchases from or participate in state public procurement unit agreements and contracts, pursuant to the terms of said agreements and contracts without soliciting additional procurement options.
- 6. <u>Unethical Purchasing Practices</u>. Failure of any agent, officer or employee to comply with ethical purchasing requirements may result in suspension, termination, being personally liable for the purchase and/or criminal prosecution. All agents, officers and employees

engaged in the procurement process for the Districts will maintain high ethical behavior in agreement with Utah Code 67-16, Utah Public Officers' and Employees' Ethics Act and avoid the following practices:

- a. Dividing a procurement to avoid following policy (see <u>Utah Code 63G-6a-2404.3</u>)
- b. Kickbacks and Gratuities (see Utah Code 63G-6a-2404, 67-16-5 through 67-16-6)
- c. Failure to Disclose conflicts (see Utah Code 63G-6a-1205 & 67-16-9)
- d. Cost-plus-a-percentage-of-cost contracts (see <u>Utah Code 63G-6a-1205</u>)
- 7. The Districts' purchases are not subject to sales tax. For vendors requiring documentation of tax exempt status, a TC-712G Exemption Certificate for Governments and Schools may be obtained from the Purchasing Agent [add contact information].
- 8. When a procurement involves the expenditure of State or Federal funds, the Districts shall comply with the applicable State and Federal laws and regulations.
- 9. Pursuant to <u>Utah Code Section 63G-6a-2002(1)</u>, all procurement records shall be retained and disposed of in accordance with Title 63G, Chapter 2, Government Records Access and Management Act.

10. Procurement Code Exceptions.

- a. <u>From Another Public Entity</u>. Pursuant to <u>Utah Code Section 63G-6a-107.6(1)(a)</u>, the Utah Procurement Code does not apply to a public entity's acquisition of a procurement item from another public entity.
- b. <u>Interests in Real Property</u>. Pursuant to <u>Utah Code Section 63G-6a-107.6(2)</u>, the Utah Procurement Code, unless otherwise specifically stated, does not apply to the acquisition or disposal of real property or an interest in real property, including the acquisition or lease of water or water rights for the Great Salt Lake.
- c. <u>Management of Investments</u>. Pursuant to <u>Utah Code Section 63G-6a-107.6(3)(f)</u>, the Utah Procurement Code does not apply to activities related to the management of investments by the Districts.
- d. Pursuant to <u>Utah Code Section 63G-6a-802</u>, the Districts may award a contract without engaging in the standard procurement process if the Purchasing Agent determines in writing that:
 - i. there is only one source for the item; or
 - ii. transitional costs are a significant consideration in selecting the item; and the results of a cost-benefit analysis demonstrate that transitional costs are unreasonable or cost-prohibitive, and that the award of a contract without

- engaging the in standard procurement process is in the best interests of the Districts; or
- iii. the award of a contract is under circumstances, in light of the Procurement Resolutions, that make awarding the contract through a standard procurement process impractical and not in the best interest of the Districts.
- e. <u>Trial Use Contracts</u>. Pursuant to <u>Utah Code Section 63G-6a-802.3</u>, the Districts may award a trial use contract without engaging the standard procurement process in compliance with that Section.
- f. Extension of Contract. Pursuant to <u>Utah Code Section 63G-6a-802.7</u>, the Purchasing Agent may extend an existing contract without engaging in a standard procurement process for a period of time not to exceed 120 days provided the requirements in that Section are met.
- g. Pursuant to <u>Utah Code Section 17D-4-203(2)(c)(iii)</u>, a the Districts may acquire completed or partially completed improvements, including related design and consulting services and related work product, for fair market value as reasonably determined by a surveyor or engineer that the Districts employes or engages to perform the necessary engineering services for and to supervise the construction or installation of the improvements.

Authorization Requirements for Purchases

1. Pursuant to <u>Utah Code Section 63G-6a-506(2)</u>, the District hereby adopts the following rules governing small purchases of any item, including construction, job order contracting, design professional services, other professional services, information technology, and goods.

Estimated Costs of Services and Goods	Purchasing Method	Position with Approval Authority
\$0.01 - \$49,999	It has been budgeted for and is in line with the budgeted purposes.	Approved by Purchasing Agent; ratified by Boards of Trustees
\$50,000 - \$250,000	Solicitation required	Approved by Purchasing Agent; ratified by Boards of Trustees
\$250,001 and above	Competitive Sealed Bids required	Approved by Purchasing Agent; approved by Boards of Trustees prior to contract award

1. Avoidance of approval and written contract requirements. Purchases shall not be divided into smaller purchases for the purpose of evading the approval process required by the Procurement Resolutions, or for the purpose of avoiding the need to obtain a written contract.

Solicitation Requirements

- 1. Required Public Notice. Pursuant to Utah Code Section 63G-6a-112(1), if the Purchasing Agent determines to issue a solicitation, the Districts shall post the notice of the solicitation at least seven days before the day of the deadline for submission of a solicitation response on the Districts' website. Pursuant to Utah Code Section 63G-6a-112(2), the Districts may reduce the seven-day period described herein, if the Purchasing Agent signs a written statement that states a shorter time is needed and determines that competition from multiple sources may be obtained within the shorter period of time. Pursuant to Utah Code Section 63G-6a-802, if the cost of procurement exceeds \$50,000, the Districts shall require publication of a notice at least seven days before the day of the deadline for submission of a solicitation response on the Districts' website.
- 2. <u>Correcting an immaterial error in a solicitation response</u>. Pursuant to <u>Utah Code Section 63G-6a-114</u>, the Districts may allow a vendor to correct an immaterial error in a responsive solicitation response as set forth in the Utah Procurement Code.
- 3. <u>Clarifying information in a solicitation response</u>. Pursuant to <u>Utah Code Section 63G-6a-115</u>, the Districts may at any time make a written request to a vendor to clarify information contained in a responsive solicitation response or provide additional information that the Districts determine the Districts need to determine whether the vendor is responsible.
- 4. <u>Cancelling a solicitation</u>. Pursuant to <u>Utah Code Section 63G-6a-119</u>, the Districts may cancel a solicitation if the Purchasing Agent determines that cancellation is in the best interests of the Districts. If the Districts cancel a solicitation, the Purchasing Agent shall explain in writing the reasons for the cancellation and the Districts shall make the written explanation available to the public for a period of one year after the cancellation.
- 5. <u>Rejecting a solicitation response</u>. The Districts may reject a solicitation response for the reasons set forth in <u>Utah Code Section 63G-6a-120(1)</u>.

Competitive Sealed Bids - When Required

- 1. In the event that bids exceed available funds and the lowest responsive and responsible bid does not exceed funds available by more than ten percent (10%), the Board may, where time or economic considerations preclude re-solicitation of work of a reduced scope, negotiate an adjustment of the bid price, including changes in the bid requirements, with the lowest responsive and responsible bidder, in order to bring the bid within the amount of available funds.
- 2. Content of Invitation for Bids.

- a. Pursuant to Utah Code Section 63G-6a-603(1), an invitation for bids shall include:
 - i. A description of the procurement item that the Districts seek;
 - ii. Instructions for submitting a bid, including the deadline for submitting a bid;
 - iii. The objective criteria that the Districts will use to evaluate bids;
 - iv. Information about the time and manner of opening bids; and
 - v. Terms and conditions that the Districts intend to include in a contract resulting from the bidding process.
- b. Pursuant to <u>Utah Code Section 63G-6a-603(2)</u>, the Districts shall post the invitation to bid at least seven days before the day of the deadline for submission of a bids on the Districts' website.
- c. An invitation to bid may require attendance at a pre-bid meeting for the purpose of obtaining additional information relevant to the bid. The invitation shall list the time, date and place of any pre-bid meeting that will take place.
- d. An invitation to bid may require that a bidder obtain additional specifications and objective criteria too lengthy to publish in the invitation for bids. The invitation to bid shall indicate where such information may be obtained.
- 3. All sealed bids shall be opened by the Purchasing Agent or designated representative in an open public meeting, before one or more witnesses, at the time and place indicated in the invitation for bids. The name of the bidder and the amount of each bid shall be recorded and made available to the public. Bids shall not be accepted after the time for submission of a bid has expired.
- 4. The Boards of Trustees shall reject bids from further evaluation that are: incomplete, illegible, conditional, modify bid requirements, contain additional terms or conditions, divide bid into parts, failed to attend required pre-bid meetings, fail to confirm requirements or specifications, the bidder has a pending dispute with the Districts on a previous project or where the Board of Trustees reasonably concludes that the bidder is unable to satisfactorily fulfill the bid requirements or has engaged in unlawful or unethical conduct in attempting to secure the bid. Any bidder whose bid has been rejected may obtain from the Purchasing Agent a written finding stating the specific reason the bid was rejected.
- 5. The Boards of Trustees shall award the bid/contract to the lowest qualified bidder or the bidder who best satisfies the objective criteria described in the invitation for bids which may include: experience, performance ratings, inspection of workmanship, suitability, quality, likely compatibility with existing assets or practices, availability, warrantee, references, licensure, proximity or other criteria reasonably specified in the invitation to bid.

- 6. Tied bids may be resolved using any reasonable criteria and at the sole discretion of the Boards of Trustees.
- 7. The Districts may cancel the bid process or reject all bids in whole or in part if it determines that; no bids met bid requirements, there are insufficient funds, the item is no longer needed or the specifications or timing does not meet the Districts' current needs or long term plans. In the event of a bid cancelation the Districts shall publicly state the reason for the cancellation and make that information available for public inspection.
- 8. Exemptions from competitive bid requirements may include the following: sole source providers, service contracts with professionals or specialists, emergency purchases. The Purchasing Agent shall sufficiently document the reason for not competitively bidding the procurement and have it approved by the Boards of Trustees.
- 9. Protests to the bidding process shall be submitted to the Purchasing Agent in writing within five (5) days. The Purchasing Agent will respond to the protest within five (5) days of receiving the complaint. The Purchasing Agent's decision may be appealed to the Boards of Trustees in writing within five (5) days. The Boards of Trustees may address the appeal at its next regularly scheduled meeting or hold a special meeting to evaluate the merits of the protest appeal.

Request for Information

- 1. Pursuant to <u>Utah Code Section 63G-6a-409(1)</u>, the District may issue a request for information to obtain information, comments, or suggestions before issuing a solicitation.
- 2. Pursuant to <u>Utah Code Section 63G-6a-409(2)</u>, a request for information is not a procurement process and cannot be use to: (i) negotiate fees; (ii) make a purchase; (iii) determine whether a procurement may be made under an exception to the Procurement Code; or (iv) enter into a contract.

Requests for Statement of Qualifications

- 1. Pursuant to <u>Utah Code Section 63G-6a-410(1)</u>, the District may use this process as one of the stages of a multiple-stage standard procurement process and to identify qualified vendors to participate in other states of the multiple-stage procurement process.
- 2. Pursuant to <u>Utah Code Section 63G-6a-410(2)</u>, the District may not use the statement of qualifications to: (i) award a contract based solely on this process or (ii) solicit costs, pricing, or rates or negotiate fees through this process.

Approved Vendor List Procurement Process

1. Pursuant to <u>Utah Code Section 63G-6a-507(2)</u>, the District may establish an "Open-ended approved vendor list" after completing the statement of qualifications process described in <u>Utah Code Section 63G-6a-410</u>.

Bonds

- 1. <u>Bid Security</u>. Pursuant to <u>Utah Code Section 63G-6a-1102(1)</u>, bid security in an amount equal to at least 5% of the amount of the bid shall be required for all competitive bidding for construction contracts. Bid security shall be a bond provided by a surety company authorized to do business in Utah, the equivalent in cash, or any other form satisfactory to the Districts.
- 2. <u>Failure to comply with bid security</u>. Pursuant to <u>Utah Code Section 63G-6a-1102(2)</u>, when a bidder fails to comply with the requirement for bid security described in the invitation for bids, the bid shall be rejected unless the Purchasing Agent determines that the failure to comply with the security requirements is nonsubstantial.
- 3. Necessary Bonds When a Contract is Awarded. Pursuant to Utah Code Section 63G-6a-1103(1), when a construction contract is awarded, the contractor to whom the contract is awarded shall deliver the following bonds or security to the Districts, which shall become binding on the parties upon the execution of the contract:
 - a. a performance bond satisfactory to the Districts that is in an amount equal to 100% of the price specified in the contract and is executed by a surety company authorized to do business in Utah or any other form satisfactory to the Districts; and
 - b. a payment bond satisfactory to the Districts that is in an amount equal to 100% of the price specified in the contract and is executed by a surety company authorized to do business Utah or any other form satisfactory to the Districts, which is for the protection of each person supplying labor, service, equipment, or material for the performance of the work provided for in the contract.

Multiyear Contracts

- 1. <u>Generally</u>. Pursuant to <u>Utah Code Section 63G-6a-1204</u>, the Districts may enter into a multiyear contract resulting from an invitation for bids or a request for proposals, if:
 - a. the Purchasing Agent determines, in the discretion of the Purchasing Agent, that entering into a multiyear contract is in the best interest of the Districts; and
 - b. the invitation for bids or request for proposals:
 - i. states the term of the contract, including all possible renewals of the contract:
 - ii. states the conditions for renewal of the contract; and
 - iii. include a provision that states a multiyear contract, including a contract that was awarded outside of an invitation for bids or request for proposals process, may not continue or be renewed for any year after the first year of the multiyear contract if adequate funds are not appropriated or otherwise available to continue or renew the contract.

- c. In making the determination described above, the Purchasing Agent shall consider whether entering into a multiyear contract will:
 - i. result in significant savings to the Districts, including:
 - 1. reduction of the administrative burden in procuring, negotiating, or administering contracts.
- 2. Exception for Multiyear Contracts. Pursuant to <u>Utah Code Section 63G-6a-1204(7)</u>, the requirements for multiyear contracts do not apply to a contract for the design or construction of a facility, a road, a public transit project, or a contract for the financing of equipment.

Design Professional Services

- 1. <u>Generally</u>. Pursuant to <u>Utah Code Section 63G-6a-118</u>, the Districts hereby adopt the following rules related to the procurement of design professional services.
- 2. Pursuant to <u>Utah Code Section 63G-6a-1502</u>, if the Districts seek to procure design professional services they shall:
 - a. publicly announce all requirements for those services through a request for statement of qualifications, as provided in <u>Utah Code Section 63G-6a-1501</u>; and
 - b. negotiate contracts for design professional services:
 - i. on the basis of demonstrated competence and qualification for the type of services required; and
 - ii. at fair and reasonable prices.
- 3. Other Professional Services. Pursuant to <u>Utah Code Section 63G-6a-1502(3)</u>, the Districts may procure professional services, other than design professional services, as provided in Utah Code Section 63G-6a-1501.

PRE-OPENING SERVICES AND MANAGEMENT AGREEMENT

between

POINT PHASE 1 PUBLIC INFRASTRUCTURE DISTRICT NO. 1

and

GLOBAL SPECTRUM, L.P. d/b/a Oak View Group

Dated: [____], 2025

PRE-OPENING SERVICES AND MANAGEMENT AGREEMENT Effective Date: [2025]

This Pre-Opening Services and Management Agreement is made effective as of the Effective Date by and between Point Phase 1 Public Infrastructure District No. 1, a quasi-municipal corporation and political subdivision of the State of Utah with an address at 550 W. Eisenhower Blvd. Loveland, CO 80537 Attn: Brendan Campbell ("Owner"), and Global Spectrum, L.P., a Delaware limited partnership d/b/a Oak View Group ("OVG"). Owner and OVG are sometimes referred to herein as the "Parties".

RECITALS

WHEREAS, CLW POINT PARTNERS LLC, a Delaware limited liability company dba The Point Partners ("TPP"), owns the development rights to approximately 100 acres within The Point Development in Draper, UT ("The Point Development") and has worked with the Point of the Mountain State Land Authority to establish the Owner and Point Phase 1 Public Infrastructure District Nos. 2-9; and

WHEREAS, Owner is constructing and will own a new event center (the "Facility"), to be situated on 5+/- acres of The Point Development, which Facility is anticipated to open on or around March 2028 (the date on which the Facility opens for business is referred to herein as the "Opening Date");

WHEREAS, Owner desires to engage OVG to provide certain pre-opening consulting services, and following the Opening Date to manage and operate the Facility, as agent on behalf and for the benefit of Owner, and OVG desires to accept such engagement, pursuant to the terms and conditions contained herein; and

NOW, THEREFORE, for and in consideration of the foregoing, the mutual covenants and promises hereinafter set forth and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties, intending to be legally bound, hereby agree as follows:

ARTICLE 1 DEFINITIONS

Section 1.1. <u>Definitions</u>. For purposes of this Agreement, the following terms have the meanings referred to in this Section:

Advanced Funds: shall have the meaning given to such term in Section 10.2 of this Agreement.

Affiliate: A person or company that directly or indirectly, through one or more intermediaries, controls or is controlled by, or is under common control with, a specified person or company.

Agreement: This Pre-Opening Services and Management Agreement, together with all schedules and exhibits attached hereto, each of which are incorporated herein as an integral part of this Agreement.

Base Management Fee: The fixed fee Owner shall pay to OVG under this Agreement, as more fully described in Section 3.2 of this Agreement.

Buyout Amount: shall have the meaning given to such term in Section 12.4 of this Agreement.

Capital Expenditures: All expenditures for building additions, alterations, repairs or improvements and for purchases of additional or replacement furniture, machinery, or equipment, where the cost of such expenditure is greater than \$5,000 and the depreciable life of the applicable item is, according to generally accepted accounting principles, is in excess of one year.

Commencement Date: shall have the meaning given to such term in Section 4.1 of this Agreement.

Commercial Rights: Naming rights, sub-naming rights, entitlement rights, pouring rights, branding rights, advertising, sponsorships, premium seating (including luxury suites, club seats, loge boxes and party suites, as applicable) and similar commercial rights at or with respect to the Facility.

Commercial Rights Fee: shall have the meaning given to such term in Section 3.3 of this Agreement.

Commercial Rights Revenue: shall mean all revenue (including Operating Revenue and Non-Operating Revenue) derived from the sale of Commercial Rights.

CPI: "Consumer Price Index" for the local Salt Lake City, Utah area, as published by the United States Department of Labor, Bureau of Labor Statistics or such other successor or similar index.

Effective Date: shall have the meaning given to such term on the top of page 1 in the opening paragraph of this Agreement.

Emergency Repair: The repair of a condition which, if not performed immediately, creates an imminent danger to persons or property and/or an unsafe condition at the Facility threatening persons or property.

Event Account: A separate interest-bearing account in the name of Owner and under Owner's Federal ID number in a local qualified public depository, to be designated by Owner, where advance ticket sale revenue and rental deposits are deposited by OVG.

Event of Force Majeure: An act of God, fire, earthquake, hurricane, flood, riot, civil commotion, terrorist act, terrorist threat, storm, washout, wind, lightning, landslide, explosion, accident to machinery or equipment, pandemic or epidemic, any law, ordinance, rule, regulation, or order of any public or military authority stemming from the existence of economic or energy controls, war or hostilities, a labor dispute which results in a strike or work stoppage affecting the Facility or services described in this Agreement, or any other cause or occurrence outside the reasonable control of the party claiming an inability to perform and which by the exercise of due diligence could not be reasonably prevented or overcome.

Existing Contracts: Service Contracts, Revenue Generating Contracts, and other agreements relating to the day-to-day operation of the Facility existing as of the Commencement Date, as set forth on <u>Schedule 14.1</u>, attached hereto, which shall be updated by Owner prior to the Commencement Date.

Facility: shall have the meaning given to such term in the Recitals to this Agreement, and shall be deemed to include the entire arena complex, including but not limited to the arena, suites, locker rooms, meeting rooms, box office, common areas, lobby areas, executive and other offices, storage and utility

facilities, as well as the entrances, ground, sidewalks, and plazas immediately surrounding the Facility and adjacent thereto, as identified on <u>Schedule 1.1</u>, attached hereto.

Facility FF&E: Furniture, fixtures, and equipment to be procured for use at the Facility.

Food and Beverage Fee: has the meaning given to such term in Section 3.5 of this Agreement.

Food and Beverage Income: all gross Revenue generated from the Food and Beverage Services less (a) sales taxes, as shown on the monthly and annual financial statements for the Facility, and (b) credit card transaction fees.

Food and Beverage Services: shall have the meaning given to such term in Section 2.1(c) of this Agreement.

General Manager: The employee of OVG acting as the full-time on-site general manager of the Facility.

Incentive Fee: The contingent fee Owner shall pay to OVG under this Agreement, if earned, as more fully described in Section 3.3 of this Agreement.

Investment: shall have the meaning given to such term in Section 11.3 of this Agreement.

Laws: federal, state, local and municipal laws, statutes, rules, regulations and ordinances including, but not limited to, Sections 63G-6a-101, *et seq.*, Utah Code Annotated 1953 (the "Utah Procurement Code").

Management-Level Employees: The General Manager, Assistant General Manager, Business Manager (or employees with different titles performing similar functions), and any department head employed by OVG to perform services at the Facility (including, if applicable, employees performing the function of the Director of Operations, Director of Sales and Marketing, Director of Security, Finance Director, Event Manager and Director of Food and Beverage).

Marketing Plan: A plan for the advertising and promotion of the Facility.

Monthly Accounting Period: shall mean each calendar month during the Term.

Opening Date: shall have the meaning given such term in the Recitals to this Agreement.

Operating Account: A separate interest-bearing account in the name of Owner and under Owner's Federal ID number in a local qualified public depository, to be designated by Owner, where Revenue is deposited and from which Operating Expenses are paid.

Operating Budget: A line-item budget for the Facility that includes a projection of Revenues and Operating Expenses, presented on a monthly and annual basis.

Operating Expenses: All direct expenses incurred by OVG in connection with its operation, management, staffing, promotion and maintenance of the Facility and the Food and Beverage Services, including but not limited to the following: (i) employee payroll, benefits, relocation costs, severance costs,

bonus and related costs, (ii) cost of operating supplies, including general office supplies, (iii) advertising, marketing, group sales, and public relations costs, (iv) cleaning expenses, (v) data processing costs, (vi) dues, subscriptions and membership costs, (vii) printing and stationary costs, (viii) postage and freight costs, (ix) equipment rental costs, (x) repairs, maintenance, and equipment servicing, (xi) security expenses, (xiii) telephone and communication charges, (xiii) travel and entertainment expenses of OVG employees, (xiv) cost of employee uniforms and identification, (xv) exterminator, snow and trash removal costs (xvi) computer, software, hardware and training costs, (xviii) utility expenses, (xix) office expenses, (xx) audit and accounting fees, (xxi) legal fees and costs, (xxii) all bond and insurance costs (including but not limited to personal property, liability, and worker's compensation insurance, as well as the other insurance coverages required hereunder), including, without limitation, the cost of any coverage deductibles, coinsurance penalties, or self-insured retention under insurance policies, (xxiii) commissions and all other fees payable to third parties (e.q. commissions relating to food, beverage, and merchandise concessions services and Commercial Rights sales), (xxiv) cost of complying with any Laws, (xxv) costs incurred by OVG to settle or defend any claims asserted against OVG arising out of its operations at the Facility on behalf of Owner; (xxvi) costs incurred under Service Contracts and other agreements relating to Facility operations, (xxvii) Taxes, (xxviii) the Base Management Fee, (xxx) cost to OVG for managing and/or performing the Food and Beverage Services, and (xxix) cost incurred in connection with the marketing and sale of Commercial Rights (including without limitation the costs of dedicated staff responsible for marketing and selling the Commercial Rights).

The term "Operating Expenses" does <u>not</u> include debt service on the Facility, Capital Expenditures, Pre-Opening Expenses, property taxes, property insurance on the Facility itself or the contents within the Facility owned by Owner, or the Incentive Fees, all of which costs shall be borne by Owner and, if incurred by OVG, shall be promptly reimbursed to OVG by Owner.

Operating Term: the period beginning on the Opening Date and ending at the end of the Term.

Operating Year: Each 12-month period during the Operating Term, commencing on January 1 and continuing through December 31 of the same year; <u>provided</u> that for purposes of this Agreement there shall be a "Stub Operating Year" defined as the Opening Date through December 31 of the calendar year in which the Opening Date occurs. For the sake of clarity, the Stub Operating Year is also an Operating Year.

Operations Manual: Document to be developed by OVG which contains detailed terms regarding the management and operation of the Facility, including detailed policies and procedures to be implemented in operating the Facility, as agreed upon by both Owner and the OVG.

OVG: shall have the meaning given to such term in the opening paragraph to this Agreement.

Owner: shall have the meaning given to such term in the opening paragraph to this Agreement.

Pre-Opening Consulting Fee: shall have the meaning given to such term in Section 3.1 of this Agreement.

Pre-Opening Expense Account: A separate interest-bearing account in the name of the Owner and under the Owner's Federal ID number in a local qualified public depository, to be designated by the

Owner, into which the Owner deposits funds in advance for the payment of Pre-Opening Expenses, and from which OVG may draw to pay such Pre-Opening Expenses.

Pre-Opening Expense Budget: The budget for the Pre-Opening Period to be prepared by OVG pursuant to Section 7.1 herein which shall include, without limitation, all anticipated Pre-Opening Expenses and the Pre-Opening Consulting Fee.

Pre-Opening Expenses: The actual labor expense (including without limitation salary, benefits, 401(k) employer matching contributions, relocation, bonus and related costs), insurance costs, and other operating costs and expenses of OVG, as well as all out-of-pocket travel costs (airfare, ground transportation, meals and lodging) of OVG's corporate personnel, in connection with its obligations hereunder during the Pre-Opening Period.

Pre-Opening Period: Period of time beginning on the Commencement Date and ending on the Opening Date.

Reserve Account: shall have the meaning given to such term in Section 8.4 herein.

Revenue: All gross revenues generated by OVG's operation of the Facility, including but not limited to event ticket proceeds income, rental and license fee income, merchandise income, food and beverage income, income from any sale of Commercial Rights, service income, equipment rental fees, box office income, and miscellaneous operating income, <u>but shall not include</u> event ticket proceeds held by OVG in trust for a third party and paid to such third party.

Revenue Generating Contracts: Vendor, concessions and merchandising agreements, user/rental agreements, booking commitments, licenses, and all other contracts or agreements generating revenue for the Facility and entered into in the ordinary course of operating the Facility.

Service Contracts: Agreements for services to be provided in connection with the operation of the Facility, including without limitation agreements for ticketing, web development and maintenance, computer support services, Facility FF&E purchasing services, engineering services, electricity, steam, gas, fuel, general maintenance, HVAC maintenance, telephone, staffing personnel including guards, ushers and ticket-takers, extermination, elevators, stage equipment, fire control panel and other safety equipment, snow removal and other services which are deemed by OVG to be either necessary or useful in operating the Facility.

Taxes: Any and all governmental assessments, franchise fees, excises, license and permit fees, levies, charges and taxes, of every kind and nature whatsoever, which at any time during the Term may be assessed, levied, or imposed on, or become due and payable out of or in respect of (i) activities conducted on behalf of Owner at the Facility, including without limitation the sale of concessions, the sale of tickets, and the performance of events (such as any applicable sales and/or admissions taxes, use taxes, excise taxes, occupancy taxes, employment taxes, and withholding taxes), or (ii) any payments received from any holders of a leasehold interest or license in or to the Facility, from any guests, or from any others using or occupying all or any part of the Facility.

Term: shall have the meaning given to such term in Section 4.1 of this Agreement.

ARTICLE 2 SCOPE OF SERVICES

Section 2.1 <u>Engagement</u>.

- (a) Owner hereby engages OVG during the Pre-Opening Period to perform the pre-opening services described in <u>Schedule 2.1(a)</u>, attached hereto.
- (b) Owner hereby engages OVG during the Operating Term to act as the sole and exclusive manager and operator of the Facility, subject to and as more fully described in this Agreement, and, in connection therewith, to perform the services described in <u>Schedule 2.1 (b)</u>, attached hereto.
- (c) Owner hereby engages OVG (or its designee) during the Operating Term to act as the sole and exclusive food and beverage provider of the Facility, subject to and as more fully described in this Agreement, and in connection therewith, to perform the services described in Schedule 2.1 (c) (collectively, the "Food and Beverage Services"), attached hereto. Owner specifically agrees that pursuant to Section 5.5, OVG shall be permitted to subcontract or otherwise sublicense all or any portion of their rights and obligations in respect of the provision of such Food and Beverage Services, including, without limitation, to an Affiliate.
- (d) OVG hereby accepts such engagement, and shall perform the services described herein, subject to the limitations expressly set forth in this Agreement and in the Operations Manual to be approved by OVG and Owner.
- Section 2.2 <u>Commercial Rights Sales.</u> In addition to OVG's other rights and duties hereunder, OVG shall act as the sole and exclusive third-party representative for marketing of the Commercial Rights. OVG will keep Owner apprised of its sales prospects and the status of any potential sales of Commercial Rights, which shall be subject to Owner's prior approval in each instance. Owner hereby acknowledges and agrees that OVG is not guaranteeing any level of purchase of, or the receipt of payment for, any Commercial Rights marketed by OVG pursuant to this Agreement.
- Section 2.3 <u>Limitations on OVG's Duties</u>. OVG's obligations under this Agreement are contingent upon and subject to Owner making available, in a timely fashion, the funds budgeted for and/or reasonably required by OVG to carry out such obligations during the Term. OVG shall not be considered to be in breach or default of this Agreement and shall have no liability to Owner or any other party, in the event OVG does not perform any of its obligations hereunder due to failure by Owner to timely provide such funds.

ARTICLE 3 COMPENSATION

- Section 3.1 <u>Pre-Opening Consulting Fee</u>. During the Pre-Opening Period, Owner shall pay OVG a monthly fee of Five Thousand Dollars (\$5,000) per month (the "**Pre-Opening Consulting Fee**"). The Pre-Opening Consulting Fee shall be included in the Pre-Opening Expenses Budget and shall be due on the first day of each month during the Pre-Opening Period.
- Section 3.2 <u>Base Management Fee</u>. In consideration of OVG's performance of its management services during the Operating Term, including the Food and Beverage Services, hereunder,

Owner shall pay OVG a "Base Management Fee" as follows. Beginning on the Opening Date and continuing through the end of the Stub Operating Year (*i.e.*, through December 31, [2028]), the Base Management Fee shall be equal to Two Hundred Thousand Dollars (\$200,000) per year, payable in equal monthly installments of \$16,666.67. Beginning in the second full Operating Year (ie. starting January 1, 2029), and continuing for all subsequent Operating Years, the Base Management Fee shall be increased over the Base Management Fee from the previous Operating Year in accordance with the percentage increase in the CPI over such Operating Year (*i.e.*, the difference, expressed as a percentage, between the value of the CPI published most recently prior to the commencement of the preceding Operating Year and the value of the CPI published most recently prior to the commencement of the Operating Year for which the CPI adjustment will apply). The Base Management Fee shall be payable to OVG in advance, beginning on the Opening Date, and payable on the first day of each month thereafter (prorated as necessary for any partial months). For avoidance of doubt, the Base Management Fee shall constitute an Operating Expense which may be deducted from the Operating Account, in accordance with the foregoing.

Section 3.3 <u>Incentive Fee</u>. In addition to the Base Management Fee, OVG shall be entitled to receive an Incentive Fee each full or partial Operating Year of the Term. The Incentive Fee shall be a tiered incentive payment over a mutually agreed upon Revenue benchmark as shown below.

Hurdle	Benchmark	Incentive Fee paid to OVG
Tier 1 Revenue Benchmark:	Gross Revenue ()	20%
Tier 2 Revenue Benchmark:	Gross Revenue ()	25%
Tier 3 Revenue Benchmark:	Gross Revenue ()	30%

Section 3.3.1 <u>Customer Service Incentive.</u> OVG shall be required to conduct quarterly customer service and satisfaction surveys to venue attendees and other key stakeholders ("Quarterly Survey"). The form and substance of the Quarterly Survey shall be approved by Owner, acting reasonably, prior to the distribution of such Quarterly Survey. Should OVG fail to achieve an average positive satisfaction rating above 80% in an Operating Year on such Quarterly Surveys, then OVG's earned Incentive Fee for such Operating Year shall be reduced by 10%. Should OVG fail to achieve an average positive satisfaction rating above 50% on in an Operating Year on such Quarterly Surveys, then OVG's earned Incentive Fee for such Operating Year shall be reduced by 25%.

The Incentive Fee earned by OVG (as may be reduced pursuant to Section 3.3.1 above) shall be paid to OVG within 30 days of the end of each Operating Year.

Section 3.4 Commercial Rights Fee. In consideration for OVG's marketing of the Commercial Rights as described in Section 2.2, OVG shall receive (i) fifteen percent (15%) of all Commercial Rights Revenue (including cash and trade, with such trade valued at its retail price in an arms-length transaction) generated from the sale of Commercial Rights (the "Commercial Rights Fee"). The Commercial Rights Fee shall be paid to OVG for all years of each Commercial Rights agreement secured by OVG, including any years that extend beyond the end of the Term of this Agreement. The Commercial Rights Fee due to OVG following the conclusion of the Term is referred to herein as the "Trailing Commercial Rights Commissions". The Commercial Rights Fee shall be paid to OVG on a bi-annual basis, on or about the last day of June and December each calendar year, and OVG shall be entitled to pay itself such amount from the Operating Account upon providing documentation of such Commercial Rights Fee to Owner. The parties shall also hold a settlement at the conclusion of the Term, at which time Owner shall pay to OVG any portion of the Commercial Rights Fee due to OVG but not yet paid to OVG as of such date (other than Trailing Commercial Rights Commissions). Following the conclusion of the Term, Trailing Commercial

Rights Commissions shall be paid to OVG within 30 days of receipt by Owner of the corresponding Commercial Rights Revenue arising from any Commercial Rights agreements which were secured by OVG. In connection with the Commercial Rights Fee and Trailing Commercial Rights Commissions, Owner agrees (i) to maintain books and records in accordance with generally accepted accounting practices, and (ii) to permit OVG to audit and inspect such books and records during normal business hours and on reasonable advance notice, to confirm amounts due hereunder, including, following the conclusion of the Term (as it relates to Trailing Commercial Rights Commissions). To the extent any such audit reveals an underpayment, Owner shall promptly pay OVG the amount of the underpayment, and if such underpayment to OVG is greater than two percent (2%) of amounts owed to OVG, Owner shall reimburse OVG for the reasonable costs of such audit. Conversely, to the extent any such audit reveals an overpayment, OVG shall promptly refund Owner the amount of the overpayment. The terms in this Section 3.3 shall survive termination or expiration of this Agreement. For the sake of clarity, the cost of any dedicated staff responsible for marketing and selling the Commercial Rights shall be an Operating Expense.

Section 3.5 <u>Food and Beverage Fee</u>. In consideration for OVG's provision of the Food and Beverage Services, OVG shall be entitled to receive a "**Food and Beverage Fee**" equal to five percent (5%) of Food and Beverage Income. The Food and Beverage Fee shall be paid to OVG fifteen (15) days after the end of each Monthly Accounting Period.

Section 3.6 Monthly Payment Terms. On or about the 15th business day following the end of each Monthly Accounting Period, OVG shall remit to Owner any Revenue remaining following deduction by OVG of Operating Expenses, the Base Management Fee, the Food and Beverage Fee, the Incentive Fee (if applicable), any Advanced Funds, amounts to be deposited in the Reserve Account (as mutually agreed), any other amounts due to OVG hereunder from such Monthly Accounting Period, and any amounts necessary to pay anticipated Operating Expenses for the next sixty (60) day period pursuant to the Operating Budget (which amounts shall remain in the Operating Account for such purpose, as more fully described in Section 8.5 below). To the extent insufficient funds exist in the Operating Account for such purpose, Owner shall deposit such funds into the Operating Account pursuant to Section 10.1 below.

Section 3.7 <u>Late Payments</u>. OVG shall have the right to assess interest on any payments of the fees described in this Section that are not made when due. Such interest shall accrue at the rate of 12% per annum.

ARTICLE 4 TERM; TERMINATION

Section 4.1 Term. The term of this Agreement ("Term") shall begin on [___] (the "Commencement Date"), and, unless sooner terminated pursuant to the provisions of Section 4.2 below, shall expire on the tenth (10th) anniversary of the Opening Date. Pursuant to Utah Code § 63G-6a-1204, the Parties hereby agree that this contract may not continue or be renewed for any year after the first year of the multiyear contract if adequate funds are not appropriated or otherwise available to continue or renew the contract. If adequate funds are not appropriate or otherwise available to continue or renew this Agreement during the Term, Owner may terminate this Agreement on no less than ninety (90) days' prior written notice to OVG, provided that in such case (i) Owner shall pay all amounts due to OVG pursuant to Section 4.3 below (including without limitation the Buyout Amount) no later than the effective date of termination, and (ii) during the period of what would have been the remaining Term of this

Agreement had such early termination not occurred, Owner and its Affiliates shall provide OVG with the right of first refusal to be re-engaged as the manager thereof under the terms of this Agreement.

Section 4.2 Termination. This Agreement may be terminated:

- (a) by either party upon 30 days written notice, if the other party fails to perform or comply with any of the material terms, covenants, agreements or conditions hereof, and such failure is not cured during such 30-day notification period, provided, however, if such failure cannot reasonably be cured within such 30-day period, then a longer period of time shall be afforded to cure such breach, up to a total of 90 days, provided that the party in default is diligently seeking a cure and the non-defaulting party is not irreparably harmed by the extension of the cure period; or
- (b) by either party immediately by written notice upon the other party being judged bankrupt or insolvent, or if any receiver or trustee of all or any part of the business property of the other party shall be appointed and shall not be discharged within 120 days after appointment, or if either party shall make an assignment of its property for the benefit of creditors or shall file a voluntary petition in bankruptcy or insolvency, or shall apply for bankruptcy under the bankruptcy or insolvency Laws now in force or hereinafter enacted, Federal, State or otherwise, or if such petition shall be filed against either party and shall not be dismissed within 120 days after such filing; or
- (c) by either party immediately by written notice if the other party: (i) is convicted of fraud or any criminal or illegal act involving moral turpitude in connection with this Agreement or the performance of its obligations hereunder; or (ii) is conclusively determined to have willfully engaged in any act of dishonesty, misrepresentation, or bad faith that materially impacts the relationship between the Parties or the purpose of this Agreement.
- Section 4.3 <u>Effect of Termination</u>. Upon expiration or termination of this Agreement, the following shall apply:
- (a) OVG shall promptly, but within a reasonable amount of time that allows for any transitions to be completed, discontinue the performance of all services hereunder, and make available to Owner all data, electronic files, documents, procedures, reports, estimates, summaries, and other such information and materials with respect to the Facility as may have been accumulated by OVG in performing its obligations hereunder, <u>provided</u> that (i) OVG shall own and may retain all employment files/records relating to employees of OVG during the Term, and (ii) OVG may retain copies of all materials pertinent to its operation of the Facility during the Term, such as materials documenting its performance and those relating to claims or potential claims that have been or may be asserted related to OVG's operation of the Facility, including contracts and event incident reports.
- (b) Owner shall promptly, within thirty (30) days of the date of termination or expiration, pay OVG (i) all fees due OVG up to the date of termination or expiration, including a pro-rated portion of the Incentive Fees for the last Operating Year if not a full 12-months, (ii) the Buyout Amount, and (iii) all Operating Expenses incurred by OVG through the end of the Term that have not previously been paid by Owner or reimbursed to OVG, including the cost of accrued but unused vacation time to the extent due under OVG's policies to any employees whose employment is ceasing with OVG as a result of expiration or termination of this Agreement.

- (c) Except in the case of a termination by the Owner pursuant to Section 4.2(c) of this Agreement, in which this Section 4.3(c) will not apply, Owner shall reimburse OVG for any actual ordinary and necessary expenses incurred by OVG in withdrawing from the provision of services hereunder following such termination. Such ordinary and necessary expenses shall include costs associated with (i) to the extent any Management-Level Employee's employment with OVG will cease as a result of the termination or expiration of this Agreement, Owner shall reimburse OVG for any severance paid to such employees, not to exceed 6 months' salary for each Management-Level Employee, (ii) reasonable household relocation expenses for OVG's Management-Level Employees, to the extent any such individuals had previously relocated to the Facility (or its surrounding areas) in connection with this Agreement, and (iii) other reasonable costs actually incurred by OVG in withdrawing from the provision of services hereunder, such as those incurred in connection with the termination and/or assignment of Service Contracts, Revenue Generating Contracts, or other contracts or leases entered into by OVG pursuant to this Agreement. Owner's payment of such expenses will occur only after OVG has provided reasonable evidence of the incurrence of such expenses.
- (d) Without any further action on the part of OVG or Owner, Owner shall, or shall cause the successor Facility manager to, assume all obligations arising after the date of such termination or expiration, under any Service Contracts, Revenue Generating Contracts, booking commitments and any other Facility agreements entered into by OVG in furtherance of its duties hereunder.
- (e) Any obligations of the parties that are specifically intended to survive expiration or termination of this Agreement shall survive expiration or termination hereof.

ARTICLE 5 OWNERSHIP; USE OF THE FACILITY; CONCESSION AREAS

Section 5.1 Ownership of Facility, Data, Equipment and Materials. Owner will at all times retain ownership of the Facility and all Facility FF&E. Any data, equipment, supplies, and materials furnished by Owner to OVG or acquired by OVG as an Operating Expense shall remain the property of Owner and shall be returned to Owner when no longer needed by OVG to perform under this Agreement. Notwithstanding the above, Owner recognizes that OVG intends to license certain third-party software for use with respect to OVG's obligations at the Facility, the costs of which are paid on a monthly basis, and upon expiration or termination of the Term such software licenses shall remain with OVG. Furthermore, Owner recognizes that the Operations Manual to be developed and used by OVG hereunder is proprietary to, and shall be owned by, OVG, but Owner may retain a copy thereof for its own use following the end of the Term.

Section 5.2 Right of Use by OVG. Owner hereby gives OVG the right and license to use the Facility, and OVG accepts such right of use, for the purpose of performing the services herein specified, including the operation and maintenance of all physical and mechanical facilities necessary for, and related to, the operation, maintenance, and management of the Facility. Owner shall provide OVG, at no cost to OVG, a sufficient amount of suitable office space in the Facility and with such office equipment as is reasonably necessary to enable OVG to perform its obligations under this Agreement. In addition, Owner shall make available to OVG staff, at no cost, parking spaces in a location that is mutually agreed upon by the Owner and OVG.

Section 5.3 <u>Observance of Agreements</u>. Owner agrees to pay, keep, observe, and perform all payments, terms, covenants, conditions and obligations under any leases, use agreements, bonds, debentures, loans and other financing and security agreements to which Owner is bound in connection with its ownership of the Facility.

Section 5.4 <u>Use by Owner</u>. Owner shall have the right to use the Facility or any part thereof rent-free for meetings or other internal non-commercial uses, provided that Owner shall promptly reimburse OVG or deposit into the Operating Account, any out-of-pocket expenses incurred by OVG in connection with such use (such as the cost of ushers, ticket-takers, set-up and take-down personnel, security expenses, and other expenses). Such non-commercial use of the Facility by Owner shall (i) not compete with or conflict with the dates previously booked by OVG for paying events, and (ii) be booked in advance upon reasonable notice to OVG pursuant to the Facility's approved booking policies and subject to availability. Upon request of Owner, OVG shall provide to Owner a list of available dates for Owner's use of the Facility. To the extent that OVG has an opportunity to book a revenue-producing event on a date which is otherwise reserved for use by Owner, OVG may propose alternative dates for Owner's event, and Owner shall use best efforts to reschedule its event to allow OVG to book the revenue-producing event.

Section 5.5 <u>Subcontractors; Concession Areas.</u> OVG may engage sub-contractors to perform the Food and Beverage Services as set forth herein. OVG shall have the exclusive right to use (or permit a third party to use, as applicable) the concession stands, novelty stands, customer serving locations, food preparation areas, vendor commissaries, kitchen and warehouse facilities, and other food service related areas of the Facility, together with the improvements, equipment and personal property upon or within such areas, for the purpose of providing the Food and Beverage Services (and providing other duties required of OVG hereunder). Prior to the Opening Date, Owner shall, at no cost to OVG, provide for use by OVG a turnkey operation for the provision of Food and Beverage Services, equipped with equipment, small wares, and other tools of the trade reasonably required by OVG to provide the Food and Beverage Services at the level required by this Agreement.

ARTICLE 6 PERSONNEL

Section 6.1 <u>Generally.</u> All Facility staff and other personnel shall be engaged or hired by OVG, and shall be employees, agents, or independent contractors of OVG (or an Affiliate thereof), and not of Owner. OVG shall select, in its sole discretion but subject to the approved Operating Budget, the number, function, qualifications, and compensation, including salary and benefits, of its employees and shall control the terms and conditions of employment (including without limitation termination thereof) relating to such employees. OVG shall ensure that all salaries and benefits provided to such personnel and staff are consistent with market-rate compensation metrics within both the industry and the geographic location of the Facility. OVG agrees to use reasonable and prudent judgment in the selection and supervision of such personnel. Owner specifically agrees that OVG shall be entitled to pay its employees, as an Operating Expense, bonuses, and benefits in accordance with OVG's then current employee policies, which may be modified by OVG from time to time in its sole discretion. A copy of OVG's current employee policies related to bonus and benefits shall be provided to Owner upon request.

Section 6.2 <u>General Manager</u>. Personnel engaged by OVG will include a qualified individual to serve as a General Manager of the Facility. Hiring of the General Manager shall require the prior

approval of Owner, which approval shall not be unreasonably withheld or delayed; provided, however, in the event of a vacancy in the General Manager position, OVG may temporarily fill such position with an interim General Manager for up to 90 days without the necessity of obtaining Owner's approval. The General Manager will have general supervisory responsibility for OVG and will be responsible for day-to-day operations of the Facility, supervision of employees, and management and coordination of all activities associated with events taking place at the Facility.

Section 6.3 Non-Solicitation/Non-Hiring. Except in the case of a termination by the Owner pursuant to Section 4.2(c) of this Agreement, in which this Section 6.3 will not apply, during the Term and for a period of one year after the end of the Term, neither Owner nor any of its Affiliates shall solicit for employment, or hire, any of OVG's Management-Level Employees, without OVG's prior consent and approval. Owner acknowledges that OVG will spend a considerable amount of time identifying, hiring, and training individuals to work in such positions, and that OVG will suffer substantial damages, the exact amount of which would be difficult to quantify, if Owner were to breach the terms of this Section by hiring, or soliciting for employment, any of such individuals. Accordingly, in the event of a breach or anticipated breach of this Section by Owner, OVG shall be entitled (in addition to any other rights and remedies which OVG may have at law or in equity, including money damages) to equitable relief, including an injunction to enjoin and restrain Owner from continuing such breach, without the necessity of posting a bond.

ARTICLE 7 PRE-OPENING EXPENSES AND EXPENSE BUDGET

Section 7.1 <u>Establishment of Pre-Opening Expense Budget</u>. No later than December 31, 2025, OVG shall prepare the Pre-Opening Expense Budget, which shall detail the projected Pre-Opening Expenses to be incurred by OVG during the Pre-Opening Period, including the Pre-Opening Consulting Fee. The Pre-Opening Expense Budget shall be subject to the prior approval of Owner, not to be unreasonably withheld, conditioned or delayed. Such Pre-Opening Budget may be adjusted by OVG from time to time during the Pre-Opening Period, subject to the approval of the Owner, not to be unreasonably withheld, conditioned, or delayed.

Section 7.2. Funding of Expenses During Pre-Opening Period. Owner shall pay for all Pre-Opening Expenses incurred by OVG in connection with the performance of its obligations under this Agreement during the Pre-Opening Period, as follows. At least 30 days prior to the Commencement Date, Owner shall establish the Pre-Opening Expense Account, and transfer to such account an amount equal to the projected Pre-Opening Expenses and Pre-Opening Consulting Fee, for the first two months of the Pre-Opening Period, as set forth in the Pre-Opening Expense Budget. On or before the first day of each succeeding month during the Pre-Opening Period, the Owner shall transfer to the Pre-Opening Expense Account an amount equal to the projected Pre-Opening Expenses and Pre-Opening Consulting Fee for the subsequent two months, as set forth in the Pre-Opening Expense Budget through the conclusion of the Pre-Opening Period. OVG may access such account periodically, as needed, for the purpose of withdrawing funds to pay Pre-Opening Expenses and the Pre-Opening Consulting Fee.

ARTICLE 8 OPERATING BUDGET

Section 8.1 <u>Establishment of Operating Budget</u>. OVG agrees that at least 90 days prior to the Opening Date in respect of the Stub Operating Year, and no less than 90 days prior to the commencement of each subsequent Operating Year in respect of such Operating Year, it will prepare and submit to the Owner its proposed Operating Budget for such Operating Year. Each Operating Budget shall include OVG's good faith projection of Revenues and Operating Expenses, presented on a monthly and annual basis, for the upcoming Operating Year, or Stub Operating Year, as applicable. Owner agrees to provide OVG with all information in its possession necessary to enable OVG to prepare each Operating Budget.

Section 8.2 <u>Approval of Operating Budget</u>. Each Operating Budget shall be subject to the review and approval of Owner, which approval shall not be unreasonably withheld or delayed. In order for Owner to fully evaluate and analyze such budgets or any other request by OVG relating to income and expenses, OVG agrees to provide to Owner such reasonable financial information relating to the Facility as may be requested by Owner from time to time. If events occur during any Operating Year that could not reasonably be contemplated at the time the corresponding Operating Budget was prepared, OVG may submit an amendment to such budget for review and approval by Owner, which approval shall not be unreasonably withheld or delayed. If Owner fails to approve any Operating Budget (or any proposed amendment thereto), Owner shall promptly provide OVG the specific reasons therefor and its suggested modifications to OVG's proposed Operating Budget or amendment in order to make it acceptable. The parties shall then engage in good faith discussions and use reasonable commercial efforts to attempt to resolve the matter to the mutual satisfaction of the parties.

Section 8.3 Adherence to Operating Budget. OVG shall use all reasonable efforts to manage and operate the Facility in accordance with the Operating Budget. However, Owner acknowledges that notwithstanding OVG's experience and expertise in relation to the operation of facilities similar to the Facility, the projections contained in each Operating Budget are subject to and may be affected by changes in financial, economic, and other conditions and circumstances beyond OVG's control, and that OVG shall have no liability if the numbers within the Operating Budget are not achieved. OVG agrees to notify Owner within thirty (30) days of any material negative variance in the bottom-line figure in the Operating Budget ("Negative Profit Variance") or any material increase in total indirect Facility expenses from that provided for in the Operating Budget ("Indirect Expense Variance"). For purposes of this Section 8.3, an Indirect Expense Variance shall mean an increase of more than 10% in the aggregate indirect expenses in the Operating Budget. If OVG determines or anticipates the occurrence of a Negative Profit Variance or an Indirect Expense Variance, OVG shall discuss with Owner, as soon as possible following notification, how to proceed given the anticipated impact on the Operating Budget. In either case, and if requested by Owner, OVG agrees to work with Owner to develop and implement a plan (or changes to the then current plan) to limit Operating Expenses to be incurred in the remaining months of such Operating Year with the goal of achieving the Operating Budget.

Section 8.4 <u>Establishment of Reserve Account</u>. No later than the Opening Date, OVG agrees that it will prepare and submit to the Owner its proposed funding of a reserve account ("Reserve Account"). Such proposal shall include OVG's good faith projection of the funds to be maintained in the Reserve Account as are necessary for the purpose of covering unforeseen Operating Expenses, capital improvements, and other financial obligations related to the Facility. The parties shall mutually agree on the amount of funding to be set aside for the Reserve Account, and the parties' rights to access and use such funds for such purposes.

Section 8.5 <u>Bridge Funding</u>. To ensure the Facility has sufficient funding to operate at all times, the Parties agree that commencing on the Opening Date, and continuing at all times during the

Term, OVG may withhold and retain in the Operating Account and any amounts necessary to ensure it has sufficient funds available to pay anticipated Operating Expenses for the next sixty (60) day period.

ARTICLE 9 PROCEDURE FOR HANDLING INCOME

Section 9.1 <u>Event Account</u>. To the extent the Facility hosts a ticketed event and collects advance ticket sale revenue and/or admissions tax, OVG shall deposit as soon as practicable following receipt, in the Event Account, all revenue received from ticket sales and similar event-related revenues which OVG receives in contemplation of, or arising from, an event, pending completion of the event. Such monies will be held in escrow for the protection of ticket purchasers, Owner and OVG, to provide a source of funds as required for payments to performers and for payments of direct incidental expenses in connection with the presentation of events that must be paid prior to or contemporaneously with such events. Promptly following completion and settlement of such events, OVG shall transfer all funds remaining in the Event Account, including any interest accrued thereon, into the Operating Account. Bank service charges, if any, on such account(s) shall be deducted first from interest earned.

Section 9.2 Operating Account. Except as provided in Section 9.1, all Revenue derived from operation of the Facility shall be deposited by OVG into the Operating Account as soon as practicable upon receipt (but not less often than once each business day). The specific procedures (and authorized individuals) for making deposits to and withdrawals from such account shall be set forth in the Operations Manual, but the parties specifically agree that OVG shall have authority to sign checks and make withdrawals from such account, subject to the limitations of this Agreement, without needing to obtain the co-signature of an Owner employee or representative.

Section 9.3 <u>Food and Beverage Revenue and Expenses</u>. All Food and Beverage Revenue shall be calculated separately during each Monthly Accounting Period solely for purposes of payment of the Food and Beverage Incentive Fee, and shall be deposited by OVG into the Operating Account thereafter. All expenses incurred in connection with the provision of the Food and Beverage Services shall be Operating Expenses, payable by OVG with funds from the Operating Account.

Section 9.4 Public Improvement Fees. OVG acknowledges that the real property underlying the Facility is subject to that certain Declaration of Covenants Imposing and Implementing the Event Center Sales and Parking Add On Public Improvement Fee, dated June 27, 2025, and recorded in the Salt Lake County Recorder's Office on July 8, 2025, as Entry No. 14406987 (the "PIF Covenant"). In accordance with the PIF Covenant and this Agreement, OVG shall be responsible for ensuring that all Retailers operating within the Facility comply with the requirements to assess, collect, and remit the Sales PIF (as defined in the PIF Covenant). OVG shall take all necessary and reasonable actions to enforce the terms of the PIF Covenant with respect to the Sales PIF, including but not limited to, requiring that each Retailer separately state the Sales PIF on all receipts, invoices, tickets, or other evidence of transaction, and collect the Sales PIF from each Purchaser. OVG shall promptly remit, or cause to be remitted, all Sales PIF amounts collected to the designated PIF Collection Agent (as defined in the PIF Covenant) in accordance with the procedures and timelines set forth in the PIF Covenant. OVG is further authorized and obligated to implement and maintain procedures to monitor compliance by all Retailers, to require timely and accurate reporting and remittance of the Sales PIF, and to take such enforcement actions as may be necessary to address any failure by a Retailer to comply with the PIF Covenant. OVG shall cooperate fully with Owner and the PIF Collection Agent in all matters relating to the administration, collection, and enforcement of the Sales PIF, and shall provide such reports, records, and documentation as may be reasonably requested to verify compliance with the PIF Covenant.

ARTICLE 10 FUNDING

Section 10.1 Source of Funding. OVG shall pay all items of expense for the operation, maintenance, supervision, and management of the Facility from the funds in the Operating Account, which OVG may access periodically for this purpose. The Operating Account shall be funded with amounts generated by operation of the Facility (as described in Article 8 above), or otherwise made available by Owner. To ensure sufficient funds are available in the Operating Account, Owner will deposit in the Operating Account, on or before the Commencement Date, the budgeted expenses for the Initial Stub Period. Owner shall thereafter, on or before the first day of each succeeding month following the Commencement Date, deposit (or allow to remain) in the Operating Account the budgeted or otherwise approved expenses for each such month and the following month, at all times maintaining sufficient funds in the Operating Account to pay the anticipated expenses for the then-upcoming month plus the immediately following month. OVG shall have no liability to Owner or any third party in the event OVG is unable to perform its obligations hereunder, or under any third-party contract entered into pursuant to the terms hereof, due to the fact that sufficient funds are not made available to OVG to pay such expenses in a timely manner.

Section 10.2 <u>Advancement of Funds</u>. Under no circumstances shall OVG be required to pay for or advance any of its own funds to pay for any Operating Expenses. In the event that, notwithstanding the foregoing, OVG agrees to advance its own funds to pay Operating Expenses, Owner shall promptly reimburse OVG for the full amount of such advanced funds (the "Advanced Funds"), plus interest at the rate of 12% or the highest rate permitted by law, whichever is less.

ARTICLE 11 FISCAL RESPONSIBILITY; REPORTING

Section 11.1 Records. OVG agrees to keep and maintain, at its office in the Facility, separate and independent records, in accordance with generally accepted accounting principles, devoted exclusively to its operations in connection with its management of the Facility. Such records (including books, ledgers, journals, and accounts) shall contain all entries reflecting the business operations of OVG and the Facility under this Agreement. Operator acknowledges that Owner is a public entity, and Owner shall be allowed to review and/or audit the Operating Expenses to ensure that all expenses are appropriate and in accordance with the Agreement, and Utah law. Further, pursuant to Utah Code § 63G-6a-1206.3, the Owner shall have the right to audit, with reasonable notice, any of OVG's or OVG's subcontractors' books and records solely as are related to this Agreement (including, but not limited to, invoices, receipts, time sheets, payroll, other payments, and personnel records). OVG agrees to maintain adequate books and records for such purposes during the term of this Agreement and for a period of six (6) years after the day on which OVG receives the final payment under this Agreement and to make the same available to the Owner at all reasonable times and places and for so long thereafter as there may remain any unresolved question or dispute regarding any item pertaining thereto. Notwithstanding the foregoing, OVG shall not be required to maintain any books and records pertaining to Facility operations to the extent such books and records have been turned over to Owner upon expiration or termination of the Agreement; in such case, Owner shall maintain such books and records for the foregoing six (6) year period. The obligations of this Section 11.1 shall survive the termination of this Agreement.

Section 11.2 Monthly Financial Reports. OVG agrees to provide to Owner, within 30 days after the end of Monthly Accounting Period, financial reports for the Facility including a balance sheet, aging report on accounts receivable, and statement of revenues and expenditures (budget to actual) for such month and year to date in accordance with generally accepted accounting principles, provided however the first financial statement OVG shall provide shall be within 30 days following the second month of the Term, and shall cover the first 2 months of the Term. In addition, starting with the second month of the Term, OVG agrees to provide to Owner a summary of bookings for each such month, and separate cash receipts and disbursements reports for each event held at the Facility during such month. Additionally, OVG shall submit to Owner, or shall cause the applicable public depository utilized by OVG to submit to Owner, on a monthly basis, copies of all bank statements concerning the Event Account and the Operating Account.

Section 11.3 Audit. OVG agrees to arrange to provide to Owner, within 120 days following the end of each Operating Year, a certified audit report on the accounts and records as kept by OVG for the Facility. Costs associated with obtaining such certified audit report shall be an Operating Expense of the Facility. Such audit shall be performed by an external auditor approved by Owner and shall be conducted in accordance with generally accepted auditing standards. Operator acknowledges that Owner is a public entity, and OVG agrees to provide documentation and information as needed and in accordance with the Agreement, and Utah law, in support of any audits performed by an external audit of the Owner.

ARTICLE 12

DELIVERY OF FACILITY AND OVG APPROVAL RIGHTS; CAPITAL IMPROVEMENTS; OVG CONTRIBUTION

Section 12.1 Delivery of Facility and OVG Approval Rights. The Owner covenants and agrees to develop, construct and deliver to OVG on the Opening Date, the Facility, and that the Facility will meet, on the Opening Date, the minimum requirements set forth on Schedule II hereof. Without limiting any of the requirements on Schedule II, OVG shall have the right to review and provide meaningful input into (i) all design plans (including any changes thereto) for the Facility, and (ii) the Facility FF&E Budget and list of Facility FF&E. All design and construction costs, including the cost of Facility FF&E and Capital Expenditures for the Facility, shall be paid for by the Owner and OVG shall have no responsibility for such costs, subject to OVG's obligation to make the Investment as described in Section 12.4 below. OVG shall have the right to participate in all construction meetings including all meetings with the project manager for the construction and be included in all material correspondence relating to the construction of the Facility (including reports of any construction monitor appointed in connection with the Facility project, if any).

Section 12.2 <u>Schedule of Capital Expenditures</u>. OVG shall annually, at the time of submission of the annual Operating Budget to Owner, provide to Owner a schedule of proposed capital improvements to be made at the Facility, for the purpose of allowing Owner to consider such projects and to prepare and update a long-range Capital Expenditure budget.

Section 12.3 <u>Responsibility for Capital Expenditures</u>. Owner shall be solely responsible for all Capital Expenditures at the Facility; <u>provided</u>, however, Owner shall be under no obligation to make any Capital Expenditures proposed by OVG and provided further that OVG shall have no liability for any claims,

costs or damages arising out of a failure by Owner to make any Capital Expenditures. Notwithstanding the foregoing, OVG shall have the right (but not the obligation), upon notice to Owner, to make Capital Expenditures at the Facility for Emergency Repairs. In such event, Owner shall promptly reimburse OVG for the cost of such Capital Expenditure.

Section 12.4 <u>OVG Contribution</u>. OVG shall make a capital contribution of up to Two Million Five Hundred Thousand Dollars (\$2,500,000) (the "Investment") towards mutually agreed leasehold improvements and/or capital equipment dedicated to the Facility (collectively, the "Improvements and Equipment"). Such contribution shall be made [need to insert timing regarding OVG's contribution]. Owner and OVG shall mutually agree upon the specific Improvements and Equipment to be purchased or made with the Investment, as well as the location for such improvements or installation of such equipment. Once identified, the specific Improvements and Equipment to be purchased with the Investment shall be set forth in a writing to be signed by the parties and updated by the parties from time to time as necessary to reflect any replacements or substitutions thereof. All Improvements and Equipment, including any replacements or substitutions thereof, shall be owned by OVG until payment of the Buyout Amount (as described below), and Owner agrees to execute such documents as OVG shall reasonably request evidencing OVG's ownership interest in such Improvements and Equipment, including financing statements. For the sake of clarity, nothing in this paragraph shall be construed as requiring OVG to replace any equipment or other personal property at its own cost.

Prior to OVG funding each portion of the Investment, each of the following conditions must be fully satisfied, as certified by the City in writing and supported by evidence satisfactory to OVG, in OVG's reasonable discretion:

- (a) The plan of finance and construction budget for the Facility have been approved by the Owner and OVG and approved by Owner's bond counsel and PID counsel.
- (b) The Owner has (i) legal entitlement to the site for the Facility project and final approval of all entitlements (i.e., any discretionary permit, approval, consent or agreement from any applicable governmental authority as may be required by applicable law) necessary to construct the Facility, (ii) secured all required financing sources for the Facility project and such sources have committed in an aggregate amount (when including OVG's Investment) sufficient to fund the project costs under the Facility construction budget and to achieve substantial completion of the Facility project, and (iii) secured a Guaranteed Maximum Price (GMP) for construction of the Facility project and payment and performance bonds in respect of the contractor's obligations under the construction agreement(s) for the Facility project.
- (c) At the time any portion of the Investment is being made, (i) there is no default existing under the financing agreements for the Facility project or this Agreement, and (ii) no material adverse change with respect to the Facility project has occurred.
- Section 12.4 <u>Buyout Amount</u>. The Investment shall be amortized monthly on a straight-line basis over a ten (10)-year period (at a rate of 1/120 per month), commencing on the Commencement Date. Within 5 days of the expiration or early termination of this Agreement (for any reason whatsoever, including without limitation, if due to a breach, default, or bankruptcy event by or affecting OVG), Owner shall immediately pay to OVG the unamortized amount of the Investment (the "**Buyout Amount**"). In the event that Owner fails to pay OVG the Buyout Amount when due, the Buyout Amount shall accrue interest at the rate of 1.5% per month, or the highest rate permitted by law, whichever is less. In such event, and

without limiting any other rights or remedies available to it, OVG may reenter the Facility, with or without process of law, and remove in a commercially reasonable manner the Improvements and Equipment purchased with the Investment and retain or dispose of such Improvements and Equipment as OVG sees fit. In such event, OVG shall retain its right to receive the Buyout Amount, but any proceeds from the sale of such Improvements and Equipment, less the cost to OVG of removing, storing, and selling such Improvements and Equipment, shall reduce the Buyout Amount.

Section 12.5 <u>Title to Improvements and Equipment</u>. Owner covenants and agrees not to permit any liens or encumbrances to attach to the leasehold Improvements and Equipment purchased with the Investment, and hereby waives any right to attach any claim, lien, or attachment to such Improvements and Equipment. Once the Investment is fully amortized or the Buyout Amount is paid in full to OVG, title to the Improvements and Equipment purchased with the Investment will become vested in Owner, and OVG agrees to execute all necessary documents to evidence same. The rights of OVG set forth in this Section shall be in addition to any other rights of OVG at law or in equity.

ARTICLE 13 LICENSES; ALCHOLIC BEVERAGES; TAXES

Section 13.1 Permits and Licenses. OVG (or its Affiliates, as applicable) shall use reasonable commercial efforts to secure and maintain throughout the Term all licenses and permits necessary for the operation of the Food and Beverage Services, including those required for the sale of alcoholic beverages at the Facility. Owner shall cooperate with OVG in connection with filing applications for, and securing and maintaining in good standing, any and all licenses and permits and renewals thereof needed by OVG to fulfill its obligations hereunder. In the event that OVG (or its Affiliate, as applicable) is unable to secure or maintain the necessary licenses or permits to sell alcoholic beverages at the Facility for any reason, or if OVG is prevented or limited from selling alcoholic beverages at the Facility for any reason, at OVG's request the parties shall renegotiate in good faith the economic terms of this Agreement so that the economic benefits provided to OVG hereunder are maintained. If, despite such good faith negotiations, the parties are unable to come to agreement on the revised economic terms of this Agreement, OVG may terminate this Agreement, without liability to OVG, upon 30 days written notice to Owner.

Section 13.2 <u>Alcoholic Beverages</u>. In connection with the sale of alcoholic beverages hereunder by OVG, OVG agrees to strictly comply with the laws of the State of Utah including the sale of such beverages to minors. OVG agrees to adopt an identification policy to verify the age of potential purchasers of alcoholic beverages. OVG further agrees that it will endeavor not to sell alcoholic beverages to customers who are visibly intoxicated. OVG will institute and conduct training programs for OVG employees at the Facility on the proper standards to use to avoid selling alcoholic beverages to customers who are or who appear to be intoxicated.

Section 13.3 <u>Taxes</u>. OVG shall collect and pay all Taxes (and Public Improvement Fees as further described in Section 9.4) imposed upon the sale of concession, tickets, and merchandise items hereunder, as required by Federal, State or local law. OVG shall be responsible for and pay all social security, unemployment insurance, old age retirement and other federal and state taxes that are measured by the wages, salaries, or other remuneration paid to persons employed by OVG. Owner shall be responsible for and hold OVG harmless from any and all possessory interest or leasehold taxes which may be levied or are in effect during the Term.

ARTICLE 14 FACILITY CONTRACTS; TRANSACTIONS WITH AFFILIATES

Section 14.1 <u>Existing Contracts</u>. Owner shall provide to OVG, on or before the Commencement Date, copies of all Existing Contracts (if any), a list of which is included as <u>Schedule 14.1</u>, attached hereto. OVG shall administer and use commercially reasonable efforts to assure compliance with such Existing Contracts.

Section 14.2 Execution of Contracts. OVG shall have the right to enter into Service Contracts, Revenue Generating Contracts and other contracts related to the operation of the Facility as agent on Owner's behalf and all such contracts shall be entered into by OVG, as agent on behalf of Owner, all subject to and in compliance with the Laws. Any material contract shall contain indemnification and insurance obligations on the part of each vendor, licensee, or service provider, as is customary for the type of services or obligations being provided or performed by such parties, naming each of OVG and Owner as indemnified parties and additional insureds, respectively. OVG shall obtain the prior approval of Owner (which approval shall not be unreasonably withheld or delayed) before entering into any such contract with a term that expires after the Term of this Agreement, unless such contract, by its express terms, can (i) be assigned by OVG to Owner or any subsequent manager of the Facility, or (ii) be terminated by OVG or Owner following expiration of the Term without any penalty.

Section 14.3 <u>Transactions with Affiliates</u>. In connection with its obligations hereunder relating to the purchase or procurement of services for the Facility (including without limitation the Food and Beverage Services, ticketing services, Commercial Rights sales, web design services and graphic design services), OVG may purchase or procure such services, or otherwise transact business with, an Affiliate of OVG, provided that the prices charged and services rendered by such Affiliate are competitive with those obtainable from any unrelated parties rendering comparable services all subject to and in compliance with the Laws. OVG shall, at the request of Owner, provide reasonable evidence establishing the competitive nature of such prices and services, including, if appropriate, competitive bids from other persons seeking to render such services at the Facility.

ARTICLE 15 AGREEMENT MONITORING

Section 15.1 <u>Contract Administrator</u>. Each party shall appoint a contract administrator who shall monitor such party's compliance with the terms of this Agreement. OVG's contract administrator shall be its General Manager at the Facility, unless OVG notifies Owner of a substitute contract administrator in writing. Owner's contract administrator shall be Jay Hardy unless Owner notifies OVG of a substitute contract administrator in writing. Any and all references in this Agreement requiring OVG or Owner participation or approval shall mean the participation or approval of such party's contract administrator.

Section 15.2 <u>Compliance with Laws</u>. [OVG is familiar with and shall comply with all such applicable Laws in the performance of its obligations under this Agreement. The Owner anticipates appointing OVG as a qualified procurement official as defined under Utah Code Section 63G-6a-303 (the "Procurement Official"), to ensure the efficient, transparent, and compliant management of procurement activities related to the Facility and Food and Beverage Services. OVG, as the Procurement Official, shall report to the Owner's Board of Trustees on procurement activities, contract compliance, and project

milestones, ensuring accountability and oversight in the performance of its obligations under this Agreement.]

ARTICLE 16 INDEMNIFICATION

Section 16.1 <u>Indemnification by OVG</u>. OVG agrees to defend, indemnify and hold harmless Owner, its Affiliates, and each of their respective trustees, directors, officers, employees, agents, successors and assigns (collectively, "Owner Indemnified Parties") against any third-party claims or causes of action, and all costs, expenses (including reasonable attorneys' fees) liabilities, or damages relating to such third-party claims (collectively, "Losses") suffered by any of the Owner Indemnified Parties, arising out of or in connection with (i) negligent act or omission, or intentional misconduct, on the part of OVG or any of its employees or agents in the performance of its obligations under this Agreement, or (ii) breach by OVG of any of its representations, covenants or agreements made herein, except to the extent such Losses are claimed to arise from the act or omission of an Owner Indemnified Party. OVG's indemnity obligations as described in this paragraph shall be limited to the extent the Losses are matters for which Owner must indemnify OVG for under Section 16.2 below.

Indemnification by Owner. Owner agrees to defend, indemnify and hold Section 16.2 harmless OVG, its Affiliates, and each of their respective directors, officers, employees, agents, successors and assigns (collectively, "OVG Indemnified Parties"), against any third-party Losses suffered by any of the OVG Indemnified Parties, arising out of or in connection with (i) any negligent act or omission, or intentional misconduct, on the part of Owner or any of its employees or agents in the performance of its obligations under this Agreement, or failure to comply with Laws (ii) a breach by Owner of any of its representations, covenants or agreements made herein, including without limitation Owner's obligation to pay any budgeted or otherwise approved expenses in a timely manner, (iii) failure by Owner to pay any amounts legally due or required to be funded by Owner hereunder; (iv) any environmental condition at the Facility or on or under the premises on which the Facility is located not caused by OVG, its employees or agents, (v) any structural defect with respect to the Facility, (vi) the fact that any time prior to, as of, or after the date hereof the Facility is not or has not been in compliance with all Laws, including, but not limited to, the Americans With Disabilities Act as it now exists and as it may be amended in the future by statute or judicial interpretation, (vii) any act or omission carried out by OVG at or pursuant to the direction or instruction of Owner, its agents or employees, and (viii) any claims relating to the Facility or its operations accruing or caused by occurrences prior to the Effective Date or following termination or expiration of this Agreement. Owner's indemnity obligations as described in this paragraph shall be limited to the extent the Losses are matters for which OVG must indemnify Owner for under Section 16.1 above.

Section 16.3 <u>Conditions to Indemnification</u>. With respect to each separate matter brought by any third-party against which a party hereto ("Indemnitee") is indemnified by the other party ("Indemnitor") under this Article 16, the Indemnitor shall be responsible, at its sole cost and expense, for controlling, litigating, defending and/or otherwise attempting to resolve, through counsel of its choice, any proceeding, claim, or cause of action underlying such matter, except that (i) the Indemnitee may, at its option, participate in such defense or resolution at its expense and through counsel of its choice; (ii) the Indemnitee may, at its option, assume control of such defense or resolution if the Indemnitor does not promptly and diligently pursue such defense or resolution, provided that the Indemnitor shall continue to be obligated to indemnify the Indemnitee hereunder in connection therewith; and (iii) neither

Indemnitor nor Indemnitee shall agree to any settlement without the other's prior written consent (which shall not be unreasonably withheld or delayed). In any event, Indemnitor and Indemnitee shall in good faith cooperate with each other and their respective counsel with respect to all such actions or proceedings, at the Indemnitor's expense. With respect to each and every matter with respect to which any indemnification may be sought hereunder, upon receiving notice pertaining to such matter, Indemnitee shall promptly give reasonably detailed written notice to the Indemnitor of the nature of such matter and the amount demanded or claimed in connection therewith.

Section 16.4 <u>Survival</u>. The obligations of the parties contained in this Article 16 shall survive the termination or expiration of this Agreement.

ARTICLE 17 INSURANCE

Section 17.1 <u>Types and Amount of Coverage</u>. OVG agrees to obtain insurance coverage in the manner and amounts as set forth in <u>Schedule 17.1</u>, attached hereto, and shall provide to Owner promptly following the Commencement Date a certificate of certificates of insurance evidencing such coverage. OVG shall maintain such referenced insurance coverage at all times during the Term and will not make any material modification or change from these specifications without the prior approval of Owner. The cost of all such insurance, including, without limitation, the cost of any coverage deductibles, coinsurance penalties, or self-insured retention under insurance policies, shall be an Operating Expense.

Section 17.2 <u>Rating; Additional Insureds.</u> All insurance policies shall be issued by insurance companies rated no less than A VIII in the most recent "Bests" insurance guide and licensed in the State of Utah, or as otherwise agreed by the parties. All such policies shall be in such form and contain such provisions as are generally considered standard for the type of insurance involved. The commercial general liability policy, automobile liability insurance policy and umbrella or excess liability policy to be obtained by OVG hereunder shall name Owner as an additional insured. The workers compensation policy to be obtained by OVG hereunder shall contain a waiver of all rights of subrogation against Owner. OVG shall require that all third-party users of the Facility, including without limitation third-party licensees, ushers, security personnel and concessionaires, provide certificates of insurance evidencing insurance appropriate for the types of activities in which such user is engaged. If OVG subcontracts any of its obligations under this Agreement, OVG shall require each such subcontractor to secure insurance that will protect against applicable hazards or risks of loss as and in the minimum amounts designated herein, and name OVG and Owner as additional insureds.

Section 17.3 Owner Insurance. Owner agrees to obtain insurance coverage in the manner and amounts as set forth in Schedule 17.3, attached hereto, and shall provide to OVG promptly following the Effective Date a certificate of certificates of insurance evidencing such coverage. Owner shall maintain such referenced insurance coverage at all times during the Term and will not make any material modification or change from these specifications without prior notification to the OVG. The Owner shall provide to the OVG at least thirty (30) days written notice of cancellation or material change in the terms and provisions of the applicable policy.

ARTICLE 18 REPRESENTATIONS, WARRANTIES AND COVENANTS

- Section 18.1 <u>OVG Representations and Warranties</u>. OVG hereby represents, warrants, and covenants to Owner as follows:
- (a) that it has the full legal right, power, and authority to enter into this Agreement and to grant the rights and perform the obligations of OVG herein, and that no third-party consent or approval is required to grant such rights or perform such obligations hereunder; and
- (b) that this Agreement has been duly executed and delivered by OVG and constitutes a valid and binding obligation of OVG, enforceable in accordance with its terms, except as such enforceability may be limited by bankruptcy, insolvency, reorganization, or similar Laws affecting creditors' rights generally or by general equitable principles.
- Section 18.2 <u>Owner Representations, Warranties and Covenants</u>. Owner represents, warrants, and covenants to OVG as follows:
- (a) that it has the full legal right, power, and authority to enter into this Agreement and to grant the rights and perform the obligations of Owner herein, and that no other third-party consent or approval is required to grant such rights or perform such obligations hereunder;
- (b) that this Agreement has been duly executed and delivered by Owner and constitutes a valid and binding obligation of Owner, enforceable in accordance with its terms, except as such enforceability may be limited by bankruptcy, insolvency, reorganization, or similar laws affecting creditors' rights generally or by general equitable principles; and
- (c) that the Facility will be, as of the Opening Date, in compliance in all respects with all applicable Laws relating to the construction, use and operation of the Facility (including, without limitation, Title III of the American with Disabilities Act), and that there exist no structural defects or unsound operating conditions at the Facility.

ARTICLE 19 RIGHTS RESERVED TO THE OWNER; TAX POSITION; RISK OF LOSS

- Section 19.1 Owner Approval Rights. Without limiting any other rights of the Owner as described herein, the parties agree that the Owner shall have the right to approve (a) the annual Operating Budget, (b) major Capital Expenditures, (c) any disposition of Facility assets, and (d) the general rates charged at the Facility for users of the Facility
- Section 19.2 <u>Tax Position</u>. OVG agrees that it is not entitled to, and will not take, any tax position that is inconsistent with OVG being a service provider to the Owner for the Facility.
- Section 19.3 Risk of Loss. Owner shall bear the risk of loss upon damage or destruction to the Facility. Owner shall be responsible for any operating losses, and Manager shall have no liability for any such operating losses.

ARTICLE 20 MISCELLANEOUS

Section 20.1 <u>PCI Compliance</u>. OVG agrees to comply with all current Payment Card Industry Data Security Standards ("**PCI Standards**") and guidelines that may be published from time to time by Visa, MasterCard or other associations as they relate to the physical storage of credit card data. For PCI Standards compliance purposes, Owner will provide on a segmented network, an appropriate number of wired data connections to the Internet for point of sale devices to be used by OVG and any contractors at the Facility. Owner shall be responsible for the security of its network, including, without limitation, applicable PCI-DSS compliance, and for procuring and installing point of sale (POS) payment systems that are compliant with the latest PCI-DSS requirements. If at any time either party determines that card account number or other information has been compromised, such party will notify the other immediately and assist in providing notification to the proper parties as deemed necessary.

Section 20.2 <u>No Discrimination</u>. OVG agrees that it will not discriminate against any employee or applicant for employment for work under this Agreement because of race, religion, color, sex, disability, national origin, ancestry, physical handicap, or age, and will take affirmative steps to ensure that applicants are employed, and employees are treated during employment, without regard to race, religion, color, sex, disability, national origin, ancestry, physical handicap, or age.

Section 20.3 <u>Use of Facility Names and Logos</u>. OVG shall have the right to use throughout the Term (and permit others to use in furtherance of OVG's obligations hereunder), for no charge, the name and all logos of the Facility, on OVG's stationary, in its advertising of the Facility, and whenever conducting business of the Facility; <u>provided</u>, that OVG shall take all prudent and appropriate measures to protect the intellectual property rights of Owner relating to such logos. All intellectual property rights in any Facility logos developed by the OVG or Owner shall be and at all times remain the sole and exclusive property of Owner. OVG agrees to execute any documentation requested by Owner from time to time to establish, protect or convey any such intellectual property rights.

Section 20.4 <u>Facility Advertisements</u>. Owner agrees that in all advertisements placed by Owner for the Facility or events at the Facility, whether such advertisements are in print, on radio, television, the internet or otherwise, it shall include a designation that the Facility is a "Managed by Oak View Group."

Section 20.5 Force Majeure; Casualty Loss.

- (a) Neither party shall be liable or responsible to the other party for any delay, loss, damage, failure or inability to perform under this Agreement due to an Event of Force Majeure, provided that the party claiming failure or inability to perform provides written notice to the other party within thirty (30) days of the date on which such party gains actual knowledge of such Event of Force Majeure. Notwithstanding the foregoing, in no event shall a party's failure to make payments due hereunder be excusable due to an Event of Force Majeure.
- (b) In the event of damage or destruction to a material portion of the Facility by reason of fire, storm or other casualty loss that renders the Facility (or a material portion thereof) untenantable, Owner shall use reasonable efforts to remedy such situation. If notwithstanding such efforts, such damage or destruction is expected to render the Facility (or a material portion thereof) untenantable for a period estimated by an architect selected by Owner at OVG's request, of at least 180 days from the date of such fire, storm or other casualty loss, either party may terminate this Agreement upon written notice to the other, provided that (i) Owner shall pay to OVG its costs of withdrawing from services hereunder, as described in Section 4.3 above, and (ii) in the event the Owner (or an Affiliate

thereof) reopens the Facility at any time during the Term to operate as a public event venue, Owner shall give OVG the right and option to operate the Facility under the terms hereof, except that the Term shall be extended for a period of time in which the Facility was closed.

Section 20.6 Assignment; Binding on Successors and Assigns. Neither party may assign this Agreement without the prior written consent of the other, which consent shall not be unreasonably withheld or delayed, except that either party may, without the prior written consent of the other party but upon at least 30 days' written notice to the other party, assign this Agreement in connection with a sale, merger or other business combination involving all or substantially all of its assets or equity interests, and OVG may further assign this Agreement to an Affiliate where such assignment is intended to accomplish an internal corporate purpose of OVG as opposed to materially and substantially altering the method of delivery of services to Owner. Any purported assignment in contravention of this Section shall be void. This Agreement is binding on successors and permitted assigns of the parties.

Section 20.7 <u>Notices</u>. All notices required or permitted to be given pursuant to this Agreement shall be in writing and delivered personally or sent by registered or certified mail, return receipt requested, or by generally recognized, prepaid, overnight air courier services, to the address and individual set forth below. All such notices to either party shall be deemed to have been provided when delivered, if delivered personally, 3 days after mailed, if sent by registered or certified mail, or the next business day, if sent by generally recognized, prepaid, overnight air courier services. A courtesy copy of notices shall be sent electronically to the email addresses included below.

If to Owner:	If to OVG:
WBA Local Government Law 350 E 400 S, #2301 Salt Lake City, UT 84111 Attn: Blair M. Dickhoner Email: bdickhoner@wbapc.com	Oak View Group 5050 S. Syracuse St., Suite 800 Denver, CO 80237 Attn: CEO
With a copy to:	With a copy to:
Pinnacle Consulting Group, Inc. 550 W. Eisenhower Blvd Loveland, CO 80537 Attn: Brendan Campbell Email: bcampbell@pcgi.com	Oak View Group 5050 S. Syracuse St., Suite 800 Denver, CO 80237 Attn: OVG360 Legal Department Email: OVG360Legal@oakviewgroup.com

The designation of the individuals to be so notified and the addresses of such parties set forth above may be changed from time to time by written notice to the other party in the manner set forth above.

Section 20.8 <u>Severability</u>. If a court of competent jurisdiction determines that any term of this Agreement is invalid or unenforceable to any extent under applicable law, the remainder of this Agreement (and the application of this Agreement to other circumstances) shall not be affected thereby, and each remaining term shall be valid and enforceable to the fullest extent permitted by law.

Section 20.9 <u>Entire Agreement</u>. This Agreement (including the exhibits attached hereto) contains the entire agreement between the parties with respect to the subject matter hereof, and supersedes and replaces all prior negotiations, correspondence, conversations, agreements, and understandings concerning the subject matter hereof. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations, agreements or understandings, whether oral or written.

Section 20.10 <u>Governing Law</u>. The Agreement is entered into under and pursuant to, and is to be construed and enforceable in accordance with, the laws of the State of Utah, without regard to its conflict of laws principles.

Section 20.11 Governmental Entity and Confidentiality.

- a. Business Confidential Information. For the purposes of this Agreement, 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, ideas, technical data and concepts originated by OVG and which OVG properly classifies as "business confidential" in accordance with Utah Code Ann. § 63G-2-309, in order to protect against unrestricted disclosure or competitive use, is identified or labeled as confidential, and which is furnished pursuant to this Agreement.
- b. *Non-Disclosure*. The Parties hereby agree not to use the Confidential Information for their own use or for any other purpose not expressly permitted by this Agreement. The Parties 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. The Owner 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 Agreement, and to otherwise treat qualifying documents as Confidential Information in accordance with GRAMA. Upon delivery of Confidential Information to the Owner, OVG shall provide the specific basis qualifying documents for protection under GRAMA. If the Owner disagrees with OVG's classification of a record, the Owner shall first advise OVG before treating any such record as anything other than Confidential Information under this Agreement or a Protected Record under GRAMA. The Owner shall comply with the following requirements with respect to information labeled as Confidential Information by OVG:
 - 1. Sharing with Governmental Entities. The Owner may only share Confidential Information with another government body or agency in accordance with Section 206 of GRAMA and shall provide Notice of any such sharing to OVG at least ten (10) business days prior to providing such information to such governmental body or agency. The Owner shall obligate governmental entities receiving Confidential Information (i) not to disclose Confidential Information, (ii) to notify and refer all access requests to the Owner to be addressed in accordance with this Agreement, and (iii) defer to the Owner on determinations of whether a record is a Protected Record.
 - 2. <u>Records Requests; Challenges</u>. In accordance with GRAMA, the Owner will notify OVG of any document request under GRAMA or otherwise related to documents provided by OVG. OVG, 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 Agreement. To the extent allowed by GRAMA, the Owner shall cooperate with OVG, in good faith, in connection with any challenge to whether a document or other Confidential Information should be protected from disclosure. OVG shall indemnify and reimburse the Owner for its attorney fees relative to any such challenges by a third-party where OVG requests in writing that the Owner protect the confidentiality of Confidential Information or a Protected Record.

- d. *Third Party Sharing*. The Parties may share Confidential Information from OVG 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. The Owner shall inform OVG in writing of the names of such third persons signing such non-disclosure agreements promptly after the agreements are fully executed.
- e. Immediate and Irreparable Harm. The Owner acknowledges and agrees that OVG would suffer immediate and irreparable harm, for which damages would be an inadequate remedy, if a party hereto improperly disclosed Confidential Information or otherwise violated the foregoing provisions of this Section. Accordingly, the Owner acknowledges and agrees that OVG 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 OVG may be entitled at law or equity. Nothing herein contained is intended to waive or diminish any rights a party may have at law or in equity at any time to protect and defend its legitimate 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 OVG may have at law or in equity.

Section 20.12 <u>Amendments</u>. This Agreement may not be amended except by an instrument in writing signed by an authorized representative of each of the Parties.

Section 20.13 <u>Waiver; Remedies</u>. No failure or delay by a party hereto to insist on the strict performance of any term of this Agreement, or to exercise any right or remedy consequent to a breach thereof, shall constitute a waiver of any breach or any subsequent breach of such term. No waiver of any breach hereunder shall affect or alter the remaining terms of this Agreement, but each and every term of this Agreement shall continue in full force and effect with respect to any other then existing or subsequent breach thereof. The remedies provided in this Agreement are cumulative and not exclusive of the remedies provided by law or in equity.

Section 20.14 <u>Relationship of Parties</u>. OVG and Owner acknowledge and agree that they are not joint venturers, partners, or joint owners with respect to the Facility, and nothing contained in this Agreement shall be construed as creating a partnership, joint venture or similar relationship between Owner and OVG. In operating the Facility, entering into contracts, accepting reservations for use of the Facility, and conducting financial transactions for the Facility, OVG acts on behalf of and as agent for Owner (but subject to the limitations on OVG's authority as set out in this Agreement), with the fiduciary duties required by law of a party acting in such capacity.

Section 20.15 <u>No Third-Party Beneficiaries</u>. Other than the indemnitees listed in Sections 16.1 and 16.2 hereof (who are third party beneficiaries solely with respect to the indemnification provisions in such sections), there are no intended third-party beneficiaries under this Agreement, and no third-party shall have any rights or make any claims hereunder, it being intended that solely the parties hereto (and

the aforementioned indemnitees with respect to the indemnification provisions hereof) shall have rights and may make claims hereunder.

Section 20.16 <u>Attorneys' Fees</u>. If any suit or action is instituted by either party hereunder, including all appeals, the prevailing party in such suit or action shall be entitled to recover reasonable attorneys' fees and expenses from the non-prevailing party, in addition to any other amounts to which it may be entitled.

Section 20.17 <u>Limitation on Damages</u>. Except with respect to any indemnification obligations hereunder, in no event shall either party be liable or responsible for any consequential, indirect, incidental, punitive, or special damages (including, without limitation, lost profits) whether based upon breach of contract or warranty, negligence, strict tort liability or otherwise, and each party's liability for damages or losses hereunder shall be strictly limited to direct damages that are actually incurred by the other party; <u>provided</u> that the foregoing shall not limit or restrict any claim by OVG for the fees described herein upon a breach or default of this Agreement by Owner; the parties expressly agree that, upon a breach or default hereunder by Owner, any claim by OVG for the remaining fees through the original expiration date of this Agreement shall be deemed to be a claim for direct damages.

Section 20.18 <u>Counterparts; Facsimile and Electronic Signatures</u>. This Agreement may be executed in counterparts, each of which shall constitute an original, and all of which together shall constitute one and the same document. This Agreement may be executed by the parties and transmitted by electronic transmission, and if so executed and transmitted, shall be effective as if the parties had delivered an executed original of this Agreement.

ACCEPTED AND AGREED as of the Effective Date:

POINT PHASE 1 PUBLIC INFRASTRUCTURE DISTRICT NO. 1	GLOBAL SPECTRUM, L.P., d/b/a Oak View Group
	By: Global Spectrum, LLC, its general partner
Ву:	Ву:
Name: Jay Hardy	Brian Rothenberg
President of the Board of Trustees	President
Attest:	

SCHEDULE 1.1

OUTDOOR AREAS OF FACILITY DEFINED

SCHEDULE 2.1 (A) PRE-OPENING CONSULTING AND MANAGEMENT DUTIES

I. Pre-Opening Consulting.

During the Pre-Opening Period, OVG shall perform the following duties:

- (a) Assist Owner with its review of the design of the Facility and make recommendations to Owner with respect to such design.
- (b) Advise Owner on any construction and operational issues with respect to the Facility that may arise during the Pre-Opening Period.
- (c) Advise Owner on risk management and insurance needs in connection with the operation of the Facility.
 - (d) Assist Owner in developing and implementing a telecommunications plan for the Facility.
- (e) Develop and recommend a proposed inventory of Facility FF&E, including those relating to food and beverage services; <u>provided</u> that OVG's involvement in the purchase of Facility FF&E shall be subject to an additional mutually agreed fee.
- (f) Prepare and submit to Owner a list of operating supplies necessary for the start-up of the Facility.
- (g) Prepare and submit to Owner food and beverage budget, menu concepts (including proposed pricing) and food and beverage designs, including layouts for kitchens and concession stands.
 - (h) Work with Owner to secure appropriate license as described in Section 13.1.
- (i) Prepare and submit to Owner pre-opening and operational sales, marketing, public relations, advertising, promotion, and revenue-generating event booking strategies and plans for maximizing revenues from the Facility.
 - (j) Parking and traffic strategy review and recommendations
 - (k) Initial proforma and proposed schedule of events targeted
 - (I) Market conditions review and recommendations for Operating Years 1-3 events

OWNER ACKNOWLEDGES THAT NEITHER OVG NOR ITS EMPLOYEES, AGENTS, PARTNERS, OR AFFILIATES, ARE ARCHITECTS, GENERAL CONTRACTORS, ENGINEERS OR FINANCIAL ADVISORS, AND THEIR CONSULTING SERVICES PROVIDED UNDER THIS AGREEMENT ARE BASED ON THEIR OPERATIONAL KNOWLEDGE OF SPORTS AND ENTERTAINMENT COMPLEXES, ARENAS, STADIUMS AND OTHER SIMILAR FACILITIES AND SHOULD NOT BE CONSTRUED AS A REPRESENTATION OF ARCHITECTURAL, CONSTRUCTION, ENGINEERING OR FINANCIAL PRACTICES. NEITHER OWNER NOR ANY OF ITS RESPECTIVE AGENTS, CONSULTANTS, CONTRACTORS, OR REPRESENTATIVES, WILL RELY UPON OVG OR ITS PARTNERS

AS HAVING ARCHITECTURAL, CONSTRUCTION, ENGINEERING OR FINANCIAL EXPERTISE.

II. Pre-Opening Management

During the Pre-Opening Period and the Stub Operating Year, OVG shall perform the following additional duties:

- (a) Develop an Operations Manual for the Facility. OVG shall deliver a "template" of the Operations Manual to Owner within 60 days of the Commencement Date and shall customize such template to apply to the Facility no less than 180 days following the Opening Date. The final version of the Operations Manual shall be mutually agreed upon by the parties.
- (b) In conjunction with the Owner, Establish prices, rates and rate schedules for user, license, concessions, occupancy, and advertising agreements, and booking commitments, at the Facility. OVG may deviate from the established rate schedule when entering into any such agreements if determined by OVG, using its reasonable business judgment, to be necessary or appropriate with respect to the specific situation but will do so in a legally compliant manner given the Facility is publicly owned.
- (c) Procure, negotiate, execute (as agent for Owner), administer, and assure compliance with Service Contracts. All such agreements shall provide for termination in the event the Facility is not constructed or completed for any reason.
- (d) Procure, negotiate, execute (as agent for Owner), administer, and assure compliance with Revenue Generating Contracts.
- (e) Arrange for and otherwise book revenue-generating events at the Facility in accordance with a booking schedule to be developed by OVG, in consultation with Owner.
- (f) Plan, promote and execute, in conjunction with the Owner, a "grand opening" event or events at the Facility.
- (g) Engage, supervise, and direct all personnel at the Facility that OVG deems necessary to perform the pre-opening services described herein, and conduct staff planning, retention and training programs with respect to such personnel as determined to be necessary by OVG in its sole discretion.
- (h) Maintain detailed, accurate and complete financial and other records of all its activities under this Agreement in accordance with generally accepted accounting principles.
- (i) Cause such other acts and things to be done with respect to the Facility, as determined by OVG in its reasonable discretion to be necessary for the management and operation of the Facility prior to the Opening Date.

SCHEDULE 2.1 (B) POST-OPENING DATE MANAGEMENT SERVICES

Following the Pre-Opening Period, OVG's management obligations under the Agreement shall consist of the following obligations, all of which are subject to the terms hereof and the controls and restrictions in the Operations Manual:

- (a) Manage all aspects of the Facility in accordance with the Operations Manual and the terms of this Agreement, including but not limited to managing purchasing, payroll, fire prevention, security, crowd control, routine repairs, preventative maintenance, janitorial services, promotions, advertising, energy conservation, security, box office, admission procedures, and general user services. The parties acknowledge and agree that OVG's services under this this Agreement shall not include the management of any parking lots.
- (b) Establish and adjust prices, rates and rate schedules for user, license, concessions, occupancy, and advertising agreements, and booking commitments. OVG may deviate from the established rate schedule when entering into any such agreements if determined by OVG, using its reasonable business judgment, to be necessary or appropriate with respect to the specific situation.
- (c) Procure, negotiate, execute, administer and assure compliance with Service Contracts, Revenue Generating Contracts, and other contracts related to the operation of the Facility.
- (d) Require that all material vendors and licensees of the Facility execute vendor/license agreements containing standard indemnification and insurance obligations on the part of each such vendor/licensee.
- (e) Provide standard form advertising and sponsorship contracts and user/rental agreements for use at or with respect to the Facility. OVG shall submit such form agreements to Owner for review and comment, and the parties shall work together to finalize such forms. Once finalized, OVG shall use such forms in furtherance of its duties hereunder, and shall not materially deviate from the terms contained in such forms without obtaining the prior approval of Owner (which shall not be unreasonably withheld). OVG's sole responsibility with regard to providing legal advice or assistance hereunder shall be to provide such standard form contracts.
- (f) Operate and maintain the Facility, including the equipment utilized in connection with its operation and any improvements made during the term of this Agreement, in the condition received, normal wear and tear excepted.
- (g) Arrange for and otherwise book events at the Facility in accordance with a booking schedule to be developed by OVG.
- (h) Hire or otherwise engage, pay, supervise, and direct all personnel OVG deems necessary for the operation of the Facility in accordance with Article 6 of the Agreement, and conduct staff planning, retention and training programs as determined to be necessary by OVG in its sole discretion.

- (i) Maintain detailed, accurate and complete financial and other records of all its activities under this Agreement in accordance with generally accepted accounting principles, which records shall be made available to Owner upon request, in accordance with Section 11.1 of the Agreement.
- (j) Submit to Owner in a timely manner financial and other reports detailing OVG's activities in connection with the Facility, as set forth in Section 11.2 of the Agreement.
- (k) Prepare a proposed annual Operating Budget and submit such proposed budget to Owner, both in accordance with Article 8 of the Agreement.
- (I) Pay all Operating Expenses and other expenses incurred in connection with the operation, maintenance, supervision and management of the Facility from the Operating Account or with funds otherwise made available by Owner.
- (m) Secure, or assist Owner (or any other third party, as applicable) to secure, all licenses and permits necessary for the operation and use of the Facility for the specific events to be held therein, and for the general occupancy of the Facility, including without limitation all necessary food and liquor licenses, and renewals thereof. Owner shall cooperate in this process to the extent reasonably required. All costs associated with this process shall be Operating Expenses.
- (n) Collect, deposit and hold in escrow in the Event Account any ticket sale revenues which it receives in the contemplation of or arising from an event pending the completion of the event, as more fully described in Section 9.1 of the Agreement.
- (o) Collect in a timely manner and deposit in the Operating Account all Revenue, as more fully described in Section 9.2 of the Agreement
 - (p) Subject to Owner making available sufficient funds in a timely manner, pay all Taxes.
- (q) Assist in the preparation, maintenance, and implementation of a marketing plan for the Facility, as requested and subject to Owner's approval.
- (r) Assist in the planning, preparation, and implementation of all public relations and other promotional programs for the Facility, as requested.
- (s) Market and attempt to sell Commercial Rights, including naming rights, at or in connection with the Facility.
- (t) On an annual basis, cause a written inventory to be taken of all Facility FF&E, supplies, tools and vehicles at the Facility, and deliver a written report of the foregoing to Owner. OVG shall document all major damage to, or loss in, such inventory during the Term as soon as such damage or loss is discovered by OVG, and OVG shall promptly notify Owner of any such damage or loss.
- (u) Purchase, on behalf of Owner and with Owner funds, and maintain during the Term, all materials, tools, machinery, equipment and supplies necessary for the operation of the Facility.
- (v) As agent for Owner, manage risk management and Facility insurance needs, as more fully described in Article 17 of the Agreement.

- (w) Make and be responsible for all routine and minor repairs, maintenance, preventative maintenance, and equipment servicing. OVG shall be responsible for ensuring that all repairs, replacements, and maintenance shall be of a quality and class at least equal to that of the item being repaired, replaced, or maintained. Any replacement of an item in inventory, or any new item added to the inventory, which is paid for by Owner, shall be deemed the property of Owner.
- (x) Cause such other acts and things to be done with respect to the Facility, as determined by OVG in its reasonable discretion to be necessary for the management and operation of the Facility following the Opening Date.

SCHEDULE 2.1(C) POST OPENING DATE OVG FOOD AND BEVERAGE SERVICES

OVG's food and beverage obligations under the Agreement shall consist of the following obligations, all of which are subject to the terms hereof and the controls and restrictions in the Operations Manual:

- (a) Develop and implement all necessary policies and procedures for the food and beverage services;
- (b) Engage and oversee employees necessary to perform the food and beverage services at the Facility;
- (c) Manage the food and beverage services in compliance with and subject to all federal, state and local laws, ordinances and regulations (including, without limitation, health and sanitation codes and regulations with respect to the sanitation and purity of the food and beverage products for sale);
- (d) Arrange for all minor repairs and routine maintenance to the equipment used in the operation of the food and beverage services;
- (e) Keep the food and beverage facilities and equipment neat, clean and in a sanitary condition;
- (f) Undertake appropriate advertising, marketing and promotion of the food and beverage offerings at the Facility;
- (g) Develop menus, portions, brands, prices, themes and marketing approaches. OVG (or its designee concessionaire, as applicable) shall be entitled to set the prices for such items for sale; and
- (h) Order, stock, prepare, pay for (as an Operating Expense) and sell appropriate foods and beverages.

SCHEDULE 14.1 EXISTING CONTRACTS

As of the effective date of this Agreement, no such contracts exist.

SCHEDULE 17.1 INSURANCE

At all times during this Agreement, OVG shall maintain the following insurance coverage:

- (a) commercial general liability insurance, including products and completed operations, bodily injury and property damage liability, contractual liability, independent contractors' liability, and personal and advertising injury liability against claims occurring on, in, or about the Facility, or otherwise arising under this Agreement;
 - (b) umbrella or excess liability insurance;
- (c) commercial automobile liability insurance, including coverage for the operation of owned, leased, hired and non-owned vehicles;
- (d) workers compensation and employer's liability insurance as shall be required by and be in conformance with the laws of the State of Utah;
 - (e) professional liability insurance and self-insured employment practices liability coverage;
 - (f) employment practices liability insurance;
 - (g) pollution liability; and
 - (h) crime coverage.

Such liability insurance shall be maintained in the following minimum amounts throughout the Term:

Commercial General Liability

\$1,000,000 per occurrence

\$1,000,000 personal and advertising injury

\$1,000,000 products-completed operations aggregate

Umbrella or Excess Liability

\$5,000,000 per occurrence and aggregate

Automobile Liability

\$1,000,000 per accident (PI and PD combined single limit)

\$1,000,000 uninsured/underinsured motorist

Workers Compensation

Workers Compensation: Statutory

Employer's Liability: \$100,000 each accident-bodily injury by accident

\$500,000 policy limit-bodily injury by disease

\$100,000 each employee-bodily injury by disease

Professional Liability/Errors & Omissions (Claims Made basis)

\$1,000,000 each occurrence/aggregate

Employment Practices Liability Insurance (Claims Made basis) \$1,000,000

Pollution Liability (Claims Made basis) \$1,000,000

Crime Insurance

Coverage on all on-site OVG employees. Limit: \$500,000

SCHEDULE 17.3 OWNER INSURANCE

At all times during this Agreement, Owner shall maintain the following insurance coverage:

- (a) Commercial Property Insurance
 - i. All-risk property insurance on the Facility and the Owner's business property and equipment providing coverage to a limit of not less than the full replacement cost, including explosion, collapse and underground, earthquake and flood. Such insurance will be written to include replacement cost value. All premium, deductibles, taxes and fees and/or self-insured retentions are the responsibility of the Owner.
- (b) To the extent applicable, Worker's Compensation and Employer's Liability Insurance as shall be required by and be in conformance with the laws of the State of Utah.
 - i. Workers Compensation: Statutory
 - ii. Employer's Liability: \$1,000,000 each accident-bodily injury by accident; \$1,000,000 policy limit-bodily injury by disease; \$1,000,000 each employee-bodily injury by disease

Additional Terms:

- All policies shall be issued by insurance companies authorized by the state or commonwealth
 where the Facility is located and have an A.M. Best rating of at least A VIII or better for the
 duration of the contract and any extensions thereof.
- All policies shall include a waiver of subrogation in favor of the OVG and be primary and non-contributory with any available insurance policies and programs of self-insurance of the OVG.

SCHEDULE II MINIMUM FACILITY REQUIREMENTS

Professional Services Agreement Firm-Fixed Price



PARTIES

This Agreement made this 18th day of July 2025, between:

Point Phase 1 Public Infrastructure District No. 1 and GSH Geotechnical Inc.

c/o Wadsworth Development Group 166 East 14000 South

Draper, Utah 84020 Attn: Mr. Robert Booth Phone: (801) 417-0347 Email: robert@wadsdev.com Hereinafter called "Client" 473 West 4800 South
Salt Lake City, Utah 84123
Attn: Mr. Robert Gifford
Phone: (801) 685-9190
Email: bobby@gshgeotech.com
Hereinafter called "GSH"

PROJECT

Description:

Client engages GSH to provide services in connection with:

The Point Event Center

51,765 square-feet, an adjacent 2- or 3- story, slab-on-grade building with a footprint of 8,400 square feet, adjoining pavements, and public roads. The main structure is anticipated to be constructed with steel and/or concrete tilt-up construction and be supported by conventional spread and continuous wall foundations. Maximum wall and column loads are anticipated to be up to 10 kips per foot

The 4.7-acre site is proposed to be developed with a 3- or 4-level, slab-on-grade 5,000-seat event venue structure with a footprint of

and 400 kips, respectively. Floor slab loads are anticipated to be approximately 150 pounds per square foot.

Location: Approximately 14000 South 200 West, Draper, Utah (40.4934°, -111.8992°)

SCOPE OF SERVICES

GSH agrees to perform services as follows:

Geotechnical Study

Objectives: 1) Define and evaluate subsurface soil and groundwater conditions; and 2) Provide appropriate foundation, earthwork, pavement,

and geoseismic* recommendations.

Scope: 1) Field program to consist of the drilling, logging, and sampling of 5- to 6-borings from 10 to 70 feet in the building footprints (30

to 70 feet in the main structure), 8 borings from 5 to 10 feet in new pavement and roadway areas, ReMi testing*, and stormwater percolation testing** (if requested). All borings will be completed to target depths, or refusal; 2) Laboratory testing on field samples (including CBR and/or DCP testing); 3) Engineering analysis; and 4) Summary geotechnical report and site-specific seismic

report.

Schedule: Field work can be initiated within 10 to 15 business days following authorization (to allow for utility locating). Field work will last

2 days. Report will be completed 10 to 15 business days following field work.

Conditions: *The current IBC 2021 code requires a site-specific seismic evaluation for buildings with a period greater than 0.5s (5

stories high or flexible bracing) or for sites that have liquefaction. Buildings without liquefaction and shorter building may be designed using the Site Class D – Default (per the code mapping) or utilizing a Site Class Determination using ReMi technology to provide accurate seismic shear wave velocity. Site Class D-Default typically has penalties of 20%. **Client must provide locations and depths of stormwater percolation testing. Additional fees will be required for percolation tests deeper

than 5 feet, or if percolation testing is not conducted at the same time as the geotechnical explorations.

-Client to provide legal and physical access to site and boring locations including obtaining appropriate permits/clearances for site

access.

-GSH not responsible for damages to unmarked or private utilities or landscaping or returning site to original condition.

-Client must provide a traffic count study or GSH can estimate the count for the new public roadway pavement designs.

-Responses to City/County or third-party review comments will be covered under a separate agreement.

-Fees do not include 50-foot continuously sampled boring for liquefaction analysis which may be required by Draper City.

Client agrees that all services not expressly included are excluded from GSH's Scope of Services.

COMPENSATION

Client agrees to compensate GSH on a firm-fixed price basis in the amount shown below. In addition to the Agreement amount, CLIENT assumes full responsibility for the payment of any applicable sales, use, or value-added taxes under this Agreement, except as otherwise specified.

Geotechnical Study: \$16,500

Stormwater Percolation Testing (if requested): \$600/ea

Site-Specific Seismic Study (if requested): \$11,200

Excavation Observations/Site Visits: \$650/ea

Phase 1 Environmental Site Assessment (if requested): \$2,500

ATTA(CHM	ENTS
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The listed attachment(s) form part of this agreement: 1. Terms and Conditions 2. Schedule of Charges.

Client and GSH acknowledge that each has read and agrees to the Terms and Conditions printed on the reverse side of this document, which are incorporated herein and made a part of this Agreement.

Client:		GSH Geotechnical, Inc.:	
By:		By:	
Print Name:		Print Name: Alan D. Spilker	
Title:	Date:	Title: President	Date: July 18, 2025

GSH Proposal Number: 25-0724.rev1

GSH Job Number:



TERMS AND CONDITIONS

- AUTHORIZATION TO PROCEED. The signing of this Agreement by the Client and GSH will serve as written authorization for GSH to proceed with the services called for in this Agreement.
- 2. EXTENT OF AGREEMENT. This Agreement, including attachments incorporated herein by reference, represents the entire agreement between GSH and Client and supersedes all prior negotiations, representations, or agreements, either written or oral. This Agreement may be altered only by written instrument signed by authorized representatives of both Client and GSH.
- 3. CHANGES. Work beyond the scope of services, redoing any part of the project through no fault of GSH, or the discovery of conditions or circumstances not contemplated by GSH at the commencement of this Agreement shall constitute extra work and shall be paid for on a time-and-materials basis in accordance with Schedule of Charges attached to this Agreement. GSH will not perform such extra work without Client's notification and approval. In the event GSH's work is interrupted due to delays other than delays caused by GSH, GSH shall be compensated equitably in accordance with the Schedule of Charges attached to this Agreement for the additional labor or other charges associated with maintaining its work force for Client's benefit during the delay, or at the option of the Client, for charges incurred by GSH for demobilization and subsequent remobilization.
- 4. PAYMENT. GSH shall invoice Client periodically for the services performed under this Agreement. Client shall pay such invoice upon receipt. Invoices not paid within thirty (30) days of the invoice date shall be subject to a late payment charge of 1-1/2 percent per month (18% per annum) from date of billing until paid. The invoice amounts shall be presumed to be correct unless Client notifies GSH in writing within fourteen (14) days of receipt. Progress billings, when paid, represent acceptances by Client of the invoiced services performed by GSH. The Client agrees to pay attorney fees and costs necessary to collect on past due accounts. If client fails to pay an invoice when due, GSH may suspend all services until such invoice is paid in full.
- 5. PERMITS, UTILITIES AND ACCESS. Unless otherwise stated in the Proposal, the Client shall apply for and obtain all required permits and licenses. The Client shall make all necessary arrangements for right of entry to provide GSH access to the site for all equipment and personnel at no charge to GSH. The Client shall also provide GSH with the location of all underground utilities and structures in the exploration area, unless otherwise agreed in writing. While GSH will take all reasonable precautions to minimize any damage to the property, the Client agrees to hold GSH harmless for any damages to any subterranean structures or any damage required for right of entry.
- 6. PROBABLE COSTS. GSH does not guarantee the accuracy of probable costs for providing services hereunder. Such probable costs represent only GSH judgment as a Professional and are supplied only for the general guidance of the Client.
- 7. DISPUTES. Any dispute arising hereunder shall first be resolved by taking the following steps, where a successive step is taken if the issue is not resolved at the preceding step: 1) by the technical and contractual personnel for each party performing this Subcontract, 2) by executive management of each party, 3) by mediation, 4) by arbitration if both parties agree or 5) through the court system of the jurisdiction of the GSH office that entered into this Agreement.
- 8. STANDARD OF CARE. GSH shall perform its services in a manner consistent with the standard of care and skill ordinarily exercised by members of the profession practicing under similar conditions in the geographic vicinity and at the time the services are performed. This Agreement neither makes nor intends a warranty or guarantee, express or implied.
- 9. INDEMNITY. Client waives any claim against GSH, its officers, employees and agents and agrees to defend, indemnify, protect and hold harmless GSH and its officers, employees and agents from any and all claims, liabilities, damages or expenses, including but not limited to delay of the project, reduction of property value, fear of or actual exposure to or release of toxic or hazardous substances, and any consequential damages of whatever nature, which may arise directly or indirectly, to any party, as a result of the services provided by GSH under this Agreement, unless such injury or loss is caused by the sole negligence of GSH. All claims by Client shall be deemed relinquished unless filed within one (1) year after substantial completion of the services.
- 10. LIMITATION OF LIABILITY. Notwithstanding any other provision of this Agreement, Client agrees to limit GSH's and its officers, employees and agents liability due to professional negligence and to any liability arising out of or relating to this Agreement to the lesser of \$50,000 or the stated value of this Agreement. This limit applies to all services on this project, whether provided under this or subsequent agreements, unless modified in writing, agreed to and signed by authorized representatives of the parties. In addition, GSH shall not be liable for consequential, incidental or indirect damages as a result of the performance of this Agreement.
- 11. INSURANCE. GSH will maintain insurance for this Agreement in the following types: 1) worker's compensation insurance at statutorily required levels, 2) comprehensive general liability insurance and 3) automotive insurance.
- 12. RESPONSIBILITY. GSH is not responsible for the completion or quality of work that is dependent upon or performed by the Client or third parties not under the direct control of GSH, nor is GSH responsible for their acts or omissions or for any damages resulting therefrom.
- 13. EXCLUSIVE USE. Services provided under this Agreement, including all reports, information or recommendations prepared or issued by GSH, are for the exclusive use of the Client for the project specified. No other use is authorized under this Agreement. Client will not distribute or convey GSH's reports or recommendations to any person or organization other than those identified in the project description without GSH's written authorization. Client releases GSH from liability and agrees to defend, indemnify, protect and hold harmless GSH from any and all claims, liabilities, damages or expenses arising, in whole or in part, from such unauthorized distribution.
- 14. FIELD REPRESENTATION. The presence of GSH's or its subcontractors' field personnel, may be for the purpose of providing project administration, assessment, observation and/or field testing. Should a contractor(s) not retained by GSH be involved in the project, Client will advise such contractor(s) that GSH's services do not include supervision or direction of the means, methods or actual work of the contractor(s), his employees or agents. Client will also inform contractor that the presence of GSH's field representative for project administration, assessment, observation or testing, will not relieve the contractor of its responsibilities for performing the work in accordance with applicable regulations, or in accordance with project plans and specifications. If a contractor is involved on the project, Client agrees GSH shall not be responsible for working conditions on the job site including the safety and security of persons or property.
- 15. ENVIRONMENTAL LIABILITY. Client has and shall retain all responsibility and liability for the environmental conditions on the site. All non-consumed samples shall remain the property of the Client, and Client shall be responsible for and promptly pay for the removal and lawful disposal of samples, cuttings and hazardous materials, unless otherwise agreed in writing. If appropriate, GSH shall preserve samples obtained for the project for not longer than 30 days after the issuance of any document that includes the data obtained from those samples.
- 16. TERMINATION. This Agreement may be terminated by either party upon ten (10) days written notice to the other. In the event of a termination, Client shall pay for all reasonable charges for work performed and demobilization by GSH to date of notice of termination. The limitation of liability and indemnity obligations of this Agreement shall be binding notwithstanding any termination of this Agreement.
- 17. ASSIGNMENT. Neither client nor GSH shall assign its interest in this Agreement without the written consent of the other.
- 18. GOVERNING LAW. This Agreement is governed by the law of the judicial jurisdiction of the GSH office that entered this Agreement.

Client's Initials

GSH Proposal Number: 25-0724.rev1 GSH Job Number:

ASSIGNMENT AND ASSUMPTION OF ARCHITECT AGREEMENT

This ASSIGNMENT AND ASSUMPTION OF ARCHITECT AGREEMENT (the "Assignment" or "Agreement") is made and entered into as of the 29th day of July, 2025, by and among: CLW POINT PARTNERS, a Delaware limited liability company ("Assignor"), and POINT PHASE 1 PUBLIC INFRASTRUCTURE DISTRICT NO. 1, a quasi-municipal corporation and political subdivision of the State of Utah, (the "Assignee"). The Assignor and the Assignee are referred to herein individually as a "Party" and collectively as the "Parties."

RECITALS

WHEREAS, Assignor is a party to that certain Standard Form of Agreement Between Owner and Architect for a Complex Project (AIA Document B103-2017), dated August 26, 2024 (the "Architect Agreement"), by and between Assignor (as Owner) and Arcadis Inc., a Delaware corporation (the "Architect"), relating to the design and construction of the project known as "The Point – Pavilions" (the "Pavillions Project"), attached hereto as Exhibit A; and

WHEREAS, those capitalized terms used herein and not otherwise defined herein shall have the meanings assigned to them in the Architect Agreement; and

WHEREAS, Assignee is a duly formed and acting public infrastructure district that will own and finance public improvements related to the Pavillions Project; and

WHEREAS, Assignor desires to assign to Assignee, and Assignee desires to assume from Assignor, all of Assignor's rights and obligations under the Architect Agreement, to the extent related to design and construction of public improvements that are within the scope of the Assignee's statutory purposes; and

WHEREAS, Section 10.3 of the Architect Agreement provides, "Owner reserves the right upon notice to Architect to assign this Agreement to an institutional lender providing financing for the Project or to other persons ready and capable of performing Owner's obligations under the Agreement."; and

WHEREAS, the Assignee is ready and capable of performing the Assignor's obligations under the Agreement.

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

COVENANTS AND AGREEMENTS

- 1. <u>Recitals are Incorporated</u>. The recitals to this Agreement are incorporated as if fully set forth herein.
- 2. <u>Assignment of Rights</u>: Effective as of the date set forth above, Assignor hereby assigns, transfers, and conveys to Assignee all of its right, title, and interest in and to the Architect

Agreement, including all obligations and duties thereunder, to the extent relating to the design, permitting, and construction of public improvements described in or contemplated by the Architect Agreement.

- 3. <u>Assumption of Obligations and Duties</u>: Assignee hereby accepts the foregoing assignment and assumes and agrees to perform all of Assignor's obligations under the Architect Agreement as of the effective date of this Assignment, as such obligations relate to the design and construction of public improvements to be owned or financed by the Assignee.
- 4. Consent of Architect: Architect shall evidence its consent to this Assignment by signing below, and upon such execution, shall recognize Assignee as the "Owner" under the Architect Agreement for all purposes. Architect shall continue performance under the Architect Agreement without interruption, and acknowledges that this Assignment does not constitute a material change under the Architect Agreement.
- 5. <u>Prior Provisions Effective</u>. Except as specifically provided herein, all the terms and provisions of the Architect Agreement shall remain in full force and effect.
- 6. Entire Agreement; Modifications. This Agreement contains the entire understanding of the Parties and supersedes all other agreements or understandings between them with respect to the subject matter of the Agreement. This Agreement may not be changed orally, but only by an agreement in writing, signed by the party against whom enforcement of any waiver, change, modification, extension, or discharge is sought.
- 7. Governing Law. This Agreement is governed by and construed in accordance with the laws of the State of Utah, without giving effect to any choice or conflicts of laws principles.
- 8. <u>Interpretation</u>. Any caption that identifies a paragraph or section heading is for convenience only and the content of the paragraph controls the relationship between the Parties not the language of the heading. Singular includes the plural and plural includes singular. Reference to a paragraph also references all paragraphs. This Agreement shall be considered to have been drafted by the Parties and there will be no construction of ambiguities against any Party.
- 9. <u>Counterparts</u>. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.
- 10. <u>Waiver; Partial Invalidity</u>. No term or condition of this Agreement shall be deemed waived unless such waiver is expressed in writing and is signed by the Parties. Failure or delay on the part of any Party to exercise any right, power, or privilege under this Agreement shall not be deemed a waiver thereof. In the event that an arbitrator or judge determines that any provision of this Agreement is invalid or unenforceable, the remainder of the Agreement shall remain enforceable deleting therefrom the invalid or unenforceable provision and all other provisions remaining valid and enforceable to the fullest extent permitted by law.

[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.

ASSIGN	OR:
	OINT PARTNERS, a Delaware limited company
Printed N	Name
Title	
INFRA a quasi-	NEE: PHASE 1 PUBLIC STRUCTURE DISTRICT NO. 1 municipal corporation and political sion of the State of Utah
By:	Authorized Board Member
ARCHIT ARCAD	TECT: IS INC., a Delaware corporation
Printed N	Name
Title	

Exhibit A

Standard Form of Agreement Between Owner and Architect for a Complex Project
(AIA Document B103-2017)
("Architect Agreement")

Standard Form of Agreement Between Owner and Architect for a Complex Project

AGREEMENT made as of the 26th day of August in the year 2024

BETWEEN the Architect of Record's client identified as the Owner:

CLW POINT PARTNERS, LLC c/o Lincoln Property Company 8111 Douglas Ave, Suite 600 Dallas, TX 75225

and the Architect of Record ("Architect"): Arcadis Inc. 333 South Hope Street, C200 Los Angeles, CA 90071

for the following Project: The Point - Pavilions

The Project is comprised of nine (9) single-story, stand-alone retail pavilions, each approximately between 900 and 2,000 gross square feet, as permitted by national, state, and local building codes. The program for the project will consist of retail and back of house spaces.

The Owner and Architect agree as follows.

ADDITIONS AND DELETIONS:

The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An Additions and Deletions Report that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

TABLE OF ARTICLES

- 1 ARCHITECT ROLES AND INITIAL INFORMATION
- 2 ARCHITECT'S RESPONSIBILITIES
- 3 SCOPE OF ARCHITECT'S BASIC SERVICES
- 4 ADDITIONAL SERVICES
- 5 OWNER'S RESPONSIBILITIES
- 6 COST OF THE WORK
- 7 COPYRIGHTS AND LICENSES
- 8 CLAIMS AND DISPUTES
- 9 TERMINATION OR SUSPENSION
- 10 MISCELLANEOUS PROVISIONS
- 11 COMPENSATION

User Notes:

12 SPECIAL TERMS AND CONDITIONS

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13 SCOPE OF THE AGREEMENT

ARTICLE 1 ARCHITECT ROLES AND INITIAL INFORMATION

§ 1.1 Architect Roles

- § 1.1.1 The Owner intends to retain a Design Architect and an Architect of Record under separate agreements to provide architectural services for the Project.
- § 1.1.2 The Owner shall retain a Design Architect for the Project. The Design Architect is identified in Section 1.2.10 and is considered an owner's consultant for the purposes of this Agreement. The Design Architect will perform the services required of the Design Architect in its agreement with the Owner and define the architectural design intent for the Project, which will be advanced and documented by the Architect of Record. The Owner shall furnish the Architect of Record with a copy of the scope of services in the agreement between the Owner and the Design Architect.
- § 1.1.3 The Architect of Record's services are described in Articles 3 and 4 of this Agreement and include preparing, signing, and sealing the construction documents for the Project as required in the jurisdiction where the Project is located. The Architect of Record's and Design Architect's respective parts of the Services shall be as defined and set forth in the Responsibility Matrix, attached hereto as Exhibit J.

§ 1.2 Initial Information

This Agreement is based on the Initial Information set forth in this Section 1.1.

- § 1.2.1 The Owner's program for the Project is as set forth in Exhibit E. In the performance of all services, Architect shall comply with all design requirements, design parameters and project requirements attached hereto as Exhibit E. Further, Architect expressly acknowledges and agrees that approval of its design documents is subject to a third-party architectural review committee, as set forth in Exhibit E.
- § 1.2.2 The Project's physical characteristics:

See description of Project above.

- § 1.2.3 The Owner's budget for the Cost of the Work, as defined in Section 6.1:
- § 1.2.4 The Owner's anticipated design and construction schedule: See Exhibit A Project Schedule
- § 1.2.5 The Owner intends the following procurement or delivery method for the Project:

Architect acknowledges and understands the Project will be delivered using a construction manager-at-risk delivery method under which the construction contractor will be responsible for furnishing pre-construction and design assist services, and that such delivery method requires a significant degree of collaboration, cooperation and coordination between the Architect and the construction contractor.

§ 1.2.6 The Owner's requirements for accelerated or fast-track scheduling, multiple bid packages, or phased construction are set forth below:

See Exhibit G – Design and Permit Phasing Plan

- § 1.2.7 Other Project information:
- § 1.2.8 The Owner identifies the following representative in accordance with Section 5.4:

N/A

§ 1.2.9 The persons or entities, in addition to the Owner's representative, who are required to review the Architect's submittals to the Owner are as follows:

N/A

- § 1.2.10 The Owner will retain the following consultants and contractors: See Exhibit B Owner's Consultants
- § 1.2.11 The Architect identifies the following representative in accordance with Section 2.3:

Grace Lennon, AIA 333 S. Hope Street, C-200 Los Angeles, CA 90071 (213) 633-1154

- § 1.2.12 The Architect will retain the consultants identified in Sections 1.1.12.1 and 1.1.12.2:
- § 1.2.12.1 Consultants retained under Basic Services: See Exhibit C Architect's Consultants and Fees.
- § 1.2.12.2 Consultants retained under Additional Services:

See Exhibit C Architects Consultants and Fees.

§ 1.2.13 Other Initial Information on which the Agreement is based:

N/A

§ 1.3 The Owner and Architect may rely on the Initial Information. Both parties, however, recognize that such information may materially change and, in that event, the Owner and the Architect shall appropriately adjust the schedule, the Architect's services and the Architect's compensation.

ARTICLE 2 ARCHITECT'S RESPONSIBILITIES

- § 2.1 The Architect shall provide the professional services as set forth in this Agreement.
- § 2.2 Architect shall perform its services consistent with the standards of professional skill and care exercised by architectural firms of similar size and scale under the same or similar circumstances projects comparable to the Project where the Project is located ("Standard of Care") and subject thereto in accordance with current laws, statutes, codes, rules, regulations, ordinances and standards applicable for the location of the Project ("Legal Requirements"). The Architect shall perform its services as expeditiously as is consistent with such professional skill and care and the orderly progress of the Project. The Architect shall act as an independent contractor and at all times during the performance of its services and no term of this Agreement either expressed or implied, shall create an agency or fiduciary relationship. The services of Architect and its Consultants shall be directly supervised by a licensed architect and licensed professionals, respectively, as required by the law in the State and as required by the terms of the Agreement. Architect represents and warrants that it is financially solvent, able to pay its debts as they mature, and possesses sufficient working capital to complete the services and perform its obligations under this Agreement and under the Contract Documents (as defined in Section 1 of the General Conditions to the Contract for Construction).
- § 2.2.1 The Architect shall hire all consultants ("Consultants") necessary, as listed in Exhibit C Architects Consultants and Fees to properly complete the services and perform its obligations under the Agreement, and Architect agrees, that it shall cooperate with and coordinate its services with the work performed by Owner's separate consultants listed in 4.1.19, if any, for the orderly and coherent design of the Project.
- § 2.2.2 The services to be rendered by the Architect consist of, and all references in this Agreement to the Architect's

services shall be deemed to include, services rendered by the entity defined as the Architect and services rendered by employees of such entity and all consultants, specialists, and other persons, firms, or entities retained by the Architect to perform services pursuant to this Agreement. Any term or provision to the contrary notwithstanding, Architect shall be responsible for the timely and proper performance of all such services, subject to the licensing requirements of the state where the Project is located and in accordance with the Standard of Care.

- § 2.2.3 The Owner reserves the right to retain other architects, consultants, engineers, contractors, and others for similar or dissimilar services. It is understood between the parties that, under conditions when the Owner deems it beneficial to the Project, the Architect may be working in coordination and cooperation with other consultants who will be employed independently by the Owner and totally responsible to the Owner for their work and the performance of their respective agreements with the Owner. The documents and information prepared by such other consultants shall be used by the Architect in connection with the work of the Architect. Upon receipt of such documents and/or information Architect will promptly review such documents and/or information and will notify Owner in writing if Architect discovers such documents and/or information is inadequate for Architect's use or if Architect discovers errors, omissions, or inconsistencies therein through the exercise of the applicable Standard of Care. Subject to the foregoing, Architect will be entitled to rely upon the accuracy and completeness of such documents. Nothing in this Agreement shall be deemed to make the Architect responsible for technical errors or omissions of persons who are not: (i) employees or consultants of the Architect; or (ii) under the direction, supervision or control of the Architect.
- § 2.3 Owner hereby approves of the key positions listed on Architect's Staffing Plan (Exhibit F) as the key positions to be occupied by Architect's key personnel, and Architect's assignments to such positions as shown thereon. Owner reserves the right to participate in the interview process, review resumes of, and approve (not to be unreasonably withheld) or reject, in Owner's reasonable discretion, all other personnel who are being considered by Architect for assignment to key positions in the performance of Services hereunder. Individuals assigned by Architect to such key positions shall not be removed from their positions or reassigned by Architect except in the case of an employee's voluntary or involuntary termination of employment, due to serious illness, death, or a bona fide family emergency. Unless otherwise directed or approved by Owner, individuals for whom Architect has obtained Owner's approval to be assigned to such key positions shall also be retained and assigned to the performance of Services in connection with the construction management phase of the Projects absent removal for permitted causes. Architect represents that the each member of the Staffing Plan (Exhibit F) has been carefully selected and assigned to the Project by Architect and is competent to complete the services required by the Agreement, regardless of whether such individual is (1) originally designated as a Project team member, (2) designated by Architect as replacement member to the Project team, or (3) approved by Owner. Owner, without assuming any liability therefor, shall have the right to approve (not to be unreasonably withheld) the any replacements of the personnel listed in the Staffing Plan or the right to require the replacement of any such key personnel.
- § 2.4 Architect shall not engage in any activity, or accept any employment, interest or contribution that would reasonably appear to compromise the Architect's professional judgment with respect to this Project.
- § 2.5 Architect shall not engage in any activity, or accept any engagement, employment, interest, or contribution, that could create an appearance of impropriety of business affairs or the risk of compromise of Architect's professional judgment related to the Project.
- § 2.6 Architect shall review laws, codes, and regulations applicable to the Architect's Services consistent with the Standard of Care. Architect's designs, plans, specifications, documents, and services shall conform to federal, state, and local statutes and regulations governing the Project and the Work (as defined in the Contract for Construction). The Architect's designs, documents, and services shall conform to federal, state, and local statutes, regulations, and codes governing the Project and the Work and the requirements of entities providing utility services to the Project. Architect agrees and acknowledges that this duty is non-delegable, and Architect represents, subject to its Standard of Care, by signing, stamping, and approving drawings or preparing drawings or permitting drawings to be submitted for purposes of building permits(i) it has fully acquainted itself with and has actual knowledge of the scope of the Work, (ii) it has ascertained the codes which are applicable to the Project and that Architect's designs, documents, and services conform to such codes, (iii) it has visited the Project site and existing conditions, including, without limitation, the location of adjacent structures and utilities, and access to the Project site and is familiar with the general condition of the Project as of the date of this Agreement.

- § 2.7 Intentionally Deleted.
- § 2.8 Intentionally Deleted.
- § 2.9 Architect acknowledges and agrees that it is acting under this Agreement solely as an independent contractor, and not as a partner, joint venturer or employee of Owner and shall have no authority to act for, bind or obligate Owner in any manner whatsoever, except to the extent specifically set forth herein or as may hereafter be specifically authorized in a writing signed by Owner. Architect assumes all liabilities imposed upon Architect by law as a result of this status, including, but not limited to, all legal liability arising out of or related to activities of persons hired, employed or used by or on behalf of Architect in the performance of Architect's obligations under this Agreement.
- § 2.10 The Architect shall maintain the following insurance for the duration of this Agreement, except that professional liability coverage shall be maintained a period of ten (10) years following Substantial Completion of the Work pursuant to the Contract for Construction.
- § 2.10.1 Comprehensive General Liability ("CGL") for bodily injury and property damage on an occurrence basis with policylimits of not less than Two Million Dollars (\$2,000,000) for each occurrence and Two Million Dollars (\$2,000,000) in the annual aggregate from all occurrences in each policy year, with endorsements for premises-operation, products-completed operation, and contractual liability (including coverage for the indemnity clauses in this Agreement).
- § 2.10.2 Automobile Liability ("AL") covering owned, non-owned and rented vehicles operated by the Architect with policylimits of not less than One Million Dollars (\$1,000,000) combined single limit and aggregate for bodily injury and property damage.
- § 2.10.3 Umbrella or excess liability insurance with policy limits of not less than Five Million Dollars (\$5,000,000) for each occurrence and Five Million Dollars (\$5,000,000) in the annual aggregate, following form over and no less broad than the CGL, AL and EL policies.
- § 2.10.4 Workers' Compensation at statutory limits and Employers Liability ("EL") with a policy limit of not less than One Million Dollars (\$1,000,000).
- § 2.10.5 Professional Liability on a claims-made basis covering the Architect's negligent acts, errors and omissions in its performance of professional services with policy limits of not less than Five Million Dollars (\$5,000,000) per claim and Five Million Dollars (\$5,000,000) in the aggregate.
- § 2.10.6 The Architect shall provide to the Owner certificates of insurance evidencing compliance with the requirements in this Section 2.10. The certificates will show the Owner Parties as additional insureds on the CGL, AL, umbrella or excess policies. Architect will provide the Owner with appropriate insurance policy endorsements reflecting that the Owner has been added as an additional insured and that Owner will be provided with thirty (30) days' notice prior to any cancellation of Architect's insurance.
- § 2.10.7 All of the Architect's insurance policies shall be issued by reputable companies licensed or authorized to do business in the state in which the Project is located with an AM Best rating of A/X or better, and shall include provisions requiring 30 days' prior written notice to the Owner Parties of cancellation, non-renewal, or material changes in coverage. The CGL, AL and any excess/umbrella insurance policies shall include the Owner Parties as additional insureds on a primary and non-contributory basis under endorsements acceptable to the Owner Parties.
- § 2.10.8 Architect hereby waives all rights against Owner Indemnitees for the recovery of any and all damages to the extent such damages are covered by any of Architect's liability insurance policies required herein. Accordingly, all of Architect's insurance policies required by Section 2.10 shall include a waiver of subrogation in favor of the Owner and Owner Parties.

ARTICLE 3 SCOPE OF ARCHITECT'S BASIC SERVICES

§ 3.1 The Architect's Basic Services consist of those described in this Article 3, Exhibit H and customarily included

therewith or reasonably inferable therefrom. Services not included in Basic Services are Additional Services.

- § 3.1.1 The Architect shall manage the Architect's services, consult with the Owner, research applicable design criteria, attend Project meetings as set forth below, communicate with members of the Project team and reportdesign team progress to the Owner.
- § 3.1.2 The Architect shall coordinate its services with those services provided by the Owner and the Owner's consultants. The Architect shall provide prompt written notice to the Owner if the Architect becomes aware of any error, omission or inconsistency in such services or information. Such written notice shall not be deemed a waiver, limitation, or modification of the Architect's duties or obligations under the Agreement unless Owner gives prior written confirmation to proceed in response thereto.
- § 3.1.2.1 The Architect shall give prompt written notice to the Owner of any fault, defect, error, omission, or inconsistency in the Project, the Contract Documents, or any information or services provided to the Architect by Owner, which are known by Architect.
- § 3.1.3 As soon as practicable after the date of this Agreement, the Architect shall submit to the Owner a schedule of the Architect's services for inclusion in the Project schedule. The schedule of the Architect's services shall include design milestone dates, anticipated dates when cost estimates or design reviews may occur, and allowances for periods of time required (1) for the Owner's review (2) for the performance of the Owner's consultants, and (3) for approval of submissions by authorities having jurisdiction over the Project.
- § 3.1.4 Upon the Owner's reasonable request, the Architect shall participate in developing and revising the Project schedule as it relates to the Architect's services.
- § 3.1.5 Intentionally Omitted.
- § 3.1.6 The Architect shall not be responsible for an Owner's directive or substitution, or for the Owner's acceptance of non-conforming Work, made or given without the Architect's written approval. Determination of acceptance or rejection of substitution shall not be unreasonably withheld, conditioned, or delayed.
- § 3.1.7 The Architect shall, at appropriate times, contact the governmental authorities required to approve the Construction Documents and the entities providing utility services to the Project.
- § 3.1.8 The Architect shall assist the Owner in connection with the Owner's responsibility for filing documents required for the approval of governmental authorities having jurisdiction over the Project. The Architect shall comply with applicable design requirements imposed by those authorities and entities.
- § 3.1.9 The Instruments of Service shall not favor a particular product; and where specific products are referenced, the Instruments of Service shall identify at least three (3) acceptable brands (to the extent available) and the use of a "brand name or equal" specification shall only be for the purpose of describing the standard of quality, performance and characteristics desired, and shall not be intended to limit or otherwise restrict competition. If the Architect believes a particular "brand name" or model should be specified as the only acceptable brand or model, the Architect shall so advise the Owner and request the Owner's written consent; and the Architect shall not specify in the Instruments of Service products, equipment or materials that do not have "or equal" alternatives without the Owner's prior written consent.
- § 3.1.10 The Architect shall promptly, upon request by the Owner, or notice or discovery by Architect, during any phase of the Project, make necessary modifications, revisions, or corrections of errors, ambiguities, or omissions in the drawings and specifications included in Architect's scope of work as Basic Services and without additional compensation, except as otherwise expressly provided herein for Additional Services.
- § 3.1.11 Intentionally Omitted.
- § 3.1.12 Prior to proceeding with the performance of services under this Agreement, the Architect shall secure the

Owner's written approval of each Phase of Architect's services, as approval of such services may be limited by the Owner in any such approval to individually identified portions of the Project. Promptly upon receiving such Owner's approval, the Architect shall proceed to perform such subsequent services; provided, however, that any delay incurred in obtaining such written approval from the Owner (in excess of time permitted for the Owner response in this Agreement or the Project program) shall be added to the time allotted the Architect to fulfill this Agreement.

§ 3.1.13 Before beginning the Construction Documents Phase (as defined in Section 3.4.1 below), the Architect shall compile or otherwise obtain from the local, state, and federal governmental authorities having jurisdiction over the Project a list of documents, applications, forms, approvals, etc., necessary to obtain all required permits for construction, including but not limited to grading permits, mechanical, electrical, plumbing, and other trade or specialty permits.

As set forth in Section 1.1.6, the Architect acknowledges and agrees that it has adequately addressed a phased approach for the design phase services required by this Article 3 in its calculation of its fees for Basic Services, and that such fees are sufficient for such a phased design approach. Accordingly, Architect shall not be entitled to additional compensation for any additional costs incurred by Architect or its Consultants arising from such a phased design approach.

- § 3.1.14 After exercise of its Standard of Care, the Architect of Record shall be entitled to rely on the Design Architect's Instruments of Service, as appropriate for the phase of services in which they were created, to (1) communicate the scope, quality, and design intent of the Project, (2) provide the functional, aesthetic, and quality standards for the Project, and (3) integrate the Owner's program requirements into the Project's design. The Architect of Record shall independently review the Design Architect's Instruments of Service, the program and other information furnished by the Owner, and shall review laws, codes, and regulations applicable to the Project.
- § 3.1.15 If the Architect of Record provides written notice of an unacceptable Owner or Design Architect's directive, substitution, or acceptance of non-conforming Work to the Owner within 5 business days of when the Architect of Record knew or should have known of this unacceptable action, the Architect of Record shall not be responsible for the Owner's or Design Architect's directive, substitution, or acceptance of non-conforming Work.
- § 3.2 Intentionally Deleted.
- § 3.3 Intentionally Deleted.

§ 3.4 CONSTRUCTION DOCUMENTS PHASE SERVICES

- § 3.4.1 Based on the Owner's written approval of the Design Development Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare Construction Documents for the Owner's approval. The Construction Documents shall illustrate and describe the further development of the approved Design Development Documents and shall consist of Drawings and Specifications setting forth in detail the quality levels of materials and systems and other requirements for the construction of the Work. The Owner and Architect acknowledge that in order to construct the Work the Contractor will provide additional information, including Shop Drawings, Product Data, Samples and other similar submittals, which the Architect shall review in accordance with Section 3.6.4. The Construction Documents shall be prepared so that the Work will be in compliance with applicable laws, ordinances, and regulations and with the requirements of governmental authorities if built in accordance with them.
- § 3.4.2 The Architect shall incorporate into the Construction Documents the design requirements of governmental authorities having jurisdiction over the Project. The Construction Documents shall comply with Applicable Laws in effect at the time of preparation and as reasonably interpreted by Architect as a design professional. To the extent that the Construction Documents do not comply with Applicable Laws, as stated above, the Architect shall make all necessary revisions to the Construction Documents without additional cost to the Owner. The Architect will advise the Owner of any required changes which may affect the cost model of the Project.
- § 3.4.3 The Architect shall also compile a project manual that includes the Conditions of the Contract for Construction and Specifications and may include bidding requirements and sample forms.

§ 3.4.4 Prior to the conclusion of the Construction Documents Phase, the Architect shall submit the Construction Documents to the Owner and the Cost Consultant. The Architect shall meet with the Cost Consultant to review the Construction Documents.

§ 3.4.4.1 As soon as reasonably practicable during the development of the Construction Documents, the Architect shall provide to the Owner for the Owner's approval a list of anticipated tests, inspections, or reports that are required by the Construction Documents. This list should designate the anticipated party responsible for the engagement of providers of those services. Nothing in the Agreement shall impose upon the Owner a duty to third parties to assure that the Contractor, Subcontractors, and/or others are adhering to applicable rules, regulations, law and standards nor shall anything in the Agreement be construed to be a grant of authority to the Architect to act in a way with regard to hazardous materials and those rules, regulations, law, and standards, except as otherwise set forthexpressly herein. In preparing Construction Documents, the Architect shall provide language that puts the Contractor on notice that it is responsible for adherence to applicable rules, regulations, law, and standards with regard to hazardous materials, the abatement and remediation, and/or prohibitions against, and limitations on, their introduction.

§ 3.4.5 Upon receipt of the Owner's estimate of the Cost of the Work at the conclusion of the Construction Documents Phase, the Architect shall take action as required under Article 6 and request the Owner's approval of the Construction Documents.

$\S~3.5$ BIDDING OR NEGOTIATION PHASE SERVICES $\S~3.5.1$ GENERAL

Following the Owner's approval of the Construction Documents, the Architect shall assist the Owner in (1) obtaining either competitive bids or negotiated proposals; (2) confirming responsiveness of bids or proposals; and (3) determining the successful bid or proposal, if any.

§ 3.5.2 COMPETITIVE BIDDING

§ 3.5.2.1 Bidding Documents shall consist of bidding requirements and proposed Contract Documents.

§ 3.5.2.2 The Architect shall assist the Owner in bidding the Project by

- .1 facilitating the reproduction of Bidding Documents for distribution to prospective bidders,
- .2 participating in a pre-bid conference for prospective bidders, and
- .3 preparing responses to questions from prospective bidders and providing clarifications and interpretations of the Bidding Documents in the form of addenda.

§ 3.5.2.3 The Architect shall consider requests for substitutions, if the Bidding Documents permit substitutions, and shall prepare and distribute addenda identifying approved substitutions to all prospective bidders as an Additional Service.

§ 3.5.3 NEGOTIATED PROPOSALS

§ 3.5.3.1 Proposal Documents shall consist of proposal requirements and proposed Contract Documents.

§ 3.5.3.2 The Architect shall assist the Owner in obtaining proposals by

- .1 facilitating the reproduction of Proposal Documents for distribution to prospective contractors, and requesting their return upon completion of the negotiation process;
- .2 participating in a reasonable number of selection interviews with prospective contractors; and
- 3 participating in a reasonable number of negotiations with prospective contractors.

§ 3.5.3.3 The Architect shall consider requests for substitutions, if the Proposal Documents permit substitutions, and shall prepare and distribute addenda identifying approved substitutions to all prospective contractors.

§ 3.5.4 DESIGN REVISIONS

§ 3.5.4.1 The Architect shall address minor clarifying revisions reasonably requested in writing by Owner related to detailing and constructability (and unrelated to any value engineering initiatives or scope changes) in or to the Design Development and/or Construction Documents during the period prior to the Construction Administration phase. All revisions to the Construction Documents related to obtaining approvals and permits from the authority having jurisdiction are included as part of Basic Services. However, if the clarifying revisions conflict with previous instructions or approvals given by the Owner or authority having jurisdiction, such changes would be an Additional

Service.

§ 3.6 CONSTRUCTION PHASE SERVICES § 3.6.1 GENERAL

§ 3.6.1.1 With regard to Work pertaining to the Architect's Services, as may be amended, the Architect shall provide administration of the Contract between the Owner and the Contractor as set forth below and in AIA Document A201TM–2017, General Conditions of the Contract for Construction as modified by the Owner, Architect, and Contractor. If the Owner and Contractor modify AIA Document A201-2017 to impose a more onerous obligation on the Architect, those modifications shall not affect the Architect's services under this Agreement unless the Owner and the Architect amend this Agreement.

§ 3.6.1.2 The Architect shall advise and consult with the Owner during the Construction Phase Services and report to the Owner errors, defects, omissions, inconsistencies, deficiencies and/or deviations from Construction Documents that are observed by the Architect or its Consultants in accordance with the terms set forth below. The Architect shall not have authority to act on behalf of the Owner. The Architect shall not have control over, charge of, or responsibility for the construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work since these are solely the Contractor's responsibility under the Contract Documents, nor shall the Architect be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect shall be responsible for the Architect's negligent acts or omissions, but shall not have control over or charge of, and shall not be responsible for, acts or omissions of the Contractor or of any other persons or entities performing portions of the Work. The Architect shall evaluate alternates and substitutions proposed by the Contractor in an expeditious manner and shall give the Owner written notice of such proposed alternates and substitutions.

§ 3.6.1.3 Subject to Section 4.3, the Architect's responsibility to provide Construction Phase Services commences with the award of the Contract for Construction and subject to Section 3.6.6.3 and Section 3.6.6.5 terminates on the date the Architect issues the final Certificate for Payment.

§ 3.6.2 EVALUATIONS OF THE WORK

§ 3.6.2.1 The Architect shall perform on-site observations of construction not to exceed four (4) person-days permonth at times the Architect considers appropriate based on the progress of the Contractor's operations, or as otherwise required in Section 4.3.3, to become generally familiar with the progress and quality of the portion of the Work completed, and observe, in general, if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Construction Documents consistent with the applicable Standard of Care. However, the Architect shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. On the basis of the site visits, the Architect shall keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and report to the Owner (1) known deviations from the Construction Documents, and (2) defects and deficiencies observed in the Work. Within Architect's scope of services hereunder and exercising the Standard of Care, the Architect will exercise the Standard of Care in observing and promptly reporting to the Owner any defects or deficiencies in the Work. However, Architect is not a guarantor of Contractor's performance and shall not be responsible for Contractor's failure to construct the Work in accordance with the Contract Documents. Any defective Drawings and/or Specifications furnished by Architect will be promptly corrected by the Architect at no cost to the Owner. The Owner's approval, acceptance, use or payment for all or part of the Architect's services hereunder, or of the Projectitself, shall in no way alter the Architect's obligations or the Owner's rights hereunder.

§ 3.6.2.2 The Architect shall advise the Owner when the Work pertaining to the Architect's Services does not conform to the Construction Documents. Whenever the Architect considers it necessary or advisable, the Architect shall have the authority to require inspection or testing of the Work in accordance with the provisions of the Contract Documents, whether ornot such Work is fabricated, installed or completed. The Architect shall not order corrective work without Owner's prior written approval, except in the event of an emergency threatening harm to persons or material harm to property, provided that Architect shall promptly notify Owner in writing of such emergency.

§ 3.6.2.3 The Architect shall interpret and decide matters concerning performance under, and requirements of, the

Construction Documents on written request of the Owner. The Architect's response to such requests shall be made in writing within any time limits agreed upon or otherwise with reasonable promptness.

§ 3.6.2.4 Interpretations and decisions of the Architect shall be consistent with the intent of and reasonably inferable from the Construction Documents and shall be in writing or in the form of drawings.

§ 3.6.3 CERTIFICATES FOR PAYMENT TO CONTRACTOR

§ 3.6.3.1 Based on Architect's on-site observations, the schedule of values if applicable, and evaluations of the Contractor's Application for Payment, the Architect shall review and certify the amounts due the Contractor and shall issue certificates in such amounts. The Architect's certification for payment shall constitute a representation to the Owner, based on the exercise of the Standard of Care and Architect's professional evaluation of the Work as provided in Section 3.6.2 and on the data comprising the Contractor's Application for Payment, that, to the best of the Architect's professional knowledge, information and belief, exercising the Standard of Care, the Work has progressed to the point indicated and that the quality of the Work is in accordance with the Construction Documents. Except as expressly provided otherwise in the Contract Documents, Architect shall review and certify the amounts due Contractor and issue Certificates for Payment within seven (7) calendar days after submission by Contractor of each of its Applications for Payment.

§ 3.6.3.2 The issuance of a Certificate for Payment shall not be a representation that the Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work, (2) reviewed construction means, methods, techniques, sequences or procedures, (3) reviewed copies of requisitions received from Subcontractors and material suppliers and other data requested by the Owner to substantiate the Contractor's right to payment, or (4) ascertained how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

§ 3.6.3.3 The Architect shall maintain records of all Applications for Payment, Certificates for Payments, and any other writings associated therewith until the expiration of all applicable statute of limitations relating to the Work.

§ 3.6.4 SUBMITTALS

§ 3.6.4.1 The Architect shall review the Contractor's submittal schedule and shall not unreasonably delay or withhold approval which approval shall be in writing. The Architect's action in reviewing submittals shall be taken in accordance with the approved submittal schedule or, in the absence of an approved submittal schedule, with reasonable promptness while allowing sufficient time in the Architect's professional judgment to permit adequate review, but in no event in excess of ten (10) days after submission by Contractor after each submission.

§ 3.6.4.1.1 The Architect shall designate those parts of the Work that shall be delegated design for which submittals such as Shop Drawings, Product Data, and Samples, shall be required of the Contractor. Delegated design items shall be reviewed by the Architect according to Section 3.6.4.3 below.

§ 3.6.4.1.2 Elements of the Work that may, subject to Owner review and approval, be included in delegated design include the following for example but not limited to: excavation, soil remediation, pre-cast concrete, metal fabrication, steel fireproofing, metal stairs, metal stud framing, frameless glass railing system, metal wall panels, aluminum sliding door systems, glass entrances, aluminum storefronts, curtain-walls, exterior building maintenance equipment and window washing systems, swimming pools, fountains, conveying systems, fire protection systems, utility connections, low voltage/security/telecommunication/ and data systems, irrigation systems, glass awnings, seismic restraints for mechanical, electrical, plumbing, and fire protection systems, mechanical smoke protection removal systems.

§ 3.6.4.2 In accordance with the Architect-approved submittal schedule, the Architect shall review and approve or take other appropriate action upon the Contractor's submittals such as Shop Drawings, Product Data and Samples, as necessary to ascertain their conformance with the Construction Documents. Review of such submittals is not forthe purpose of determining the accuracy and completeness of other information such as dimensions, quantities, and installation or performance of equipment or systems, which are the Contractor's responsibility. The Architect's review shall not constitute approval of safety precautions or of any construction means, methods, techniques, sequences or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is

a component.

§ 3.6.4.3 If the Construction Documents specifically require the Contractor to provide professional design services or certifications by a design professional related to systems, materials or equipment, the Architect shall specify the appropriate performance and design criteria that such services must satisfy. The Architect shall be responsible for the adequacy, accuracy and completeness of such performance and design criteria, and for coordination with the overall design of the Project of any design undertaken by the design professional retained by the Contractor in response to such performance and design criteria. The Architect shall not be responsible for the actual design undertaken by the design professional retained by the Contractor or for its adequacy, accuracy or completeness.. The Architect shall have no responsibility for the content of delegated design submittals. The Architect shall review shop drawings and other submittals related to the Work designed or certified by the design professional retained by the Contractor that bear such professional's seal and professional registration number and signature when submitted to the Architect but only for the limited purpose of checking for conformance with such performance and design criteria. Subject to Section § 2.2.3, the Architect shall be entitled to rely upon, and shall not be responsible for, the adequacy, accuracy and completeness of the services, certifications and approvals performed or provided by such design professionals, as well as the computations performed by them in connection with such documents and services and shall not be required to review or verify those computations or designs for compliance with applicable laws, statutes, ordinances, building codes, and rules and regulations, except to the extent Architect is aware, at that time, of any material deficiency therein.

§ 3.6.4.4 The Architect shall review and respond to requests for information about the Construction Documents. The Architect shall set forth in the Contract Documents the requirements for requests for information. Requests for information shall include, at a minimum, a detailed written statement that indicates the specific Drawings or Specifications in need of clarification and the nature of the clarification requested. The Architect shall acknowledge the receipt of each Contractor-generated Request for Information ("RFI") within three (3) business days after receiving it

The Architect shall simultaneously issue a written answer to the Contractor and the Owner to such requests within any time limits agreed upon in writing, or otherwise with promptness necessary to avoid unnecessary delay or cost, but in no case more than seven (7) business days after the RFI is received by the Architect. If appropriate, the Architect shall prepare and issue supplemental Drawings and Specifications, and any other documents, in response to requests for information. All responses to RFIs are included as Basic Services, and under no circumstances shall they be considered an Additional Service.

§ 3.6.4.5 The Architect shall include in the Contract Documents a requirement that the Contractor issue a number (in a single and consecutive series) to each RFI prepared by the Contractor, Subcontractors, the Owner, or others, before submittal of the RFI to the Architect. The Architect shall refer to that RFI by number in all subsequent correspondence, Change Orders, Change Directives, reports, etc., related to that RFI or its resolution.

§ 3.6.4.6 The Architect shall maintain records of submittals, copies of submittals supplied by the Contractor in accordance with the requirements of the Contract Documents, and any other writings associated with such submittals until the expiration of all applicable statute of limitations and statute of repose.

§ 3.6.5 CHANGES IN THE WORK

§ 3.6.5.1 If requested by Owner, the Architect shall prepare Change Orders and Construction Change Directives for the Owner's approval and execution in accordance with the Contract Documents. Upon the request of the Owner, Architect will review and recommend approval or disapproval of the Contractor's change order proposals, including requests for adjustments to the Contract Sum or Contract Time and shall report the results of its analysis in writing to the Owner within a reasonable period of time, but in no case later than seven (7) business days after the Architect's receipt of the request.

§ 3.6.5.2 The Architect shall maintain records relative to changes in the Work, until the expiration of all applicable statutes of limitations and statutes of repose relating to the Work.

§ 3.6.6 PROJECT COMPLETION

§ 3.6.6.1 The Architect shall conduct on-site observations to determine the date or dates of Substantial Completion and

the date of final completion; issue Certificates of Substantial Completion subject to the Owner's approval; receive from the Contractor and forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract Documents and assembled by the Contractor; and issue a final Certificate for Payment subject to the Owner's approval based upon a final on-site observation indicating the Workcomplies with the requirements of the Contract Documents. The Architect shall assist with the preparation of, and sign off on, the punch list items concurrently with the issuance of the certificate of Substantial Completion.

- § 3.6.6.2 The Architect's on-site observations shall be conducted with the Owner to check conformance of the Work with the requirements of the Contract Documents and to verify the accuracy and completeness of the list submitted by the Contractor of Work to be completed or corrected.
- § 3.6.6.3 Upon Owner's request, during the tenth (10th) month after the date(s) of Substantial Completion, the Architect shall visit the Project to review the Work and shall prepare a report to be issued to the Owner and, at the Owner's direction, to the Contractor indicating outstanding Work to be corrected and warranty issues to be addressed by the Contractor. With the exception of site review and preparation of this report, to the extent that services are required of the Architect for correction or satisfaction of a warranty and such services are requested in writing by the Owner and are not required, in whole or in part, as a result of the Architect's failure to fully perform its services, such services shall be considered an Additional Service.
- § 3.6.4 The Architect shall forward to the Owner the following information received from the Contractor: (1) consent of surety or sureties, if any, to reduction in or partial release of retainage or the making of final payment; (2) affidavits, receipts, releases and waivers of liens or bonds indemnifying the Owner against liens; and (3) any other documentation required of the Contractor under the Contract Documents.
- § 3.6.6.5 Upon request of the Owner, and prior to the expiration of one year from the date of Substantial Completion, the Architect shall, without additional compensation, conduct a meeting with the Owner to review the facility operations and performance.
- § 3.7 Basic Services includes services necessary to achieve the Owner's project requirements for sustainability, as set forth in the description of the Project and Exhibit I (Design Guidelines), including preparation of environmentally responsible design alternatives, such as unique system designs, in-depth material research and energy modeling.

ARTICLE 4 ADDITIONAL SERVICES

§ 4.1 Additional Services listed below are not included in Basic Services but may be required for the Project. The Architect shall provide the listed Additional Services only if specifically designated in the table below as the Architect's responsibility, and the Owner shall compensate the Architect as provided in Section 11.2.

If the Architect believes that a modification of its duties, obligations, and responsibilities will increase the cost of its performance, before performing services based upon the changed scope or within ten (10) days, whichever comes first, the Architect shall submit to the Owner a written request for an equitable adjustment of its fees. Such request shall specify the added scope and the anticipated correlative costs related to the change in scope.

Any request for equitable adjustment shall be specific and accompanied by sufficient documentation to enable the Owner to make an informed decision as to the request. Under no circumstances will the Architect be entitled to an equitable adjustment when the subject modification is attributable in whole or in part to the negligence of the Architect or the Architect's failure to fully perform its obligations and duties under the Agreement.

(Designate the Additional Services the Architect shall provide in the second column of the table below. In the third column indicate whether the service description is located in Section 4.2 or in an attached exhibit. If in an exhibit, identify the exhibit.)

Services	Responsibility	Location of Service
	(Architect, Owner or	Description
	Not Provided)	(Section 4.2 below or in an

		exhibitattached to this document and identified below)
§ 4.1.1 Professional Rendering	Architect	
§ 4.1.2 Outreach / Community Meetings	Architect	
§ 4.1.3 As-designed record drawings	Architect	
§ 4.1.4		
§ 4.1.5		
§ 4.1.6		
§ 4.1.7		
§ 4.1.8		
§ 4.1.9		
§ 4.1.10		
§ 4.1.11		
§ 4.1.12		
§ 4.1.13		
§ 4.1.14		
§ 4.1.15		
§ 4.1.16		
§ 4.1.17		
§ 4.1.18		
§ 4.1.19 Coordination of Owner's consultants:	Coordination with the Owner's consultants identified in this Section 4.1.19 is included in the Architect's Basic Services. If the Owner retains any additional consultants not listed in this Section 4.1.19, the Architect's coordination with those consultants will be Additional Services.	
§ 4.1.20 Telecommunications/data design	Architect	
§ 4.1.21		
§ 4.1.22		
§ 4.1.23		
§ 4.1.24		
§ 4.1.25		
§ 4.1.26		

§ 4.2 Insert a description of each Additional Service designated in Section 4.1 as the Architect's responsibility, if not further described in an exhibit attached to this document.

See Exhibit C Architects Consultants and Fees.

- § 4.3 Additional Services as approved by Owner may be provided after execution of this Agreement, without invalidating the Agreement. Except for services required due to the fault of the Architect or as otherwise specified in this Agreement, any Additional Services provided in accordance with this Section 4.3 shall entitle the Architect to compensation pursuant to Section 11.3 and an appropriate adjustment in the Architect's schedule.
- § 4.3.1 Under no circumstances will the Owner be obligated to compensate the Architect or others for fees and expenses related to Additional Services unless the Owner has authorized the performance of such services in writing in advance. Should the Architect believe that the proposed Additional Services are essential for the complete performance of its professional responsibilities, it shall clearly notify the Owner of that fact in writing, stating the objective basis for that belief prior to performing such Additional Services. If the Owner determines that the proposed Additional Services (which the Architect has suggested are essential) are included in the Architect's services, the Architect shall perform them, submitting written notice to the Owner within five (20) business days of Owner's determination and before performing those services, stating that the Architect disputes the Owner's determination that those services are services and that the Architect does not waive its right to seek compensation for those services by performing them. If the Architect fails to timely provide such notice, it shall be deemed to have waived the right for compensation for performing the Additional Services.
- § 4.3.2 Additional Services shall include, but are not limited to, the following:
 - .1 Reperformance of services previously performed, necessitated by a change of approvals given by the Owner, or a material change in the Project including, but not limited to, scope, size, quality, complexity, the Owner's schedule or budget for Cost of the Work, or procurement or delivery method, or bid packages in addition to those listed in Section 1.1.6;
 - .2 Changing Services, or reperformance of services previously performed, or editing previously prepared Instruments of Service if any such changes are necessitated by official interpretations of applicable codes, laws or regulations that are contrary to specific interpretations by the applicable authorities having jurisdiction made prior to the issuance of the building permit
 - .3 Subject to the applicable Standard of Care, changing or editing previously prepared Instruments of Service necessitated by the enactment or revision of codes, laws or regulations or required by building code, fire, safety and other inspectors of the authority having jurisdiction after the authority has issued a building permit or otherwise approved Instruments of Service as conforming with Legal Requirements;
 - .4 Services necessitated by decisions of the Owner not rendered in a timely manner or any other failure of performance on the part of the Owner or the Owner's consultants or contractors;
 - .5 Preparation for, and attendance at a dispute resolution proceeding or legal proceeding, except where the Architect, as a representative of Owner, is party thereto or a breach of Architect's Standard of Care is at issue:
 - **.6** Evaluation of the qualifications of contractors providing proposals; or
 - 7 Consultation concerning replacement of Work resulting from fire or other cause during construction;
- **§ 4.3.3** The Architect shall provide Construction Phase Services exceeding the limits set forth below as Additional Services. When the limits below are reached, the Architect shall notify the Owner:
 - .1 Three (3) reviews of each Shop Drawing, Product Data item, sample and similar submittals of the Contractor Two (2) site visits to determine whether Work is substantially complete in accordance with the requirements of the Contract Documents;
 - .2 No less than one (1) one-day site visit every other week;
 - .3 Two (2) site visits for any portion of the Work to determine final completion.

§ 4.3.4 If through no fault of the Architect the Construction Phase services covered by this Agreement have not been completed within 90 days after the date of Substantial Completion of the Work, or Construction Phase Services have not been completed by January 1, 2029, then in either case the Architect's services beyond such dates shall be compensated as Additional Services and the Architect's schedule shall be equitably adjusted.

ARTICLE 5 OWNER'S RESPONSIBILITIES

- § 5.1 The Owner will give to the Architect information that the Owner possesses regarding the site relative to zoning, historic preservation, and other restrictions on the Owner's use of the property that are then known to the Owner and materially relevant to the Architect's services. The Architect will confirm the receipt of that information and its current applicability to the Project. Unless otherwise provided for under this Agreement, the Owner shall provide information in a timely manner regarding requirements for and limitations on the Project, including a written program which shall set forth the Owner's objectives.
- § 5.2 Owner shall identify a representative authorized to act on Owner's behalf with respect to the Project. Neither Owner's designation, nor the conduct of Owner or Owner's representative acting within the scope of its duties shall be construed to limit, reduce or waive the Standard of Care or any other duties or obligations of Architect under the Agreement. Architect acknowledges and agrees that any special and unique skill, expertise, or licenses of Owner's representative shall not be deemed to create any heightened duty on the part of Owner or its representative, or lesser duty on the part of Architect.
- § 5.3 The Owner shall establish and periodically update the Owner's budget for the Project, including (1) the budget for the Cost of the Work as defined in Section 6.1; (2) the Owner's other costs; and, (3) reasonable contingencies related to all of these costs.
- § 5.4 The Owner shall identify a representative authorized to act on the Owner's behalf with respect to the Project. The Owner shall render decisions and approve the Architect's submittals with reasonable promptness. No approval by Owner under this Agreement shall be construed to (1) relieve Architect of liability or otherwise limit Architect's duties under the Agreement; (2) extend the time for Architect to perform; or (3) create a duty on the part of Owner to Architect, to Architect's insurers, or creditors, or to any other person or entity to supplement, publish, or distribute this information.
- § 5.5 As applicable and as requested by Architect in order to perform the services required hereunder, the Owner shall furnish surveys to describe physical characteristics, legal limitations and utility locations for the site of the Project, and a written legal description of the site. The surveys and legal information shall include, as applicable, grades and lines of streets, alleys, pavements and adjoining property and structures; designated wetlands; adjacent drainage; rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, boundaries and contours of the site; locations, dimensions and necessary data with respect to existing buildings, other improvements and trees; and information concerning available utility services and lines, both public and private, above and below grade, including inverts and depths. All the information on the survey shall be referenced to a Project benchmark.
- § 5.6 The Owner shall furnish services of geotechnical engineers, which may include but are not limited to test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, seismic evaluation, ground corrosion tests and resistivity tests, including necessary operations for anticipating subsoil conditions, with written reports and appropriate recommendations.
- § 5.7 Upon the Architect's request, the Owner shall furnish copies of the scope of services in the contracts between the Owner and the Owner's separate consultants if relevant to Architect's Services. The Owner shall furnish the services of consultants other than those designated in this Agreement, or authorize the Architect to furnish them as an Additional Service, when the Architect requests such services and demonstrates that they are reasonably required by

the scope of the Project. The Owner shall require that its consultants and contractors maintain insurance, including professional liability insurance and other liability insurance as appropriate to the services or work provided.

- § 5.8 The Owner shall furnish tests, inspections and reports required by law or the Contract Documents, such as structural, mechanical, and chemical tests, tests for air and water pollution, and tests for hazardous materials.
- § 5.9 The Owner shall furnish all legal, insurance and accounting services, including auditing services, that may be reasonably necessary at any time for the Project to meet the Owner's needs and interests.
- § 5.10 Intentionally Omitted.
- § 5.11 Upon the Architect's request, the Owner shall provide the Architect a copy of the executed agreement between the Owner and Contractor, including the General Conditions of the Contract for Construction.
- § 5.12 Intentionally omitted.
- § 5.13 The Owner shall provide the Architect access to the Project site prior to commencement of the Work and shall obligate the Contractor to provide the Architect access to the Work wherever it is in preparation or progress.
- § 5.14 Within 15 days after receipt of a written request from the Architect, the Owner shall furnish the requested information as necessary and relevant for the Architect to evaluate, give notice of, or enforce lien rights.

ARTICLE 6 COST OF THE WORK

- § 6.1 For purposes of this Agreement, the Cost of the Work shall be the total cost to the Owner to construct all elements of the Project designed or specified by the Design Architect and the Architect and shall include contractors' general conditions costs, overhead and profit. The Cost of the Work does not include the compensation of the Design Architect or the Architect, the costs of the land, rights-of-way, financing, contingencies for changes in the Work or other costs that are the responsibility of the Owner.
- § 6.2 The Owner's budget for the Cost of the Work is provided in Initial Information, and may be adjusted throughout the Project as required under Sections 5.3 and 6.4. Evaluations of the Owner's budget for the Cost of the Work represent the Architect's judgment as a design professional.
- § 6.3 If, prior to the conclusion of the Design Development Phase, the Cost Consultant's estimate of the Cost of the Work exceeds the Owner's budget for the Cost of the Work, the Architect, , in consultation with the Cost Consultant, shall make appropriate recommendations to the Owner to adjust the Project's size, quality or budget for the cost of Work, and the Owner shall reasonably cooperate with the Architect in making such adjustments.
- § 6.4 When the Owner's most recently approved budget is exceeded by (1) any estimate of the Cost of the Work, or the bona fide proposed Cost of the Work, as determined by bidding or negotiation, the Owner may at its discretion and without other cause (a) approve an increased budget, (b) reject the design or Contract Documents and any bids or proposals submitted by potential Contractors, (c) direct the Architect to revise the design and/or the Contract Documents to conform to the approved budget at no additional cost to Owner, unless such nonconformance is due to a change in market conditions or reliance on cost estimating provided by or through the Owner or through no fault of the Architect or its consultants, (d) revise the program or the scope of Work, or (e) terminate the Agreement for convenience.
- § 6.5 Nothing in this Agreement shall be construed to authorize any adjustment of the budget or the Contract Sum or the

Project Schedule without the express written authorization of the Owner. Furthermore, nothing referred to in this Article 6 shall be deemed to waive, limit, deviate or modify the Architect's Standard of Care or any other duties or obligations of the Architect under the Agreement.

ARTICLE 7 COPYRIGHTS AND LICENSES

§ 7.1 The term "Instruments of Services" shall mean all work product, including all Drawings, Specifications, shop drawing submittals, Building Information Models, plans, data compilations (exclude area calculations) or calculations, studies, reports, project- related documents, models, photographs, and other expression created by the Architect, or other so-called instruments of service, in any form, including native format, and all ideas incorporated therein, and all intellectual property rights associated therewith, which are prepared by or on behalf of Architect or any of its Consultants in connection with the Project and/or this Agreement. The Architect warrants that in transmitting Instruments of Service, or any other information, the Architect is the copyright owner of such information or has permission from the copyright owner to transmit such information for its use on the Project. Upon each payment to Architect of undisputed sums then due and owing, any and all right, title, and interest in the Instruments of Service developed by the Architect or any of its Consultants as of the time of such payment shall fully and completely transfer and be conveyed and assigned to Owner, including without limitation all copyrights and patents. The Owner's obligation to pay the Architect is expressly conditioned upon the Architect's obtaining a valid written comprehensive assignment of ownership rights from its Consultants in terms identical to those that obligate the Architect to the Owner as expressed in this subparagraph, which copyrights the Architect, in turn, hereby assigns to the Owner. The Owner, in return, hereby grants the Architect a nonexclusive license to (i) reproduce the documents for purposes relating directly to the Architect's performance of this Project, for the Architect's archival records, and for the Architect's reproduction of drawings and photographs in the Architect's marketing materials, provided the contents of those materials, as to this Project, are approved as requested in Paragraph 10.7 of this Agreement, and (ii) reproduce and/or reuse the individual elements and aspects used by Architect in connection with its design of the Project on or with respect to other projects and/or services provided by Architect to third parties (provided that, notwithstanding the foregoing or any other contrary provision of this Agreement, Architect shall not repeat the overall massing and/or design of the Project). Notwithstanding the foregoing, the Architect shall retain ownership rights to any pre-existing intellectual property or standard construction details or conventions embodied in the Instruments of Service. No other Project-related documents may be reproduced for any other purpose without the express written permission of the Owner. No other copyrights are included in this grant of nonexclusive license to the Architect. This nonexclusive license shall terminate automatically and immediately upon the occurrence of either a breach of this Agreement by the Architect or the commission by the Architect of a tort or a crime potentially affecting the Owner or the Project. This nonexclusive license is granted to the Architect alone and shall not be assigned by the Architect to any other person or entity.

Other provisions of this Agreement notwithstanding, this nonexclusive license shall terminate automatically upon an Architect's assignment of this nonexclusive license to another or its attempt to do so. However, nothing in this paragraph shall be construed to preclude the Architect from, in turn, assigning to its Consultants a nonexclusive license coextensive with the Architect's applying to the documents originally created by that Consultant. In connection with the foregoing, Architect shall secure in writing from all subconsultants any ownership rights or interests necessary to fulfill the Architect's obligations under this Agreement.

Owner agrees to indemnify and hold Architect harmless from and against any and all claims, liabilities, suits, demands, losses, and expenses, including reasonable attorneys' fees and legal costs, arising out of Owner's unauthorized use, reuse, transfer, or modification of the Instruments of Service without Architect's professional involvement. Architect agrees to indemnify and hold Owner harmless from and against any and all claims, liabilities, suits, demands, losses, and expenses, including reasonable attorneys' fees and legal costs, arising out of Architect's unauthorized use, reuse, transfer, or modification of the Instruments of Service.

§ 7.2 If requested by the Owner from time to time, the Architect shall provide copies of the Instruments of Service prepared in a CADD format, called Drawing Files, or called a Building Model if a Building Information Modeling program is used, to the Owner. With the Owner's approval, Drawing Files or Building Information Models that may be used for supplemental information only may be provided to the Contractor, subject to the Contractor's agreement to a reasonable data transfer agreement provided by the Architect. Such Drawing Files or Building Models shall not be relied upon for construction, and shall not be used as a substitute for paper Instruments of Service issued for Construction.

§ 7.3 Architect shall maintain the confidentially of all Project documents and information and shall not publish or in any way disseminate or distribute any Project documents, including, but not limited to, information, correspondence, estimates, drawings, specifications, photographs, or any other material relating to the Project without the prior express written permission of Owner. Architect shall not disclose any of the foregoing to any other person except to its employees, Consultants and contractors who need to know such information in order to perform the services whose contracts include similar restrictions on the use of confidential information. Submissions or distribution of all or any portion of the Construction Documents to meet official regulatory requirements in connection with obtaining approvals and permits for the Project or for other purposes in connection with the development of the Project or as requested by Owner is not to be construed as publication in derogation of Owner's rights.

§ 7.3.1 Should Architect become aware of or receive notice of potential infringement of any intellectual property right related to the Project, regardless of the source of that awareness or notice, Architect shall immediately cease the copying and any other activity which is the potential source of infringement, and within seven (7) calendar days investigate the potential infringement; (b) submit to Owner copies of all documents relating to that awareness, the notice, or the object thereof; and (c) issue to Owner a complete written response and analysis of the potential infringement and the course of action recommended by Architect. Architect shall submit to Owner a supplement of the initial report within seven (7) calendar days of Architect's receipt of, or awareness of, additional related information. Nothing in this Agreement shall be deemed to relieve Architect of its obligations under this Article 3, nor shall Owner's receipt of the information indicated in this Article give rise to any duty or obligation on the part of Owner.

§ 7.4 In the event of a breach of the provisions of this Article 7, Owner shall be entitled to an injunction restraining such breach without having to prove actual damages or threatened irreparable harm. Such injunctive relief as Owner may obtain shall be in addition to all of the rights and remedies available at law and in equity. This Section 7.4 shall survive the termination of this Agreement.

ARTICLE 8 CLAIMS AND DISPUTES § 8.1 GENERAL

§ 8.1.1 The Owner and Architect shall commence all claims and causes of action, whether in contract, tort, or otherwise, against the other arising out of or related to this Agreement in accordance with the requirements of the method of binding dispute resolution selected in this Agreement within the period specified by applicable law, but in any case not more than 10 years after the date of Substantial Completion of the Work. The Owner and Architect waive all claims and causes of action not commenced in accordance with this Section 8.1.1.

§ 8.1.2 Intentionally Omitted.

§ 8.1.3 To the fullest extent permitted by law, Architect shall indemnify, defend (excluding claims covered under Architect's professional liability insurance policy, the defense costs for which shall be reimbursed by Architect to the extent such defense costs arise from liabilities or damages caused by Architect's negligence), Owner, any lender for the Project, and their respective parents, subsidiaries, shareholders, partners, members, trustees and affiliates at every tier, and all of their respective officers, directors, employees, partners, members, trustees and shareholders of all of the foregoing, including but not limited to CLW Point Partners LLC, CLW Point Holdings LLC, Innovation Point Partners LLC, Royal Point of the Mountain LLC, Wadsworth POTM LLC and Colmena Point LLC (collectively, the "Owner Parties") from and against any and all liabilities, costs, expenses, damages, reasonable attorneys' fees and costs (collectively, the "Claims"), to the extent caused by the negligent performance by Architect of the professional services under this Agreement, any breach of this Agreement by Architect, or Architect's negligent failure to comply with all applicable laws, ordinances and regulations of all governmental authorities relating to the Project work, excluding, however, any Claims to the extentresulting from the negligence of Owner, its employees, agents, consultants, contractors, or construction managers in the performance of their work or services. For purposes of this Section 8.1.3, "attorneys' fees and costs" shall include all professional and attorney's fees and costs incurred by Owner whether relating to third party claims or claims between Owner and Architect. The provisions of this Section 8.1.3 shall survive the termination or expiration of this Agreement.

§ 8.1.4 Nothing in this Article shall reduce or increase the applicable Standard of Care or the Architect's obligations related to the completeness of the Contract Documents merely because a Contractor is selected by a process of negotiation as opposed to competitive bidding.

- § 8.1.5 Notwithstanding anything to the contrary contained in this Agreement or in any of the other Contract Documents, no partner of Owner or Architect, nor any person or entity holding any interest in either Party shall be personally liable, whether directly or indirectly, by reason of any default by either party in the performance of any of the obligations under this Agreement, including, without limitation, Owner's failure to pay Architect as required hereunder. Further, Architect hereby agrees to look solely to Owner's interest in the Project site to secure the performance and payment of all such obligations.
- § 8.1.6 Except as otherwise set forth herein, the Architect and Owner waive any consequential damages for claims, disputes, or other matters in question, arising out of or relating to this Agreement. This mutual waiver is applicable to the following categories of consequential damages: (i) loss of use; (ii) loss of profit; (iii) loss of business; (iv) loss of income; and (v)loss of reputation. Provided, however, the Owner does not waive any rights to pursue recovery from the Architect for the following categories of damages: (i) Owner's additional carrying costs on any construction loan caused by a delay in Project completion caused by the negligent acts, errors or omissions of the Architect or its Consultants; and (ii) increased construction costs caused by a delay in Project completion caused by the negligent acts, errors or omissions of the Architect or its Consultants.
- § 8.1.7 The Owner agrees the Architect's total liability arising out of or related to this Agreement for economic losses or economic damages sustained by the Owner in connection with a breach by the Architect of this Agreement will not exceed the sum calculated by adding Five Million and No/100 Dollars (\$5,000,000.00) to the Architect's Basic Services Fee set forth in Section 11.1 of the Agreement. Provided, however, the foregoing limitation of liability shall not apply to: (1) damages incurred by the Owner as a result of a claim arising under Section 8.1.3 of this Agreement, including but not limited to a third-party claim concerning the death or bodily injury to any person or the destruction or damage to any property (including such a claim made by an employee of the Architect); (2) any claim asserted or covered, or any recovery or proceeds available, under any insurance maintained by the Architect or any of Architect's consultants, sub-consultants, sub-consultants, sub-consultants, sub-consultants, sub-consultants, sub-contractors, vendors, or suppliers; (4) or any claims or damages caused in whole or in part by the gross negligence, fraudulent acts or intentional misconduct of the Architect, Architect's consultants, sub-consultants, subcontractors, sub-subcontractors, vendors, or suppliers. Further, the foregoing limitation of liability shall be null and void if Architect fails at any time to maintain the insurance required by Section 2.10 of this Agreement.

§ 8.2 MEDIATION

- § 8.2.1 Any claim, dispute or other matter in question arising out of or related to this Agreement shall be subject to mediation as a condition precedent to litigation. If such matter relates to or is the subject of a lien arising out of the Architect's services, the Architect may proceed in accordance with applicable law to comply with the lien notice or filing deadlines prior to resolution of the matter by mediation or by litigation.
- § 8.2.2 The Owner and Architect shall endeavor to resolve claims, disputes and other matters in question between them by mediation which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Mediation Procedures in effect on the date of the Agreement or other mutually agreed to qualified forum. A request for mediation shall be made in writing, delivered to the other party to the Agreement, and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of a complaint but, in such event, mediation shall proceed in advance of litigation, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order.
- § 8.2.3 The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.
- **§ 8.2.4** If the parties do not resolve a dispute through mediation pursuant to this Section 8.2, the method of binding dispute resolution shall be the following:

(Check the appropriate box. If the Owner and Architect do not select a method of binding dispute resolution below, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, the dispute will be resolved in a court of competent jurisdiction.)

[] Ar	bitration pursuant to Section 8.3 of this Agreement
[X] Li	tigation in a court of competent jurisdiction
[] Ot	her (Snecify)

§ 8.3. CONSOLIDATION OR JOINDER

§ 8.3.1 Architect waives all objections to joinder of Architect as a party to any mediation, arbitration, or lawsuit related to this Project in which Owner is joined or is otherwise positioned as a party and in which Architect's conduct or its performance of professional services is in any way relevant to the subject of a dispute. Further, Architect hereby waives all objections to joinder of any other party to any mediation, arbitration or lawsuit between Owner and Architect relating to Project.

§ 8.3.2 The parties agree that the forum for any mediation, arbitration, lawsuit or any other legal proceeding shall be in the State.

§ 8.3.3 The parties agree that they will voluntarily produce, without the service of any subpoena, their employees, officers, directors and related entities for depositions in any pending mediation, arbitration, lawsuit or other legal proceeding between the parties. This voluntary production shall apply to such persons who reside out of the State and beyond 70 miles from where a lawsuit or other type of legal proceeding is pending. The parties also agree that they will cooperate with each other to produce their former employees, officers, directors and related entities for depositions in any pending mediation, arbitration, lawsuit or other legal proceeding between the parties.

ARTICLE 9 TERMINATION OR SUSPENSION

§ 9.1 If the Owner fails to make payments to the Architect in accordance with this Agreement, excepting payments disputed in good faith by Owner, as a condition precedent to Architect's right to suspend services hereunder, the Architect shall give 15 days' written notice to the Owner of the Architect's intent to suspend services hereunder, during which time the Owner has the right to cure any such amount due. The notice shall specify detailed grounds for the intended termination or suspension. In the event the Owner does not cure such non-payment within the time permitted and Architect properly suspends services by written notice to the Owner, the Architect shall have no liability to the Owner for delay or damage caused the Owner because of such suspension of services. Before resuming services, the Architect shall be paid all reasonable sums due prior to suspension and any expenses incurred in the interruption and resumption of the Architect's services.

§ 9.2 In the event that Architect fails to perform its obligations under this Agreement and does not cure the same within fifteen (15) days of such failure to perform, Owner may terminate this Agreement upon not less than five (5)days' written notice.

§ 9.3 If Owner suspends the Project or the Architect's services are suspended through no fault of Architect for more than 180 cumulative days for reasons other than Architect's failure to perform its services in accordance with the terms of the Agreement, Architect may terminate this Agreement by giving not less than fourteen (14) days' written notice.

§ 9.4 The Owner may terminate this Agreement upon not less than five days' written notice to the Architect for the Owner's convenience and without cause. In the event of such termination Architect shall deliver all Instruments of Service to the Owner within seven (7) after the termination becomes effective.

§ 9.5 In the event of termination not the fault of the Architect, the Architect shall be compensated for undisputed services performed prior to termination, together with Reimbursable Expenses then due.

§ 9.6 Intentionally Deleted.

ARTICLE 10 MISCELLANEOUS PROVISIONS

§ 10.1 This Agreement shall be governed by the law of the place where the Project is located.

§ 10.2 Time is of the essence of this Agreement.

Init.

User Notes:

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- § 10.3 Owner and Architect, respectively, bind themselves, their agents, successors, assigns and legal representatives to this Agreement. Architect may not assign its interests or obligations under this Agreement without the written consent of Owner, which consent may be withheld by Owner in its sole and absolute discretion. Owner reserves the right upon notice to Architect to assign this Agreement to an institutional lender providing financing for the Project or to other persons ready and capable of performing Owner's obligations under the Agreement.
- § 10.4 If the Owner requests the Architect to execute certificates, the proposed language of such certificates shall be submitted to the Architect for review at least 14 days prior to the requested dates of execution. The Architect shall not be required to execute certificates or consents that would require knowledge, services or responsibilities or liability beyond the scope of this Agreement.
- § 10.5 Nothing contained in this Agreement shall create a contractual relationship with or a cause of action in favorof a third party against either the Owner or Architect. The Owner, however, shall be deemed to be a third-party beneficiary of any agreement between the Architect and any Consultant which the Architect may engage for the Project, and the Owner may, subject to applicable provisions of law, exercise its rights against any such Consultant recover directly any damages resulting from the consultant's errors, omissions, negligent acts or breaches of contract. All contracts with consultants must expressly provide that the Owner is a third party beneficiary and thatthe Owner may enforce such contracts as a third party beneficiary, to the extent allowed by law.
- § 10.6 The Architect shall have no responsibility for the discovery, presence, handling, removal or disposal of, or exposure of persons to, hazardous materials or toxic substances in any form at the Project site unless the toxic materials or substances were brought to the Project by Architect or any party for whom Architect is liable pursuant to the terms of the Contract Documents.
- § 10.7 The Architect shall have the right to include photographic or artistic representations of the design of the Project among the Architect's promotional and professional materials as approved by Owner. The Architect shall be given reasonable access to the completed Project to make such representations. However, the Architect's materials shall not include the Owner's confidential or proprietary information if the Owner has previously advised the Architect in writing of the specific information considered by the Owner to be confidential or proprietary. The Owner shall provide professional credit for the Architect in the Owner's promotional materials for the Project.
- § 10.8 If the Architect or Owner receives information specifically designated by the other party as "confidential" or "business proprietary," the receiving party shall keep such information strictly confidential and shall not disclose it to any other person except to (1) its employees, (2) those who need to know the content of such information in order to perform services or construction solely and exclusively for the Project, or (3) its consultants and contractors whose contracts include similar restrictions on the use of confidential information, or (4) avoid violating the law, creating risk of significant harm to the public or preventing the Architect from establishing a claim or defense in an adjudicatory proceeding.
- § 10.9 The captions preceding the Articles of this Agreement have been inserted solely as a matter of convenience, and such captions in no way define or limit the scope of any provisions of this Agreement.
- § 10.10 If any term or provision of this Agreement, or the application thereof to any person or circumstance, shall, to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to whom or which it is held invalid or unenforceable, shallnot be affected thereby, and each term and provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.
- § 10.11 All Consultants engaged by the Architect for the Project shall be engaged, and at all times operate under, a consulting agreement in form and content approved in writing by the Owner which must specifically provide the Owner with rights to enforce such agreement as a third party beneficiary.
- § 10.12 Unless ordered by a court of competent jurisdiction or otherwise agreed in writing between Architect and Owner, during all disputes, or actions, claims or other matters arising out of or relating to this Agreement or the breach thereof, provided Owner continues to pay undisputed amounts, Architect shall perform the services to be provided by

Architect hereunder and shall comply with the schedule as it relates to such services.

- § 10.13 The Architect shall obtain from all of its Consultants providing services for the Project, full and complete executed lien waivers for the Project, in form and content provided by the Owner and reviewed and agreed upon by the Architect, waiving all lien rights for work performed at any time prior to and including the date of the previous fee payment date provided that Owner has paid all corresponding fees for such goods or services. The Owner may withhold paymenthereunder attributable to any consultants who have failed to provide appropriate lien waivers.
- § 10.14 The Architect shall administer its consultant agreements and shall deliver any and all notices of default delivered thereunder to the Owner. From time to time as requested by the Owner, the Architect shall provide the Owner with an accounting of all fees, costs, and expenses incurred or owing with respect to any consultant agreement.
- § 10.15 Owner and Architect acknowledge that Owner's approval of any of Construction Documents shall be as to the aesthetics only and shall not constitute Owner's approval of the competency of any such documents.
- § 10.16 Owner shall have the right to disapprove any portion of the Architect's Services on the Project, including, without limitation, any drawings and specifications, and any addenda, revisions or schedules thereto, for any reasonable cause, including, without limitation, aesthetics, the costs of the Work are likely to exceed Owner's Project budget, or the design, once constructed, does not function properly. Owner's right to disapprove shall not be deemed a waiver or limitation of Architect's duties and obligations under the Agreement.
- § 10.17 Notwithstanding anything to the contrary in this Agreement, Architect shall keep and maintain full and detailed records of any and all materials, correspondence, memoranda, recordings, drawings, and specifications, including, without limitation Design Documents and other drawings and specifications, Owner consents and authorizations, notices, Change Orders, Construction Change Directives, and any other documents prepared by Architect or furnished by Owner or the Contractor to Architect in connection with the Architect's Services provided under this Agreement (collectively, the "Project Records"). Architect shall keep such Project Records until the expiration of all applicable statutes of limitation relating to the Work and shall make them available to Owner upon the reasonable written request of Owner.
- § 10.18 Terms not otherwise defined shall the meanings given in the General Conditions of the Contract for Construction between Owner and Contractor.
- § 10.19 Intentionally Omitted.
- § 10.20 The services provided by Architect are, for the purposes of this Agreement, deemed to be professional services.
- § 10.21 All notices or other communications required or permitted hereunder shall be in writing, and shall be conclusively deemed to have been duly given: (i) when hand delivered to the other party; (ii) if sent by email, when received at the address, number, or email address set forth in this Agreement, provided, however, that notices given by facsimile or email shall not be effective unless either (a) a duplicate copy of such facsimile or email notice is promptly given by depositing the same in a United States post office with first-class postage prepaid and addressed to the parties as set forth in this Agreement, or (b) the receiving party delivers written confirmation of receipt for such notice either by facsimile, email, or any other method permitted under this Section 8.17; (iii) three (3) business days after the same have been deposited in a United States post office with first-class or certified mail return receipt requested, postage prepaid and addressed to the parties set forth in this Section; or (iv) the next business day after the same have been deposited with a national overnight delivery guaranteed, provided that the sending party receives confirmation of delivery from the delivery service provider. Owner and Architect understand that neither notice nor approval of any item requiring Owner's written approval under this Agreement, shall be deemed or considered given by any discussions, correspondence, communications, or emails not in compliance with the above (even if accounted for in meeting minutes from any Project meeting).
- § 10.22 This Agreement and the documents incorporated herein have been carefully reviewed and negotiated by both parties at arm's length and they shall be given fair and reasonable interpretation in accordance with the words contained in them without any weight being given to whether a provision was drafted by one party or its counsel. The

parties waive the effect of any statutory or common law provision which construes ambiguities in a contract against the party that drafted the contract. The section headings are for convenience and reference only, and in no way define or limit the scope and content of this Agreement or in any way affect its provisions. All exhibits to this Agreement are incorporated herein by this reference.

§ 10.23 No waiver, amendment, extension or variation in the terms of the Contract Documents shall be valid against a party unless in writing and signed by such party and then only to the extent specifically set forth in the writing. No failure or delay on the part of a party in exercising any right, power or privilege under the Contract Documents, nor any course of dealing between the parties, will waive, amend or vary the terms of the Contract Documents.

§ 10.24 Notwithstanding anything to the contrary herein, no officer, employee or other representative of Owner or Architect shall have any personal liability to the other party or any other party for any acts or omission, whether based on a claim of negligence, any other tort or otherwise, arising out of or relating to this Agreement.

ARTICLE 11 COMPENSATION

§ 11.1 For the Architect's Basic Services described under Article 3, the Owner shall compensate the Architect as follows:

See Exhibit C Architects Consultants and Fees.

§ 11.2 For Additional Services designated in Section 4.1, the Owner shall compensate the Architect as follows: See Exhibit C Architects Consultants and Fees.

§ 11.3 For Additional Services that may arise during the course of the Project, including those under Section 4.3, the Owner shall compensate the Architect as follows:

See Exhibit C Architects Consultants and Fees.

§ 11.4 Compensation for Additional Services of the Architect's consultants when not included in Sections 11.2 or 11.3, shall be the amount invoiced to the Architect plus Five percent (5%), or as otherwise stated below: N/A.

§ 11.5 Where compensation for Basic Services is based on a stipulated sum or percentage of the Cost of the Work, the compensation for each phase of services shall be as follows:

See Exhibit C Architects Consultants and Fees.

The Owner acknowledges that with an accelerated Project delivery or multiple bid package process, the Architectmay be providing its services in multiple Phases simultaneously. Therefore, the Architect shall be permitted to invoice monthly in proportion to services performed in each Phase of Services, as appropriate.

§ 11.6 When compensation is based on a percentage of the Cost of the Work and any portions of the Project are deleted or otherwise not constructed, compensation for those portions of the Project shall be payable to the extent services are performed on those portions, in accordance with the schedule set forth in Section 11.5 based on (1) the lowest bona fide bid or negotiated proposal, or (2) if no such bid or proposal is received, the most recent estimate of the Cost of the Work for such portions of the Project. The Architect shall be entitled to compensation in accordance with this Agreement for all services performed whether or not the Construction Phase is commenced.

§ 11.7 The hourly billing rates for services of the Architect and the Architect's consultants, if any, are set forth below. The rates shall be adjusted in accordance with the Architect's and Architect's consultants' normal review practices. (If applicable, attach an exhibit of hourly billing rates or insert them below.)

See Exhibit D

§ 11.8 COMPENSATION FOR REIMBURSABLE EXPENSES

§ 11.8.1 Reimbursable Expenses are in addition to compensation for Basic and Additional Services and include expenses incurred by the Architect and the Architect's consultants directly related to the Project, which shall not in total exceed 10% of the compensation for Basic Services, as follows:

- Transportation and authorized out-of-town travel and subsistence;
- Intentionally Omitted;
- Fees paid for securing approval of authorities having jurisdiction over the Project;
- Printing, reproductions, plots, standard form documents; Postage, handling and delivery;
- .6 Expense of overtime work requiring higher than regular rates, if authorized in advance by the Owner;
- .7 Renderings, models, mock-ups, professional photography, and presentation materials requested by the
- .8 Site office expenses; and
- Registration fees and any other fees charged by the Certifying Authority or by other entities as necessary to achieve the Sustainable Objective.

§ 11.8.2 For Reimbursable Expenses the compensation shall be the expenses incurred by the Architect and the Architect's consultants plus Five percent (5%) of the expenses incurred.

§ 11.9 Intentionally omitted.

§ 11.10 PAYMENTS TO THE ARCHITECT

§ 11.10.1 An initial payment of Zero Dollars (\$0.00) shall be made upon execution of this Agreement and is the minimum payment under this Agreement. It shall be credited to the Owner's account in the final invoice.

§ 11.10.2 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed. Payments are due and payable upon presentation of the Architect's invoice. Amounts unpaid ninety (90) days after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Architect.

9% per annum

§ 11.10.3 Detailed records of Reimbursable Expenses and services performed on the basis of hourly rates shall be maintained by Architect and available to Owner or Owner's authorized representative at mutually convenient times. Owner shall be permitted, at its sole expense, to makes copies in connection with any inspection performed by Owner or its representative. All records shall be maintained in accordance with generally accepted accounting principles, consistently applied. If any inspection by Owner of Architect's records, books, correspondence, instructions, receipts, vouchers, memoranda, and any other data relating to the Reimbursable Expenses or services performed on the basis of hourly rates reveals an overcharge, Architect shall return the overcharge amount to the Owner.

§ 11.10.4 Architect hereby waives all rights to payment by Owner for otherwise Reimbursable Expenses when (a) the expense was incurred more than ninety (90) days before the date on which Owner receives the invoice from Architect initially requesting reimbursement for that expense; (b) the first invoice for that expense is not accompanied by detailed documentation indicating the project-related nature of the expense and approved in writing by Owner; or when (c) that evidence is produced in a form that is inconsistent with the form of the invoice.

ARTICLE 12 SPECIAL TERMS AND CONDITIONS

§ 12.1 Special terms and conditions that modify this Agreement are as follows:

§ 12.1.1 Attorneys' Fees. The prevailing party in any action to enforce or interpret this Agreement shall be entitled to

an award of its costs and reasonable attorneys' fees from the other party. As used herein, whether a party will be considered to be the "prevailing" party shall be determined based on the totality and disposition of all claims and counterclaims filed in the legal action. In the event of multiple claims and/or counterclaims, it is the parties' intent that in the event that one party would prevail as to less than all of the claims or counterclaims, so that each party could be said to be the "prevailing" party as to a portion of the claims and/or counterclaims, the total costs and fees, including reasonable attorneys' fees, incurred by both parties in connection with all of their respective claims and the total dollar amount awarded to or avoided by each of the parties would be considered, and the amount of the costs and fees, including reasonable attorneys' fees, to be awarded to each party would be equitably determined on a pro rata basis based on such consideration.

- § 12.1.3 Owner shall use commercially reasonable efforts to cause the Construction Contracts to include provisions describing Architect's role as stated in this Agreement with respect to construction. Owner shall use commercially reasonable efforts to cause Contractor(s) to name Architect as an additional insured on the commercial general liability insurance required of Contractor(s) on the Project.
- § 12.1.4 It is understood that Architect's services are not being performed for the benefit of contractor or subcontractor, supplier, fabricator, manufacturer, consultant or other third party not affiliated with the Owner, its successors or assigns shall be deemed to be a third party beneficiary of the performance of the services provided by Architect on the Project.
- § 12.1.6 Architect may require third parties to sign customary electronic disclaimers in connection with the electronic generation, storage, transmittal or publishing of any documents and other information and materials prepared by the Architect and its consultants.
- § 12.2 The Owner warrants and covenants to Architect that the Project shall include residential apartments for rent and shall not include condominiums for sale. The Owner specifically agrees and acknowledges that the codes and regulations that govern the design and construction of condominium housing are fundamentally different from those of rental housing, and as such, Architect's services and Instruments of Service are insufficient for the construction or conversion of the Project to condominiums.

ARTICLE 13 SCOPE OF THE AGREEMENT

§ 13.1 This Agreement represents the entire and integrated agreement between Owner and Architect and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement and the documents incorporated herein constitute a stand-alone agreement and shall not be deemed to be construed in accordance with the provisions, terms, and requirements of any other document not expressly incorporated herein, including without limitation, standard form contracts promulgated by any related industry trade organization. This Agreement may be amended only by written instrument signed by both Owner and Architect.

§ 13.2 This Agreement is comprised of the following documents listed below:

AIA Document B103TM_2017, Standard Form Agreement Between Owner and Architect, as modified by the parties

.1 Other documents:

(List other documents, if any, including additional scopes of service forming part of the Agreement.)

Exhibit A – Project Schedule

Exhibit B – Owner's Consultants

Exhibit C – Architect's Consultants and Fees

Exhibit D – Architect's Hourly Billing Rates

User Notes:

Exhibit E – Owner's Project Requirements/Basis of Design

Exhibit F – Architect's Staffing Plan

Exhibit G – Design and Permit Phasing Plan

Exhibit H – Architect's Proposal

Exhibit I – Design Guidelines

Exhibit J – Responsibility Matrix

This Agreement entered into as of the day and year first written above.

OWNER	ARCHITECT		
(Signature)	(Signature)		
Patrick Gilligan, Sr. Executive VP (Printed name and title)	James Mellor, Principal (Printed name and title)		
	(Signature)		

Matt Billerbeck, Principal (Printed name and title)

Exhibit A – Project Schedule



TIME SCHEDULE

Arcadis Inc.

The Point Utah - Pavilions

August 23, 2024

I - SCHEMATIC DESIGN PHASE SERVICES: 10 weeks.

Plus time for Client Review, Approval, and Authorization to Proceed.

II - DESIGN DEVELOPMENT PHASE SERVICES: 15 weeks.

Plus time for Client Review, Approval, and Authorization to Proceed.

II - DESIGN DEVELOPMENT PHASE MILESTONES:

- Design Development Peer Review 50%
- Design Development Peer Review 100%

III - CONSTRUCTION DOCUMENTS PHASE SERVICES: 20 weeks.

Plus time for Client Review, Approval, and Authorization to Proceed.

III - CONSTRUCTION DOCUMENTS PHASE SERVICES:

- Construction Documents 50%
- Construction Documents 95%
- Issue for Construction Documents

IV - BIDDING OR NEGOTIATION PHASE SERVICES: TBD.

Plus time for Client Review and Award on Construction Contract.

V - CONSTRUCTION PHASE SERVICES: TBD.

END OF TIME SCHEDULE FOR SERVICES

EXHIBIT B

OWNER'S CONSULTANTS

The Point Utah – Pavilions February 13, 2025

Kimley-Horn - Civil

GSH Engineering – Geotechnical

Design Architect – Rios

Landscape Design - Rios

Exhibit C - Architect's Consultants and Fees

The Point Utah - Pavilions August 23, 2024 R1 February 13, 2025

DESIGN FEE SUMMARY

PHASE	SCHEMATIC DESIGN (HOURLY NTE)	DESIGN DEVELOPMENT (HOURLY NTE)	CONSTRUCTION DOCUMENTS (LUMP SUM)	CONSTRUCTION MANAGEMENT AT RISK SUPPORT SERVICES (HOURLY NTE, SEE NOTE 3)	CONSTRUCTION ADMINISTRATION (HOURLY NTE, SEE NOTE 2)		
BASIC SCOPE OF SERVICES DESIGN FEE ¹							
STRUCTURAL							
Dunn Associates, Inc : P1 - P6	N/A	\$8,500	\$18,700	TBD	\$81,600		
Dunn Associates, Inc : P7 - P9	N/A	\$9,500	\$20,900	TBD	\$91,200		
MEP							
Spectrum Engineers : P1 - P6**	N/A	\$8,055	\$18,110		\$36,660		
Spectrum Engineers: P7 - P9	N/A	\$9,355	\$6,760	TBD	\$44,460		
WATERPROOFING							
Morrison Hershfield: P1 - P6	N/A	\$15,135	\$40,800	TBD	\$47,340		
Morrison Hershfield : P7 - P9	N/A	\$13,140	\$23,850	TBD	\$27,360		
LIGHTING							
KGM : P1 - P6	N/A	\$12,870	·		\$3,000		
KGM : P7 - P9	N/A	\$9,490			\$3,000		
¹ Refer to Scope of Services Attachments for any listed Additional Services, Reimbursable Expensese, and In-Person Meeting Fees							
² Hourly NTE fee shown based on 12 month construction schedule							
³ Consultant Scope of Work to be determined based on construction management at risk changes							
*Construction Administration Lump Sum / HNTE for Entire Duration of Construction							
**\$12,000 added for Mechanical Engineering: Energy Modeling including payback analysis to meet sustainability requirements							



Exhibit D – Architect's Hourly Billing Rates

Rate Schedule by Classification

Arcadis Inc.

Effective June 2023

	Hourly Rate
Jr. Staff / Project Admin.	\$95.00
Designer	\$130.00
Senior Designer	\$155.00
Associate	\$185.00
Senior Associate	\$210.00
Associate Principal	\$245.00
Principal	\$300.00
Executive Vice President	\$365.00

The above rates may include temporary personnel hired by Arcadis on a contractual as needed basis.

Rates Subject to Annual Adjustment

EXHIBIT E

OWNER'S PROJECT REQUIREMENTS/BASIS OF DESIGN

The Point Utah – Pavilions February 13, 2025

Owner's Project Requirements/Basis of Design not provided at time of executed contract.



EXHIBIT F

STAFFING PLAN

Arcadis Inc.

The Point Utah - Pavilions

February 13, 2025

PRINCIPAL IN CHARGE – James Mellor

PROJECT MANAGER – Grace Lennon

PROJECT ARCHITECT – Houman Attarha

EXHIBIT G

DESIGN AND PERMIT PHASING PLAN

The Point Utah – Pavilions February 13, 2025

Design and Permit Phasing Plan not provided at time of executed contract.

Exhibit H – Architect's Proposal



August 23, 2024 R1 February 13, 2025

Mr. Aric Yarberry
Director, Development
Lincoln Property Company
4041 MacArthur Blvd, Suite 500
Newport Beach, CA 92660

RE: The Point Utah - Pavilions, Professional Architectural Services

Dear Aric:

Arcadis Inc.
333 South Hope Street, C200
Los Angeles, CA 90071
United States
Phone: 213 633 1100
Fax: 888 492 2762

www.arcadis.com

Arcadis Inc. ("Arcadis") is pleased to submit this proposal to Lincoln Property Company ("Client") for professional services in connection with The Point Utah – Pavilions project, located in Draper, UT.

PROJECT UNDERSTANDING

The program for the project will consist of nine stand-alone pavilions as identified in Exhibit A1. Lincoln Property Company is requesting a proposal for Architect of Record services, which includes support and peer review during Schematic Design and Design Development phases, and permit and construction document production during Construction Documents phase, followed by Construction Administration services as outlined in this proposal. Refer to Exhibit A1 for project scope boundary and to Attachment A for full scope of services.

SCOPE OF SERVICES

Arcadis proposes professional services according to Attachment A1 – Scope of Services.

COMPENSATION FOR PROFESSIONAL SERVICES

Arcadis proposes professional services according to Attachment C – Compensation.

The Point – Pavilions August 23, 2024 R1 February 13, 2025

AGREEMENT

We look forward to a successful project.

By signing below, Lincoln Property Company agrees to the provisions of this proposal and agrees to pay Arcadis in accordance with those terms stated. Authorizing services described in this proposal shall be construed to mean agreement with the provisions of this proposal. If this proposal is not executed within 30 days from the issue date, Arcadis reserves the right to review Compensation, Payment Schedule and Staffing Commitments.

Sincerely,
Arcadis Inc.

Lincoln Property Company

James Mellor, AIA

Principal

Printed Name and Title

Houman Attarha, AIA

Associate Principal

ATTACHMENTS:
Attachment A – Scope of Services

Attachment C – Compensation

ATTACHMENT A

SCOPE OF SERVICES

Arcadis Inc.

The Point Utah - Pavilions

August 23, 2024

R1 February 13, 2025

ATTACHMENT A1 – Scope of Services for ARCHITECTURE

SCOPE AREA

• Refer to Attachment A1, Exhibit A1

PROJECT DELIVERY SYSTEM

Arcadis's services, compensation and time schedule for performance of services are based on Construction Manager at Risk method of project delivery with one prime construction contract and are subject to adjustment if another delivery system is utilized.

DESIGN SERVICES

Arcadis proposes to provide architectural professional services. All other consultation services will be provided through outside consultants contracted to Arcadis.

Arcadis's services do not include tenant work or entrances for tenants.

I - SCHEMATIC DESIGN PHASE

SERVICES

- Attending Design Architect and Client's meetings with Arcadis and their consultants. Design Architect
 is responsible for keeping and distributing meeting minutes and for coordinating their work with
 Arcadis's subconsultants.
- Provide up to two (2) peer reviews.
- Meetings: Up to ten (10) virtual meetings, including meetings with TPP & internal stakeholders and key external stakeholders.

The Point – Pavilions August 23, 2024 R1 February 13, 2025

• Prepare for and attend DRC/TRC Meetings: Up to three (3)

II - DESIGN DEVELOPMENT PHASE

SERVICES

- Attending Design Architect and Client's meetings with Arcadis and their consultants. Design Architect
 is responsible for keeping and distributing meeting minutes and for coordinating their work with
 Arcadis's subconsultants.
- Provide up to two (2) peer reviews at agreed upon milestones.
- Meetings: Up to fifteen (15) virtual meetings, including meetings with TPP & internal stakeholders and key external stakeholders.
- Prepare for and attend DRC/TRC Meetings: Up to three (3)

III - CONSTRUCTION DOCUMENTS PHASE

Based on the approved Design Development submission and updated project budget, Arcadis shall prepare Construction Documents. The Construction Documents shall be based on AIA B103 - Current Edition Standard Form of Agreement Between Owner and Architect with Arcadis's modifications and Arcadis Master Specifications. These documents shall illustrate and describe the further development of the approved Design Development documents and will consist of drawings and specifications setting forth in detail the quality levels and performance criteria of materials and systems and other requirements for construction of the work.

SERVICES

- Coordinate Arcadis's services with those services provided by the Client and their consultants identified at the time of execution of this Agreement. Client is responsible for managing and coordinating the work between their consultants.
- Provide permit drawings to the Client and/or their liaison for submission to the Authority Having
 Jurisdiction over the project and respond to building department and agencies comments. The
 services of an expeditor are not included under Basic Services.
- Electronically distribute milestone documents for Client review and comment at mutually agreed upon milestones.
- Meetings: Up to twenty (20) virtual meetings, including meetings with TPP & internal stakeholders and key external stakeholders.

DELIVERABLES

- Construction Documents
- Specifications 3 Part
- Updated digital Material Board(s) Architectural Exterior Materials

CONSTRUCTION PHASING

• Construction documents will be produced in two packages: one for Pavilions P1 thru P6, and one for Pavilions P7 thru P9.

The Point – Pavilions August 23, 2024 R1 February 13, 2025

V - CONSTRUCTION MANAGEMENT AT RISK SUPPORT SERVICES

SERVICES

- Cost analysis related changes and clarifications at the end of each design phase.
 - Changes included in this scope do not encompass the re-performance of previously completed services due to changes in approvals granted by the Owner or any material modifications to the Project. This includes, but is not limited to, alterations in scope, size, quality, complexity, the Owner's schedule, or procurement and delivery methods.
- Value Engineering
- · Bidding and Negotiation Support.

VI - CONSTRUCTION PHASE SERVICES

Arcadis will provide Construction Phase services as set forth in AIA B103-Standard Form of Agreement Between Owner and Architect, with mutually agreed upon Arcadis's modifications, at an hourly not to exceed per month basis.

VII - POST COMPLETION SERVICES

Post Completion services are excluded.

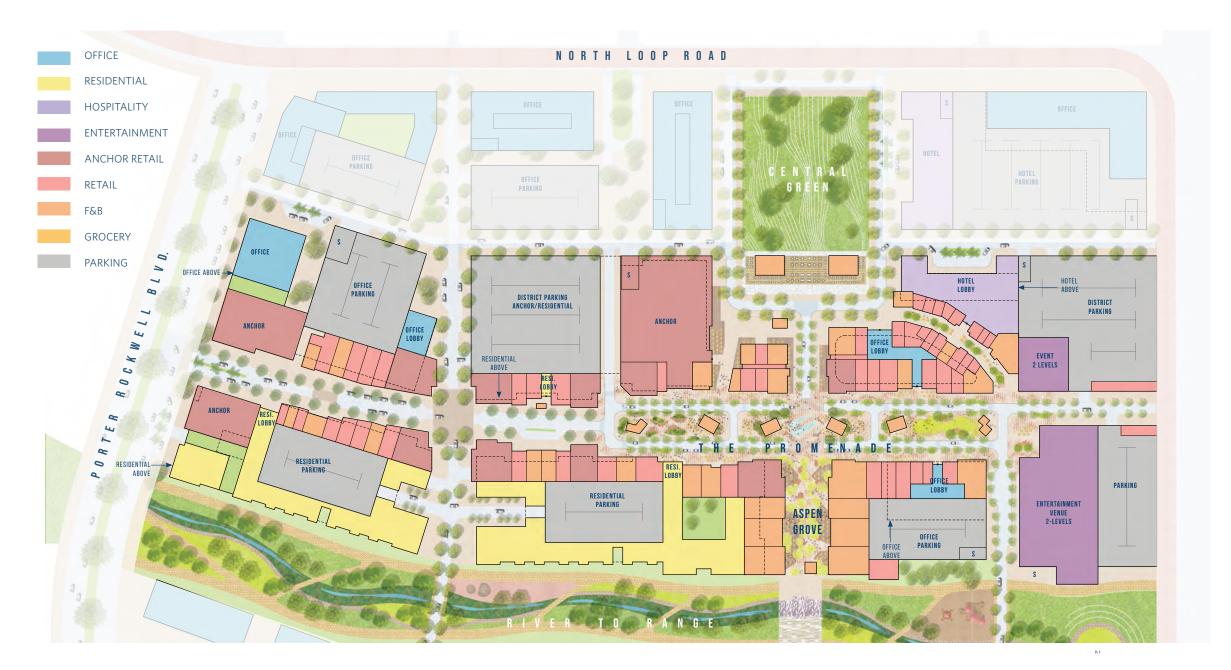
END OF SCOPE OF SERVICES



ENTIRE MASTERPLAN

PHASE 1 MASTERPLAN

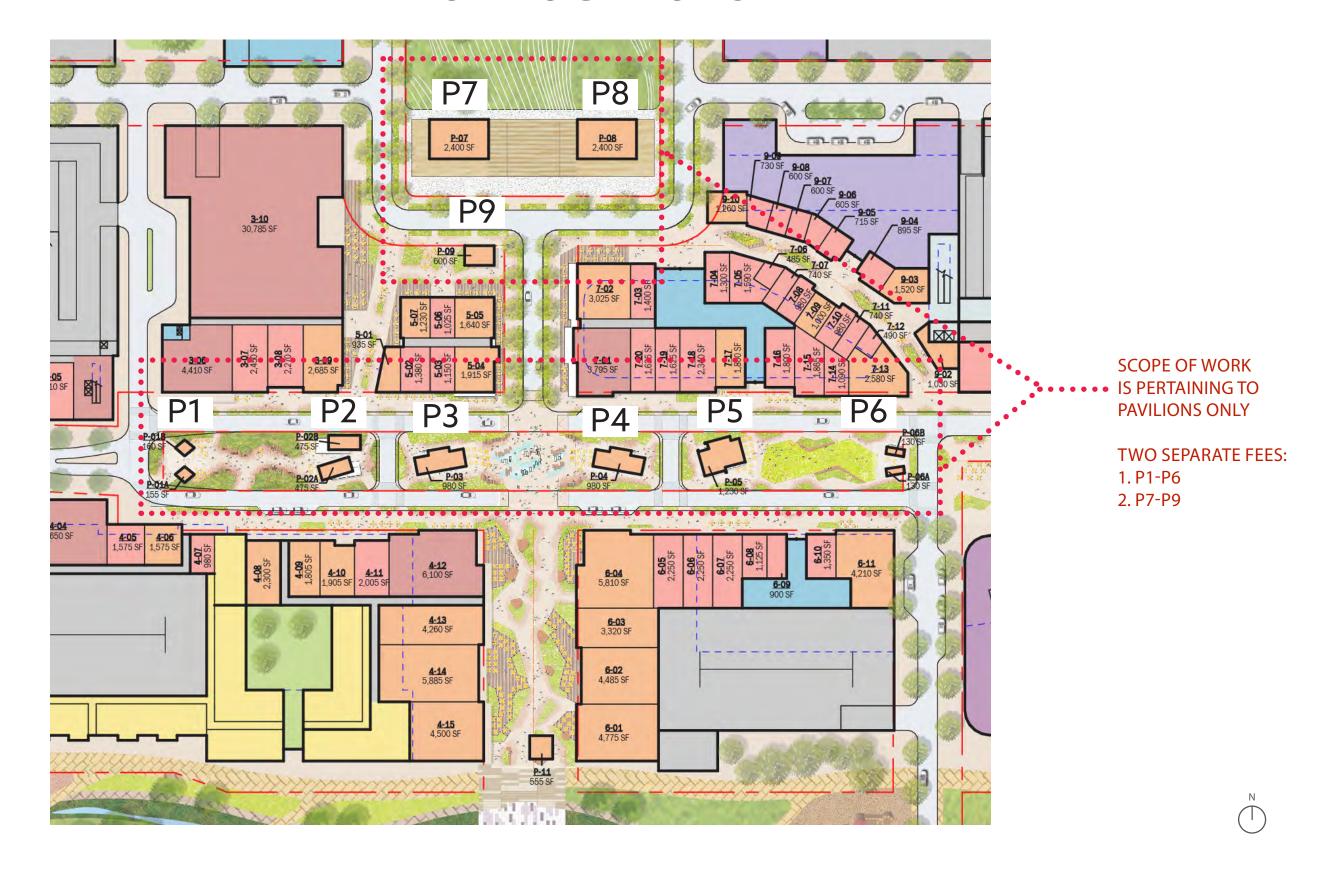
PROJECT OVERVIEW





THE PROMENADE

PAVILION LOCATIONS



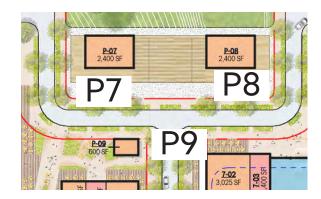
PAVILIONS P1 - P6



ASSUMPTIONS

- COLD DARK SHELL DELIVERY
- PROPOSAL IS BASED OFF DESIGN INDICATED IN RIOS'S 100% SD PACKAGE DATED 07/19/2024.

PAVILIONS P7 - P9



ASSUMPTIONS

- COLD DARK SHELL DELIVERY
- IT IS ANTICIPATED EACH PAVILION WILL HAVE DIFFERENT ARCHITECTURAL DESIGN. DESIGN HAS NOT BEEN ESTABLISHED AS OF THE DATE OF THIS PROPOSAL, BUT ASSUMED SIMILAR ARCHITECTURAL COMPLEXITY TO PAVILIONS P1-P6.
- IT IS ASSUMED P7 & P8 IS APPROX. UP TO 2,000 SF, AND P9 IS APPROX. UP TO 900 SF.



ATTACHMENT C

COMPENSATION

Arcadis Inc.

The Point Utah - Pavilions

August 23, 2024

R1 February 13, 2025

COMPENSATION FOR PROFESSIONAL SERVICES

Arcadis will provide Schematic Design and Design Development Peer Review services on an hourly basis, not to exceed One-Hundred and Sixty-Two Thousand Dollars (\$162,000), as detailed in Attachment D – Rate Table.

Arcadis will provide Construction Document services for a total lump sum of Six-Hundred, Forty-Three Thousand, Eight-Hundred Dollars (\$643,800), payable to Arcadis.

Arcadis will provide Construction Management at Risk support services on an hourly basis, not to exceed sixty-five thousand dollars (\$65,000), as detailed in Attachment D – Rate Table.

Arcadis will provide Construction Administration services on an hourly basis, not to exceed Thirty-Eight Thousand Dollars (\$38,000) per month, as detailed in Attachment D – Rate Table.

Invoices shall be issued monthly based on a percent complete basis. Changes to the scope of work including changes to previously approved documents, project schedule, project scope, or scope of services will result in additional services. The additional services will be performed at the hourly rates contained in Attachment D or for an agreed upon lump sum.

ATTACHMENT C1

COMPENSATION

Arcadis The Point Utah - Pavilions August 23, 2024 R1 February 13, 2025

DESIGN FEE SUMMARY

PHASE	SCHEMATIC DESIGN (HOURLY NTE)	DESIGN DEVELOPMENT (HOURLY NTE)	CONSTRUCTION DOCUMENTS (LUMP SUM)	CONSTRUCTION MANAGEMENT AT RISK SUPPORT SERVICES (HOURLY NTE, SEE NOTE 3)	CONSTRUCTION ADMINISTRATION (HOURLY NTE, SEE NOTE 2)		
BASIC SCOPE OF SERVICES DESIGN FEE ¹							
ARCHITECTURE							
ARCADIS : P1 - P6	\$30,000	\$62,000	\$413,400	\$40,000			
ARCADIS : P7 - P9	\$30,000	\$40,000	\$230,400	\$25,000	\$228,000		
STRUCTURAL							
Dunn Associates, Inc : P1 - P6	N/A	\$8,500	· ·		\$81,600		
Dunn Associates, Inc : P7 - P9	N/A	\$9,500	\$20,900	TBD	\$91,200		
MEP							
Spectrum Engineers : P1 - P6**	N/A	\$8,055	\$18,110		\$36,660		
Spectrum Engineers : P7 - P9	N/A	\$9,355	\$6,760	TBD	\$44,460		
WATERPROOFING							
Morrison Hershfield : P1 - P6	N/A	\$15,135	\$40,800	TBD	\$47,340		
Morrison Hershfield : P7 - P9	N/A	\$13,140	\$23,850	TBD	\$27,360		
LIGHTING							
KGM : P1 - P6	N/A	\$12,870			\$3,000		
KGM : P7 - P9	N/A	\$9,490		-	\$3,000		
Refer to Scope of Services Attac	¹ Refer to Scope of Services Attachments for any listed Additional Services, Reimbursable Expensese, and In-Person Meeting Fees						
² Hourly NTE fee shown based on 12 month construction schedule							
³ Consultant Scope of Work to be determined based on construction management at risk changes							
*Construction Administration Lump Sum / HNTE for Entire Duration of Construction							

^{**\$12,000} added for Mechanical Engineering: Energy Modeling including payback analysis to meet sustainability requirements



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Chapter 1: Vision & Framework

1.1 Vision & Principles

A. The Community Vision

The Point is a community of innovation and an economic catalyst that is defined by its Utah character. It is situated at the convergence of the two major valleys in Utah where the high desert joins the richness of the surrounding mountains. Daily needs can be met in a car-light lifestyle centered around the signature River to Range Trail. It will deliver a complete transit-supported community with a vibrant mix of uses and regional, high speed connectivity and will be an inclusive community that is connected to its history and a 21st Century innovative model of urban design for future developments.

At the heart of The Point is Phase 1 - a compact, dense, mixed-use, walkable district that serves as the Town Center of this community. To achieve this desired outcome, we believe that there are six essential ingredients:

- Compact, critical mass of innovation, housing, and commercial activity
- A network of public spaces
- Shared streets that prioritize people
- An enhanced corridor with gateway elements into a clear urban center
- Mixed-income housing
- A vibrant, entertainment, dining, sports, recreation, and shopping-led destination













Six Key Vision Elements

B. Key Vision Elements

The following six Key Vision Elements (KVEs) were identified by The Point working groups to guide the planning process of the project and have been incorporated into these guidelines:

- Community Create an iconic, vibrant, mixed-use community, with a focus on quality of life and healthy living, with a strategic balance of jobs and housing to limit off-site trip generation. Include active, welcoming places for people to gather day and night for recreation, dining, culture and entertainment.
- Transit Serve the site with a high-quality, futurefocused, multi-modal transportation system, with an emphasis on convenience, safety, access, regional traffic reduction, limited parking, emissions reduction, and active transportation.
- 3. Economic Growth Promote enduring statewide economic development through job creation, workforce development, and revenue generation. Create a community that will attract and nurture top talent and outstanding anchor companies, as well as smaller local businesses.
- 4. Innovation Advance innovation by creating a place that promotes a culture of creativity and ingenuity, attracts outstanding talent and investment, promotes solution-oriented research, fosters the growth of promising early-stage companies, eliminates regulatory barriers, and facilitates interdisciplinary industry and academic partnerships to generate and commercialize new ideas.
- 5. Sustainability Create a model of sustainable development that, relative to traditional development, significantly reduces air emissions (including GHG), water pollution, water and energy use, and takes advantage of on- and off-site renewable energy resources (including an on-site geothermal resource). Explore a net-zero-ready development.
- 6. Collaboration Coordinate closely with others to ensure the development fits well with regional plans and infrastructure, advancing the interests of the broader community and not just the site. Promote regional trail, transportation, and green infrastructure connections through the area and facilitate thoughtful regional growth.

1.2 Urban Design Plan - Major Features

- PRIMARY GATEWAY
- SECONDARY GATEWAY
- ▼ GATEWAY FEATURE / VISTA TERMINATION
- ARCHITECTURAL FEATURE
- PUBLIC PLAZA / EVENT PLAZA
- ••••• PRIMARY BICYCLE PEDESTRIAN TRAIL
- ACTIVE FRONTAGE
- ____ ACTIVE USE
- GREEN
- PARKING



Chapter 2: Streets

2.1 General Street Standards

Porter Rockwell

The Promenade

Urban Street

Connector Street

Greenside Drive

Local Street

Loop Road

■ ■ Transit Corridor (Approximate - To be updated by UDOT)

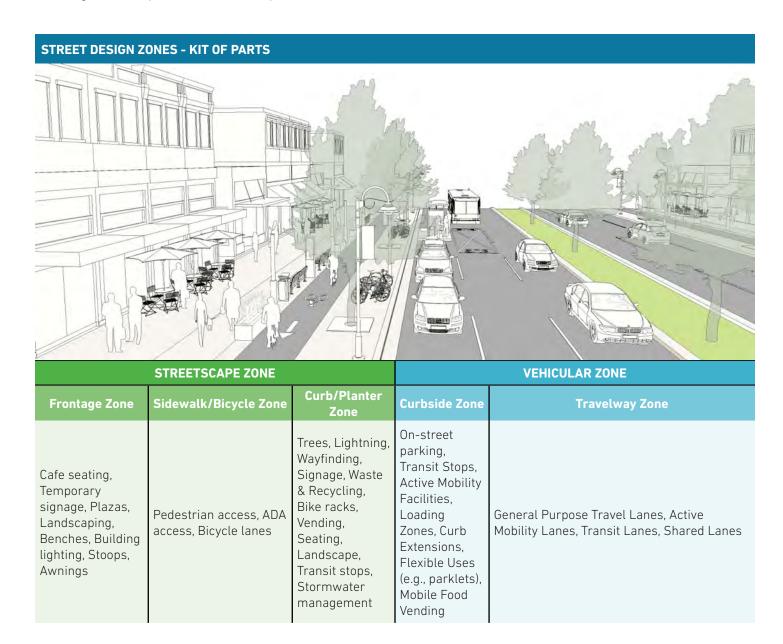


2.2 Street Sections

A. Intent

Streets in The Point are intended to be pedestrian- and bicyclist-friendly while facilitating the safe movement of vehicular traffic at low-to-moderate speeds. Some of the streets in Phase 1 have been identified as festival streets that allow for the safe movement of pedestrians, cyclists, and vehicles within a shared space that can occasionally be closed to vehicular traffic.

The image below depicts the various components of the streets in The Point.

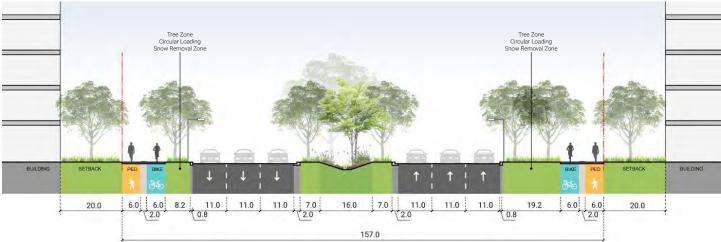


B. Porter Rockwell Boulevard

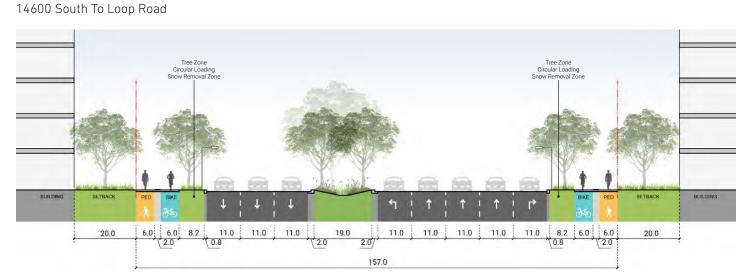
Guidelines:

1.	Right-of-Way Width (feet)	157-166 ft
2.	Travel Lanes (width of feet in each lane, total number of lanes)	11ft, 6-10
3.	On-Street Parking (width in feet, one or both sides of the street)	no, loading & drop off zones only
4.	Sidewalk/Multi-Use Path Width (feet)	14 ft, both sides
5.	Planting Strip (width in feet and type of strip)	8 ft
6.	Street Tree Spacing (feet)	30 ft allee
7.	Median Width (feet)	30 ft
8.	Curb Radii (feet)	25 ft
9.	Design Speed (miles per hour)	45 mph
10.	Special Notes	20 ft setback





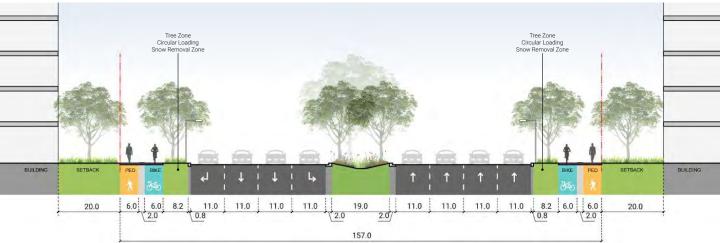
Section 1 - 157' ROW



Section 2 - 157' ROW

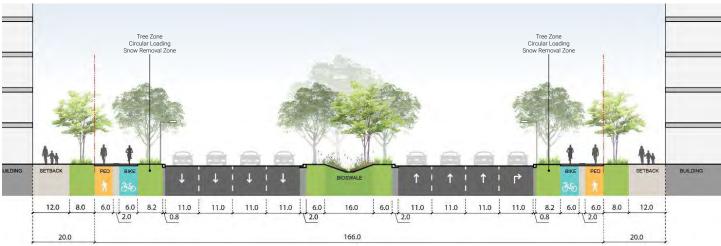
South Loop Road To Main Street





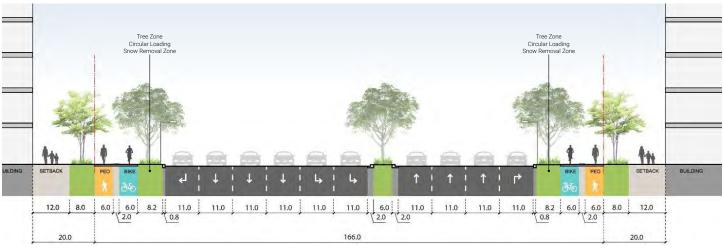
Section 3 - 157' ROW Main Street To North Loop Road





Section 4 - 166' ROW

North Loop Road To Bangerter



Section 4 with Left Turn Lane - 166' ROW

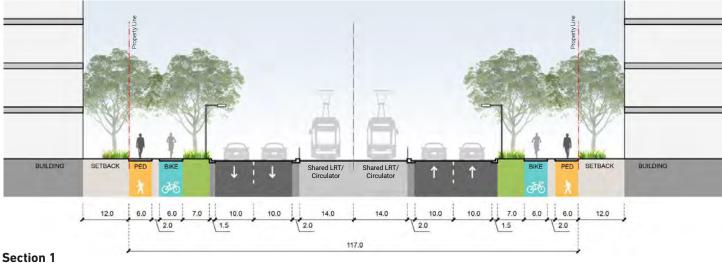
North Loop Road To Bangerter

C. North Loop Road

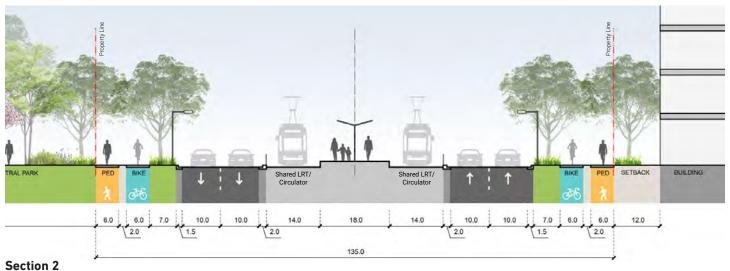
Guidelines:

1.	Right-of-Way Width (feet)	135 ft
2.	Travel Lanes (width of feet in each lane, total number of lanes)	11 ft, 4 + outside transit lane
3.	On-Street Parking (width in feet, one or both sides of the street)	no, loading & drop off zones only
4.	Sidewalk/Multi-Use Path Width (feet)	14 ft
5.	Planting Strip (width in feet and type of strip)	7 ft
6.	Street Tree Spacing (feet)	50 ft
7.	Median Width (feet)	28-46 ft
8.	Curb Radii (feet)	25 ft
9.	Design Speed (miles per hour)	35 mph
10.	Special Notes	n/a





Light Rail and Circulator in Median without Station



Light Rail and Circulator in Median with Station

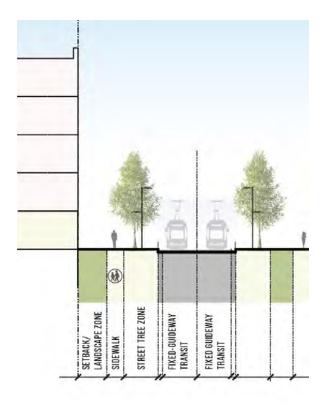
D. East Greenway

Guidelines:

**Final Dimensions Subject to Transit Alignment

	, ,	
1.	Right-of-Way Width (feet)	34 ft (from face of curb to building)
2.	Travel Lanes (width of feet in each lane to face of curb, total number of lanes)	n/a, transit corridor TBD
3.	On-Street Parking (width in feet, one or both sides of the street)	n/a
4.	Sidewalk/Multi-Use Path Width (feet)	6 ft
5.	Planting Strip (width in feet and type of strip)	18 ft, continuous
6.	Street Tree Spacing (feet)	50 ft
7.	Median Width (feet)	n/a
8.	Curb Radii (feet)	n/a
9.	Design Speed (miles per hour)	n/a
10.	Special Notes	10 ft landscape zone in setback





Section

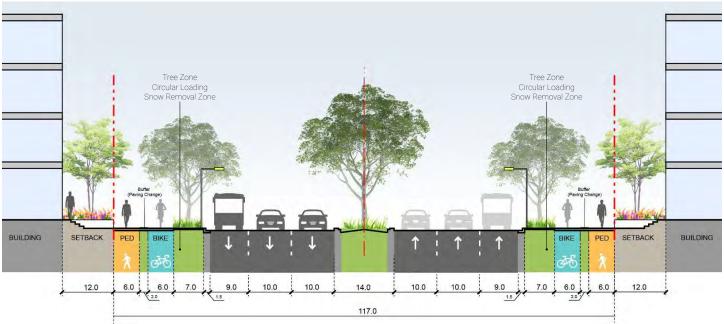
Light Rail Corridor and North-South Greenway

E. South Loop Road & S 200 W Road

Guidelines:

Right-of-Way Width (feet)	117 ft
Travel Lanes (width of feet in each lane to face of curb, total number of lanes)	10 ft, 6
On-Street Parking (width in feet, one or both sides of the street)	no, loading & drop off zones only
Sidewalk/Multi-Use Path Width (feet)	14 ft, both sides
Planting Strip (width in feet and type of strip)	7 ft
Street Tree Spacing (feet)	50 ft
Median Width (feet)	14 ft
Curb Radii (feet)	25 ft
Design Speed (miles per hour)	35 mph
Special Notes	n/a
	Travel Lanes (width of feet in each lane to face of curb, total number of lanes) On-Street Parking (width in feet, one or both sides of the street) Sidewalk/Multi-Use Path Width (feet) Planting Strip (width in feet and type of strip) Street Tree Spacing (feet) Median Width (feet) Curb Radii (feet)





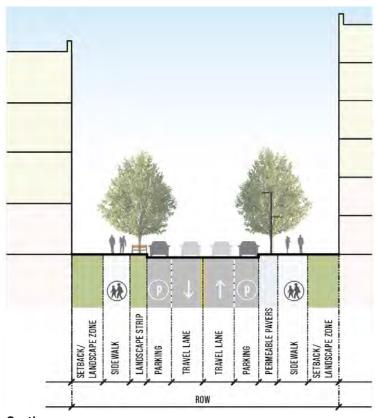
Section

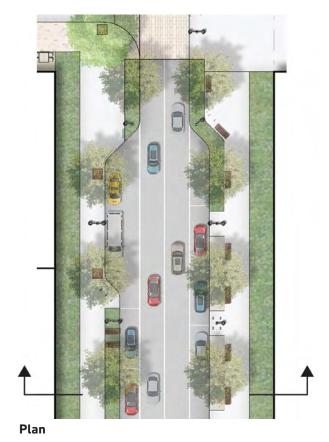
Landscape Median with Residential External Circulator

F. Urban Street

Guiue	dilles.	
1.	Right-of-Way Width (feet)	70 ft
2.	Travel Lanes (width of feet in each lane to face of curb, total number of lanes)	11 ft , 2
3.	On-Street Parking (width in feet, one or both sides of the street)	8 ft, both sides
4.	Sidewalk/Multi-Use Path Width (feet)	11 ft, both sides
5.	Planting Strip (width in feet and type of strip)	6 ft, tree wells or tree lawn; +/- 10 ft, continuous @ resi, office, or parking adjacent
6.	Street Tree Spacing (feet)	40 ft
7.	Median Width (feet)	n/a
8.	Curb Radii (feet)	15 ft
9.	Design Speed (miles per hour)	25 mph
10.	Special Notes	10 foot landscaped setback - may be used for outdoor seating







Section

G. The Promenade: Central

1.	Right-of-Way Width (feet)	140 ft
2.	Travel Lanes (width of feet in each lane to face of curb, total number of lanes)	16 ft, 2
3.	On-Street Parking (width in feet, one or both sides of the street)	no, loading & drop off zones only
4.	Sidewalk/Multi-Use Path Width (feet)	18 ft, both sides
5.	Planting Strip (width in feet and type of strip)	6 ft, tree wells
6.	Street Tree Spacing (feet)	40 ft
7.	Median Width (feet)	60 ft
8.	Curb Radii (feet)	n/a
9.	Design Speed (miles per hour)	25 mph
10.	Special Notes	Pavers in travelway, variable curb

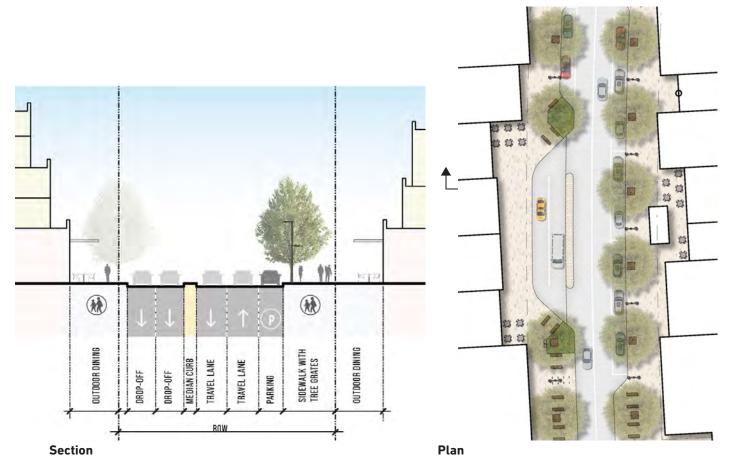




H. The Promenade: West

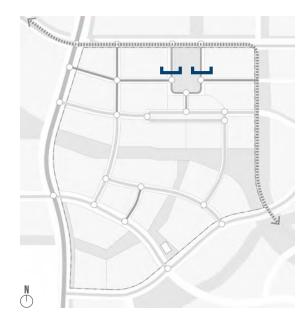
1.	Right-of-Way Width (feet)	70 ft
2.	Travel Lanes (width of feet in each lane to face of curb, total number of lanes)	10 ft, 2
3.	On-Street Parking (width in feet, one or both sides of the street)	8 ft, both sides
4.	Sidewalk/Multi-Use Path Width (feet)	11 ft, both sides
5.	Planting Strip (width in feet and type of strip)	6 ft; tree wells
6.	Street Tree Spacing (feet)	40 ft
7.	Median Width (feet)	n/a
8.	Curb Radii (feet)	n/a
9.	Design Speed (miles per hour)	25 mph
10.	Special Notes	Pavers in travelway, standard curb

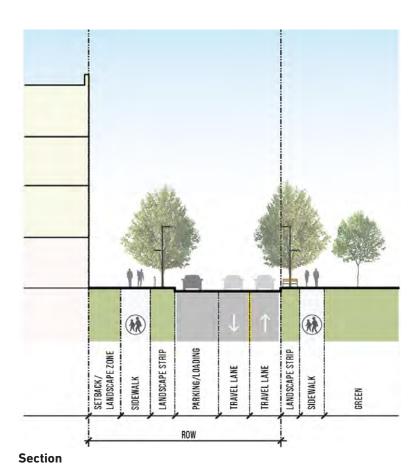


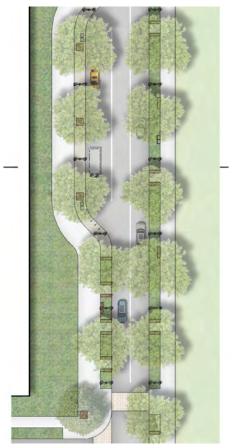


I. Greenside Street

1.	Right-of-Way Width (feet)	64 ft
2.	Travel Lanes (width of feet in each lane to face of curb, total number of lanes)	11 ft, 2
3.	On-Street Parking (width in feet, one or both sides of the street)	14 ft, one side
4.	Sidewalk/Multi-Use Path Width (feet)	12 ft, building side
5.	Planting Strip (width in feet and type of strip)	6 ft; tree wells or continuous
6.	Street Tree Spacing (feet)	40 ft
7.	Median Width (feet)	n/a
8.	Curb Radii (feet)	15 ft
9.	Design Speed (miles per hour)	25 mph
10.	Special Notes	Standard curb





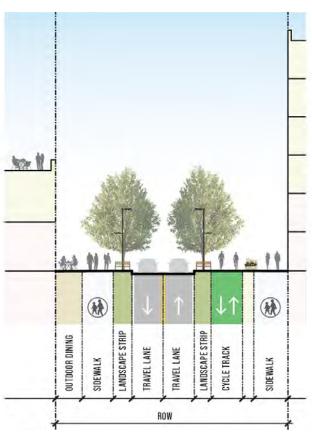


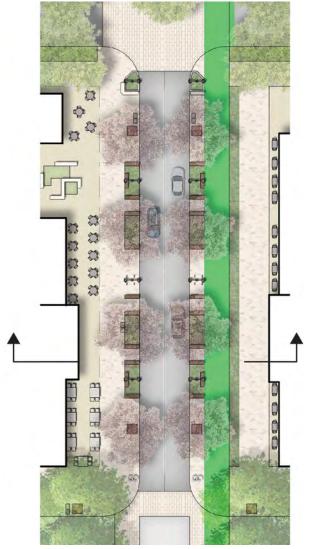
Plan

J. Connector Street

1.	Right-of-Way Width (feet)	74 ft
2.	Travel Lanes (width of feet in each lane to face of curb, total number of lanes)	11 ft, 2
3.	On-Street Parking (width in feet, one or both sides of the street)	no
4.	Sidewalk/Multi-Use Path Width (feet)	12 ft, each sides + 12 ft bidirectional cycle track one side
5.	Planting Strip (width in feet and type of strip)	6 ft tree wells
6.	Street Tree Spacing (feet)	40 ft
7.	Median Width (feet)	n/a
8.	Curb Radii (feet)	10-15 ft
9.	Design Speed (miles per hour)	25 mph
10.	Special Notes	4 separator between cycle track and sidewalk







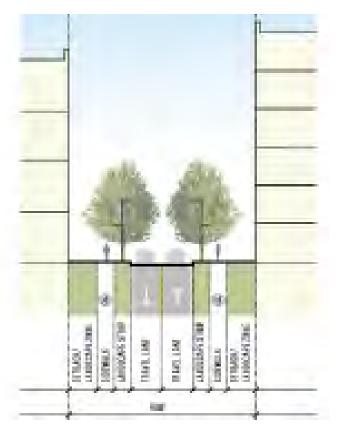
Plan

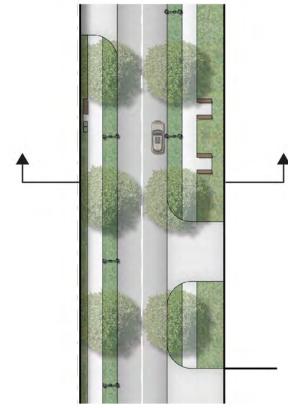
K. Local Street

Guidelines:

1.	Right-of-Way Width (feet)	66 ft	
2.	Travel Lanes (width of feet in each lane to face of curb, total number of lanes)	11 ft, 2	
3.	On-Street Parking (width in feet, one or both sides of the street)	no, loading & drop off zones only	
4.	Sidewalk/Multi-Use Path Width (feet)	6 ft, both sides	
5.	Planting Strip (width in feet and type of strip)	6 ft, tree wells or continuous	
6.	Street Tree Spacing (feet)	50 ft	
7.	Median Width (feet)	n/a	
8.	Curb Radii (feet)	10 ft	
9.	Design Speed (miles per hour)	20 mph	
10.	Special Notes	May be detailed as a woonerf; 10 ft landscape zone in setback	







Section

Plan

Chapter 3: Building & Site Design

3.1 Frontage Conditions

A. Setbacks and Encroachments

Guidelines

Required:

- Minimum Setback: To create comfortable, shaded streets, and more intimacy between interior and exterior uses, a minimum setback of 10 ft has been established throughout Phase 1 with the exception of the street frontages noted. It is expected that this setback will be used for foundation landscaping, entry courts, and for a coordinated tree zone that compliments the street trees.
- 2. Maximum Setbacks: Maximum setbacks as displayed on Chapter 2.2 Street Sections and Chapter 5 Enhancement Zone Standards have been established along streets to ensure the creation of a streetwall that encloses and frames the public realm while allowing flexibility to create outdoor spaces. Along commercial and other non-residential uses, these zones are encouraged to be an integral part of the street and sidewalk experience and may include outdoor seating and dining areas, plazas, and other publicly usable spaces.
- 3. Setback Zone: Building Frontages shall occupy 50% of the setback zone, except for light manufacturing and civic use buildings.
- 4. Distance Between Buildings: 0 feet (if partiwall condition), otherwise 30 feet
- 5. Canopies, awnings, signs, shade devices, and lighting may encroach up to 8 feet into the setback above 8 feet from sidewalk grade unless indicated otherwise in individual street sections.

B. Address Streets

Intent

To create iconic and memorable streets that provide an address for development.

Guidelines

Required:

- 1. Address Streets are: Porter Rockwell Boulevard, North Loop Road, South Loop Road, and S 200 W as highlighted in the Address Streets Map.
- 2. Along Address Streets, building frontage shall be at least 75% of the parcel edge within the setback zone. Street lighting should be accomplished with pedestrian-scaled standards that have a full-cutoff fixture.
- 3. Building design and frontage shall be consistent with the Urban Design Plan in Section 1.2 and Setbacks in 3.1 C.
- 4. Front doors and main entries to buildings shall be located along address streets.

Recommended:

- 5. Provide drop offs to commercial buildings along address streets.
- 6. Long faces of buildings shall be placed along address streets where possible.
- 7. Place taller portions of the building along address streets.

Prohibited:

8. Placement of long faces of parking structures along address streets.

C. Building Frontages, Address Streets, and Setbacks

10 ft front setback for all structures except as noted below

12 ft (Address Streets Frontage); 20 ft along Porter Rockwell Blvd.

0 ft (Promenade, Pedestrian Alley, R2R Courtyard)

10 ft (Residential Area)

0 ft (Office, Hotel, Parking Structures)

12 ft (R2R)

0 ft ground floor Non-Residential Use and Suggested Upper Floor Residential Recess

Address Street

·-- - Project Boundary



3.2 Building Design

A. General Principles

Intent

To provide building design guidance, ensure highquality design throughout, establish a unity and consistency in architectural character, and to promote architecture that reflects The Point's overall design vision.

The following guidelines will aid in the design of all buildings at The Point shall reflect the unique climate of the Wasatch Front and incorporate materials found in the Mountain West region. These guidelines will create a cohesive and unified visual outcome that will differentiate The Point from other developments.

Guidelines

Recommended:

- Simple, elegantly-detailed buildings are encouraged. Buildings with themed or ornamental styles, and excessive amounts of embellishments and material changes are discouraged.
- 2. Consider the occasional use of bold architectural statements with double-height facades
- Consider using building's structural elements to help establish a vertical or horizontal building articulation and rhythm.



Intent

To ensure primary building facades are oriented to public streets and/or parks.

Guidelines

Required:

- Buildings shall orient a primary facade and entrance to face public streets and/or public parks.
- 2. Building entrances shall be clearly visible and accessible from public streets.

Recommended:

3. Buildings shall be oriented to minimize detrimental shadow impacts on adjacent development and/or public open space.



The base of a building should have active uses along streets, relate to the public realm, and contribute to a positive pedestrian experience.



Simple but elegantly detailed buildings can draw from traditional and contemporary vocabularies.



Design shall provide modulation to create well-proportioned volumes.



Massing should be organized into simple geometric forms.



Double-height facades provide a dramatic feature.



Building orientation should address the primary street and open spaces.

C. Massing & Scale (All Buildings)

Intent

To ensure building massing is organized, complementary and intentional.

Guidelines

Required:

- 1. Unless otherwise noted, all buildings shall be a minimum of 3 stories or 35 feet in height.
- 2. Multiple buildings located within a block shall have complementary massing and facade organization.
- Building facades should incorporate vertical and horizontal volumetric variation to break down massing and establish order in the facade, neighborhood scales, proportions, and rhythms that connect with surrounding context. Exceptions may apply for typical background buildings.

Recommended:

- 4. Buildings of five (5) stories or more should have a clearly defined base, middle, and top.
- 5. Differentiate the base of the building from its upper floors within the bottom third of the building, but no higher than 50 feet above grade through the use of architectural elements such as, but not limited to, cornices, corbeling, molding, stringcourses, ornamentation, changes in material or color, recesses, architectural lighting, and other sculpturing of the base.
- Roof parapets shall be treated as an integral part of the building design and shall not appear as unrelated elements.

Prohibited:

- 7. Rapid or radical shifts in massing between adjacent buildings and/or along block faces.
- 8. Continuous, plain non-architectural, and unarticulated all-curtain wall buildings are acceptable only if sufficient massing, both vertical and horizontal, and application techniques vary sufficiently to avoid overly simple and monotonous elevations.



Breakdown building massing through scale, orientation, facade articulations, fenestration, entries & openings, materials, colors, details, and depth.



Buildings with five or more stories should utilize a design with a base, a middle, and a top



Incorporate vertical and horizontal volumetric variation

D. Massing & Scale (Large Buildings)

Intent

For buildings greater than 350 feet in overall frontage it is necessary to visually divide the façade into smaller modules to promote a human-scale, pedestrian environment. The intent is to avoid long, repetitive or blank facades in favor of buildings that contain changes in plane, materials, and rhythm as well as those with high quality materials and detailed façade texture.

Guidelines

Required:

Implement 3 of the following techniques:

- 1. Step back the upper floors a minimum of 10 feet from the ground floor building line above the second floor. Such step backs do not need to be continuous but should extend a minimum of 50% of the building frontage.
- Provide a wall inset a minimum of 8 feet wide and 6 feet deep from the primary facade. Wall insets shall be continuous for the full height of the building but may be encroached upon by roof projections.
- 3. Break the facade every 350 feet a minimum of 30 feet deep and 20 feet wide, to provide the perception of a separate building.
- 4. Provide clear breaks in building style or design at least every 160 feet to provide the appearance of multiple buildings on the block.
- 5. Avoid undifferentiated wall planes by dividing street-facing facades into a series of smaller horizontal and vertical components by incorporating at least two of the following elements within each 50 horizontal feet of the building façade.
 - Use of vertical piers or columns
 - Change in building material or siding style
 - Providing vertical building modulation of at least 12 inches in depth
 - Projections, recesses, or reveals that include but are not limited to columns, pilasters, cornices, and bays, and having a wall plane that is a minimum of 12 inches in depth
- 6. Provide a variation to the roofline a minimum of 2 feet in height every 75 feet.







The images above depict various treatments that can break the massing and scale of a larger building down into smaller, scaled elements that are more human-scaled.

E. Ground-Floor Detailing

Intent

To establish a pedestrian-oriented street environment.

Guidelines

Required:

- Street-facing ground floors of buildings shall be designed to support a pedestrian-oriented environment through variation in massing, facade design, doors and windows, signage, lighting, canopies, texture, color and other design strategies.
- 2. Expanses of blank walls without transparent windows or doors, except for parking garages, should not exceed 25 feet in length unless intentionally adorned with an element of public art or architectural relief/detailing.

3. Rain Protection:

- Rain protection should be provided at main entries.
- Canopies and awnings should vary in style, height, depth and material. A canopy style should be limited in length to 60 feet.

Required for Active Use Spaces:

- 4. Provide human-scale elements and variety to building base and edges that relate to the public realm by integrating engaging outdoor seating zones, providing permeable storefronts, high quality display areas, and human-scale signage and lighting along the street edge to enhance the pedestrian journey.
- 5. Transparent glazing should extend from a base of contrasting material (not exceeding three (3) feet in height above the adjacent grade) to at least the height of the door head equal to a maximum seventy 70% of the frontage of building along all primary street side building facades. This area may be reduced on pedestrian-oriented secondary facades but should not be less than 50%.

Recommended:

 For portions of the parcel without building frontage, maintain the continuity of the streetwall with landscaping or decorative fencing.





Ground floor uses should be designed to support a pedestrian-oriented environment.





Active frontage buildings should be predominately permeable glazing storefronts and doorways where the activity on the inside can be readily seen from the public realm. Provide human-scaled design elements such as outdoor dining seating areas, weather protected canopies, and awnings at entries.

F. Fenestration, Entries, & Openings

Intent

To guide windows, entries, and facade articulations along a public-facing facade.

Guidelines

Required:

- The use of recessed doors, special canopies or awnings, and/or changes in material, color, or transparency are encouraged to enhance and identify main building entires.
- 2. Residential and commercial primary lobbies for the upper uses of buildings should be easily identifiable and distinguished from the other ground level uses.
- 3. Residential buildings with units at ground level that front public streets and open spaces should provide individual entries with elevated stoops and landscape courtyards.
- 4. Provide upper story outdoor spaces for 70% of units/tenant spaces overlooking public streets and public spaces (e.g., River to Range trail, Promenade) with cantilevered, covered (e.g., bay condition) or recessed balconies a minimum of 5 feet in depth and 30 square feet in area.

Recommended:

- 5. Bay-windows, headers, and window trim.
- 6. Window and entry placement shall establish a clear rhythm and hierarchy within a facade.
- 7. Fenestration shall have low-e coatings and high light transmittance
- Window glazing and doorways should provide solar shading (e.g., canopy/awning), except in the case of a unique design concept on the ground floor.
- 9. Upper story or rooftop decks.

Prohibited:

 Exterior burglar bars, fixed "riot shutters," or similar security devices visible from the public right-of-way.



The use of fenestration, balconies, bay-windows, cornices, and window trim is recommended.



Windows and entries should establish a rhythm and hierarchy across the facade.



Upper story balconies are encouraged to provide facade texture and access to the outdoors.





Residential buildings at ground levels with elevated stoops and dooryard landscapes.

G. Materials & Color

Intent

To guide the use of color and materials, the palette variety of earth-tone colors and accents are inspired by the diverse natural landscapes of the two major valleys in Utah where the high desert joins the richness of the surrounding mountains, with a blend of materials and colors that are contextual, rustic natural, and modern. In general, buildings of the region have incorporated locally-sourced masonry, red sandstone, gray granite, and copper.

Guidelines

Required:

- Materials and colors should be used in an authentic manner and material changes should occur at vertical and horizontal facade articulations and inside corners with appropriate transition strips.
- 2. Public Buildings:
 - Public buildings shall incorporate local sandstone or local granite as either a primary facade material or a secondary accent material.
 - Public and religious buildings shall incorporate copper or copper-colored materials in details such as entries, fenestration, and/or decorative elements.

3. Residential Buildings:

- Employ a similar material and color palette of early Utah buildings that use a regionally distinctive brick, to honor and extend these regional building traditions.
- Shall use the color palette described herein, on not less than 60% of the area of street-facing facades.
- Compatible accent colors from the suggested accent color palette (see right) shall be used to enhance important architectural elements and details.
- Variations from the base color palette is subject to review by the DRC. Colors should reflect hues found in the Wasatch Front natural environment.

4. Retail and Commercial Buildings:

 Retail and commercial buildings may vary from the suggested palette through the submission of a more detailed Retail Tenant Storefront Design Criteria package for review and approval by the DRC to provide exceptions and flexibility for tenants to express individual retail identity.

Baseline Color and Materials Palette



- Buildings should not employ color combinations of more than five (5) colors from base color, complementary color, and accent color.
- The use of accent colors should not constitute more than 10 percent of the storefront elevation surface.

Recommended:

- 5. Materials should be used in a manner reflecting modern styles and building technologies.
- 6. The use of wood or timber as a prominent design element and material is encouraged.
- 7. The use of other metals as roof, wall, and/or detail material is encouraged.

Prohibited:

8. Neon, excessively bright, or very dark colors as primary base color.

H. Texture & Detail

Intent

To ensure that buildings are detailed with facade variation, depth, and texture.

Guidelines

Required:

- Opaque and louvered areas of the ground floor where mechanical, electrical, plumbing (MEP), and other utility elements occur shall be integrated with the overall architectural character of the building.
- 2. Exterior lighting shall be integrated with the architectural character of the building.

Recommended:

- Downspouts and drain pipes to be placed within building walls or integrated with the architectural design, colors, and finish materials of the building.
- Consider exterior elements such as architectural screens, vertical fins, and solar shading to contribute to the performance of the building.
- Provide balconies and recess spaces on upper stores.

Prohibited:

6. Superfluous, excessive, or garish ornamentation.

















Examples of modern residential buildings that incorporate suggested base, accent, masonry, stone, and metal palettes.





Examples of modern public buildings that incorporate sandstone and granite in their facades.











Examples of retail buildings that incorporate a well-balance of natural rustic and modern materials palette and textures in their facades.

3.3 Site and Utility Standards

A. Access and Circulation

Intent

To ensure that pedestrians and vehicles have clear and safe routes to and within parcels.

Guidelines

Required:

- Main building pedestrian entries and vehicle drop-offs shall be located on primary or secondary streets.
- 2. Access to parking and service areas shall be located away from corners to reduce queuing impacts on pedestrians and vehicle traffic, and transit operations at intersections.

Recommended:

- Access to parking and service areas shall be located at secondary or tertiary streets and visually screened from the street.
- 4. Consolidate access for parking and service areas to minimize the number of curb cuts.



Intent

To control the placement and visual impacts of service and loading areas.

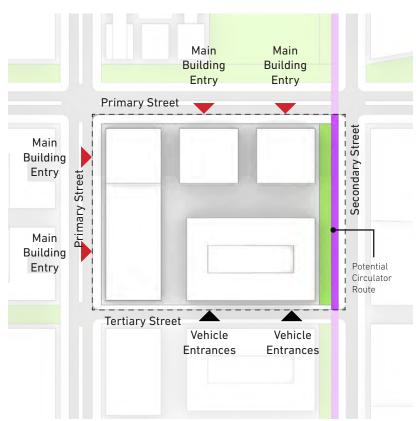
Guidelines

Required:

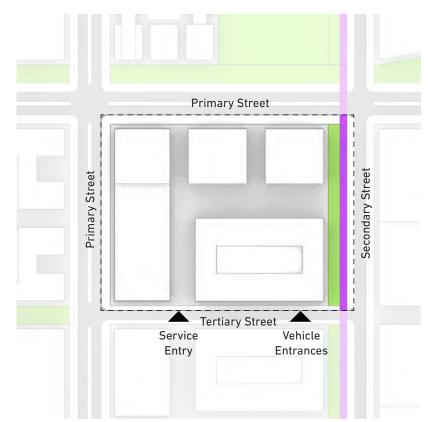
- 1. Service entries into the parcel shall be located at secondary or tertiary streets and be visually screened from the street where possible.
- Service entries and loading areas shall be located away from corners to reduce onstreet car queuing, impacts on pedestrians and vehicle traffic, and transit operations at intersections.
- Dedicated delivery, loading and refuse areas shall be screened from all streets, greens or other public environments. Such screening may comprise vegetation, fencing, walls, or other opaque building materials.
- 4. Such screening shall extend from grade level and shall not be less than 90% opaque.

Recommended:

Consolidate access for service to the extent possible to minimize the total number of curb cuts.



Main building pedestrian entries and vehicle drop-offs shall be located on primary or secondary streets.



Service entries into the parcel shall be located at secondary or tertiary streets and be visually screened from the street.

6. Service and loading areas may be planned to accommodate emergency access to avoid redundant circulation systems within a parcel.

Prohibited:

- 7. Service functions, refuse storage, material storage, and/or loading docks facing public streets.
- 8. Curb cuts exceeding 20 feet in width for service entrances unless constrained by specific site or code conditions.
- 9. Loading placed along primary roads.

C. Utilities and Equipment

Intent

To control the placement and limit the visual impacts of utility equipment on streets and setback areas.

Guidelines

Required:

- Above grade utilities, transformers, regulators or meter boxes shall be shielded from views from primary pedestrian entrances.
- Equipment shall be screened with materials or landscaping which are of a similar quality and compatible with the materials used in the building façade.
- Coordinate with utility companies to locate, to extent possible, vaults and meters in locations appropriate for optimal street character.
- 4. Equipment Screening:
 - Mechanical penthouses or screens shall be setback at least 10 feet from the building façade and/or be fully integrated with the building massing concept.
 - All exterior mechanical and electrical equipment shall visibly screened on all vertical sides at least to the visible height of the equipment and incorporated into the design of buildings to the maximum extent feasible.
 - Screens shall not exceed 18 feet in height above the roof deck.
 - Screening materials may include landscaping or other materials that shall be consistent with the exterior colors and materials of the building. If landscape is used for screening, must provide an opaque screen at Certificate of Occupancy.

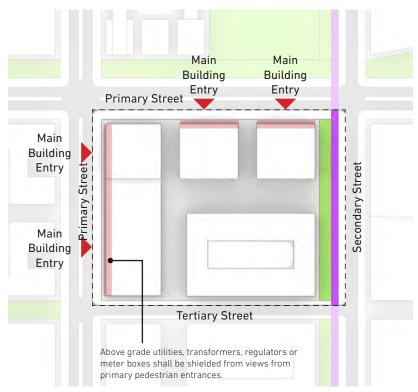


Diagram showing placement of utilities



5. Cooking Exhaust:

- All development projects with initial or future potential cooking facilities must provide ample vertical shaft way infrastructure to enable installation of exhaust functions to the roof.
- Cooking exhaust fumes must be directed through the roof rather than side walls along street elevations. Commercial noncooking exhaust may be directed through an exterior wall.

Discouraged:

6. Exposed/unscreened utilities, transformers and meter boxes attached to public street-facing façades or the River to Range trail corridor.

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Chapter 4: Landscaping & Lighting

4.1 Intent and Key Themes

The public realm and its landscape should reflect the high mountain desert geology of the Wasatch Range, the Oquirrh Mountains and the Salt Lake Valley, and take cues from the region's natural landforms including its canyons, valleys, meadows, deserts, streams, cliffs, forests, and ridges. The following five elements should be used in an urban context to inform the built and natural environments:

- **1. Forest:** shade, shelter, habitat, aroma, texture, enclosure, sound, edges, grove, and canopy
- Meadow: open, flexible, edges, relax, color, and passable
- Stone: foundation, strata, tectonic, permanence, escarpment, ledge, cliff, boulder field, and fissure
- **4. Water:** life, movement, cool, sound, eddy, seep,
- **5. Desert:** clean, dry, breezy, reflective, warm, wonderous, open, safe

A complete landscape, lighting, and furnishings concept plan shall be developed, reviewed, and approved at the first Individual Project submission and will include a phase one-wide strategy for the same.





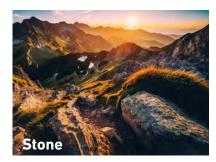
















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4.2 General Landscape Standards

A. Planting and Soils

Intent

To guide planting and soil composition within public spaces to ensure design variety and plant health.

Guidelines

Required:

- Plant native and climatically adapted species. Xeric and low water species are required with the exception of plantings in green infrastructure areas such as rain gardens and detention ponds. (Refer to the Utah State Center for Water-Efficient Landscaping for resources on plant species that have medium to high tolerance for drought)
- 2. Designers shall select street tree species that provide an overhead canopy and create shade and visual interest.
- 3. In all public spaces, designers must use Crime Prevention Through Environmental Design (CPTED) guidelines when designing the planting compositions to ensure that public safety is considered.
- 4. Plant species and the composition of plants in public spaces must consider how the landscape will be maintained to reduce the need for pruning, fertilization and pest control.
- 5. Planting that is near to areas where snow storage is planned or anticipated, designers must ensure that plant species are durable and composed in ways that minimize damage to plants because of snow and/or ice build-up in the planting areas.
- 6. Provide a minimum of 750-cubic feet of soil for each tree, assuming an average soil depth of 3.5 feet. Soil for tree pits shall be an amended native topsoil or amended imported topsoil.
- 7. In paved, impervious areas, provide either a structural soil mix and/or structural system like soil cells or suspended pavements that will provide adequate soil volume and water/ air exchange for trees in urban conditions to meet the minimum soil volume requirements.
- 8. Individual projects should have soil/ agronomy tests done for several areas of the site to determine the existing soil conditions and recommend soil preparation and/or amendments. The test should be conducted with a certified soils agronomy lab or the State Agricultural Extension
- 9. Integrate sustainable landscape practices including xeriscaping and water-wise landscaping.

Recommended:

- Consider a primary tree species (medium to large scale) plus an accent tree (small to medium scale) at discrete areas such as mid-block crossings or intersections for each street.
- 11. For each city block, use no fewer than three (3) tree genera to support a resilient urban forest.
- 12. Use Silva Cells to support root growth and tree canopy health.
- 13. Consider layering of planting along streetscapes and other public spaces to create a comfortable pedestrian scale that shades, encloses and provides visual interest at different eye levels for people, year-round.
- 14. In areas of high pedestrian traffic, installing physical barriers such as curbs (stone, brick or concrete) or steel edging is encouraged to provide a visual and safe condition in order to protect plants from trampling.

Prohibited:

- 15. Noxious or invasive plant or tree species.
- 16. Turf used for applications other than athletic fields and passive event lawns. For passive event lawns, turf shall not exceed 20% of the combined planting area of a park or open space per Jordan Valley Water Conservancy District standards.

B. Irrigation

Intent

To incorporate water conservation applications and low irrigation techniques to ensure healthy planting while minimizing water consumption.

Guidelines

Required:

- 1. Provide permanent automatic irrigation in all planting and turf areas of streetscapes, parks and open spaces.
- 2. All irrigation systems shall be designed for efficient, low water use and include drip and/or high efficiency sprinkler heads.
- 3. All irrigation systems shall include, at minimum one of the following system controls that is certified by EPA WaterSense:
 - Soil moisture or rain sensor
 - Evapotranspiration (ET) controllers that allow flexible programming to adjust watering schedules to the historical needs of plant types
 - Evapotranspiration (ET) device featuring 'real-time' feedback
- 4. All landscape irrigation, other than by exception granted by the Land Authority, shall utilize secondary water.

Recommended:

5. In areas that do not require irrigation as stated above, consider establishment watering in naturalized areas with temporary irrigation.

Prohibited:

6. Sprinkler heads in non-turf areas.

C. FENCING

Guidelines

Required:

- 1. Fencing in the public realm should not be more than 80% opaque and not be taller than 40 inches.
- 2. Fencing should be crafted using high-quality materials. Vinyl fencing is discouraged and chainlink fencing shall not be permitted.



All irrigation systems shall be designed for efficient, low water use and include drip and/or high efficiency sprinkler heads.

4.3 Materials & Furnishings

A. Intent

The standards for furnishing and materials contribute to creation of pedestrian scale within an active and dynamic public realm that harmonize with landscape of the region.

B. General Standards

Required:

- 1. Furnishings shall be contemporary in style and made from durable, weather-proof materials such as concrete, stone, wood or other synthetic materials.
- 2. Furnishings shall be located throughout parks and placed near entries and nodes.

Recommended:

- 3. A "family" of furnishings should be chosen, with a similar aesthetic of neutral color palettes and clean, simple geometries to provide unification to the public realm. Street amenities specified in the public realm may also be applied in the private realm.
- 4. All street furniture with metal or concrete components should contain a minimum 20% pre- and/or post-consumer recycled content, and all wood furnishings be Forest Stewardship Council (FSC) certified or salvaged/reclaimed.
- The use of smart technology and interactive amenities such as solar-powered trash cans with fill-level sensors, solar-powered benches with integrated lighting, and self-watering planters is encouraged.

Prohibited:

- 6. Non-HDPE plastic.
- 7. Any furnishings containing materials, chemicals, and elements that are listed on the International Living Future Institute (ILFI) "Red List".



Benches



Bike Racks



Amenity Zones



Furnishings shall be contemporary in style and made from durable, weather-proof materials such as concrete, stone, wood or other synthetic materials.

C. Paving

Intent

Paving for individual districts should support and enhance the surrounding architecture and landscape.

Guidelines

Required:

- Sidewalks and other paved areas shall be constructed with durable materials such as cast-in-place/poured-in-place concrete, asphalt, or unit pavers (concrete, brick and stone).
- Paving material, colors, textures, and patterns should be supportive of the work and brand enhancement required to create a unique identity in each district while providing for connectivity throughout the Point as a whole.
- The choice of paving material should take into account its ability to maintain a long lifespan, its appearance, sustainability features, and labor and material costs.
- 4. Standard paving materials:
 - CIP grey concrete with saw-cut joints at equally spaced intervals.
 - Standard ladder crossing crosswalks
- 5. Enhancement Zone paving finishes:
 - Integral color and/or specialty finish CIP concrete with saw-cut joints. Utilize jointing patterns that highlight/align to architectural features or vertical elements.
 - Extend integral color and/or specialty finish into the crosswalk zone.
 - Use unit pavers (concrete, brick or stone) in key areas such as transitions to premium zones, furnishing areas of streetscapes, transit stops and parklets.
 - Utilize locally/regionally sourced material with appropriate colors and finishes that reflect the regional vernacular.
- Paving located within public ROW require city review and approval and may require a different specification than those on private property.









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Recommended:

- 7. Hardscape materials that have a high albedo, or high solar reflectance (0.33 SRI) are encouraged to reduce urban heat island effect. Refer to LEED or similar sustainability/"green" building certification programs for guidance.
- 8. Utilize crushed stone surfacing (decomposed granite) for foot trails in parks/open space for areas that require a walking surface, but are not a primary circulation route and typically located in planting areas.

Prohibited:

9. Clay pavers and any materials containing materials, chemicals, and elements that are listed on the International Living Future Institute (ILFI) "Red List".

D. Tree Grates, Manhole Covers, and Sidewalk Medallions

Intent

Themed tree grates, manhole covers, and sidewalk medallions should provide a consistent aesthetic throughout The Point.

Guidelines

Required:

- 1. Tree grates, manhole covers, and sidewalk medallions shall be crafted using high quality materials from the pre-approved list, or as per Draper City Standard Specifications.
- 2. Tree grates shall have removable growth rings affording healthy trunk growth.
- 3. Tree grates should provide at least 16 square feet of permeable surface in combination with permeable paving (where appropriate) and structural soil improvements.
- 4. Tree grates located within public ROW require city review and approval and may require a different specification than those on private property.









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E. Trench Grates

Intent

Trench grates are sidewalk elements that, in addition to serving a drainage function, provide users with an understanding of their location.

Guidelines

Required:

- Themed materials and design should provide a sense of location and can help to differentiate districts.
- 2. Trench grates, if used, shall be designed and installed to support highly accessible pedestrian movement.









Images credit © Iron Age Designs

F. Benches

Intent

Benches provide users respite and social opportunities and should be placed frequently throughout The Point. These are particularly important in and adjacent to community spaces, near shops, restaurants, transit stops and venues.

Guidelines

Required:

- 1. Benches should be provided at a minimum of one for every 200 or 300 feet of linear frontage within the building space
- 2. Benches should be placed near transit, public open spaces, and shopping and dining opportunities
- Benches shall be crafted using high-quality materials
- Benches located within public ROW require city review and approval and may require a different specification than those on private property.
- 5. Benches shall incorporate skate deterrence in their design.







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G. Waste Receptacles

Intent

Waste receptacles should be placed next to buildings, adjacent to other streetscape furnishings and landscape areas, or in otherwise visible locations that do not interrupt or impede pedestrian circulation.

Guidelines

Required:

- 1. Along streets and in public spaces, waste receptacles should be placed every 500 feet.
- 2. Waste receptacles should be placed in the building space close to entrances but no less than one every 200 feet.
- 3. Recycling receptacles should be paired with at least 1/2 of all trash receptacles (also to be placed in the building zone and privately maintained).
- 4. Trash receptacles shall be crafted using high quality materials.
- Trash receptacles located within public ROW require city review and approval and may require a different specification than those on private property.









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H. Bollards

Intent

Bollards provide additional levels of security and lighting opportunities in common shared spaces, streetscapes, and trails where needed. Creative applications of steel/metals, and a clean artistic form are appropriate.

Guidelines

Required:

- Bollards in the public realm shall not be taller than 40 inches
- 2. Decorative and lighted bollards should be crafted using high-quality materials









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I. Pots & Planters

Intent

Pots and planters should be used as a means to provide a physical separation between pedestrian and vehicular circulation, to announce prominence at building entrances through enhanced plantings, and to delineate indoor and outdoor relationships, dining and gathering spaces.

Guidelines

Required:

1. Select a variety of sizes that are thematically compatible with the adjacent architectural and landscape element.









4.4 Supplemental Landscaping

A. Parking Area Landscaping & Screening

Intent

Interruptions in the street wall such as parking areas discourage pedestrian activity. Streetscreens serve to minimize these interruptions by extending the street wall formed by storefronts and building facades.

Guidelines

Required:

- Street walls or landscaping treatments are semi-opaque screens a minimum of 6 feet in height above grade and constructed of a material matching the adjacent building facade. The streetscreen may be a hedge or fence.
- 2. The perimeter parking lot landscape area must be at least 10 feet in width with a minimum distance of two feet between the landscape area and any wheel stops and should consist of trees planted 50 feet on-center and one shrub that will mature to not more than 3 feet in height along 100% of the frontage.
- 3. No parking space shall be further than 60 feet from the trunk of a canopy tree.
- 4. Sixty percent (60%) of the landscape area outside of shrub and tree masses must be planted in live groundcover, perennials, or ornamental grasses.

Recommended:

5. A decorative fence four (4) feet high may be installed within the landscape area.

B. Foundation & Dooryard Landscaping

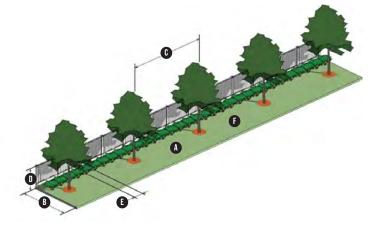
Intent

Provide landscaping between the back of the sidewalk and the building foundation provide a soft transition between the public realm and the building.

Guidelines

Required:

- Based on the designated frontage, provide a mix of ornamental trees, shrubs, perennials, and native grasses that are consistent with adjacent properties in depth and thickness of vegetation.
- 2. In some cases, a second row of trees will be required within the building setback.



- Reserved for the planting of material and installation of screening.
- B Minimum of ten feet in width.
- C Shade or evergreen trees planted one per 25 linear feet.
- Solid fence or wall at a minimum of six feet and a maximum of eight feet in height erected along 100% of the buffer landscape length.
- Shrubs planted one per three linear feet.
- 60% of the landscape area planted in live groundcover, perennials, or ornamental grasses.



Perimeter and parking island landscape screening with trees and low shrubs







Perimeter and parking island landscape screening with trees and low shrubs

4.5 Area Lighting

A. General Lighting Standards

Intent

To provide well-lit areas at appropriate levels throughout the day to enhance safety and human comfort, while mitigating the effects of light pollution.

A Master Lighting Plan will be developed in cooperation with the City at time of first Individual Project submission.

Guidelines

Required:

- 1. Lighting shall utilize Light-Emitting Diode (LED), full cutoff/fully hooded or shielded, Dark Sky approved fixture.
- 2. Utilize Draper City Code (9-20-070: Illumination Standards) for required foot-candle illumination based on roadway type or park/open space use.
- 3. Integrate layered lighting effects to create human-scaled environments, feature street-lined tenants, and highlight landscape elements.

Recommended:

- 4. A lighting program will be developed and submitted for review by the Land Authority and if needed Draper City with submission of each sub-phase.
- 5. Provide at least one (1) foot-candle of pedestrian level

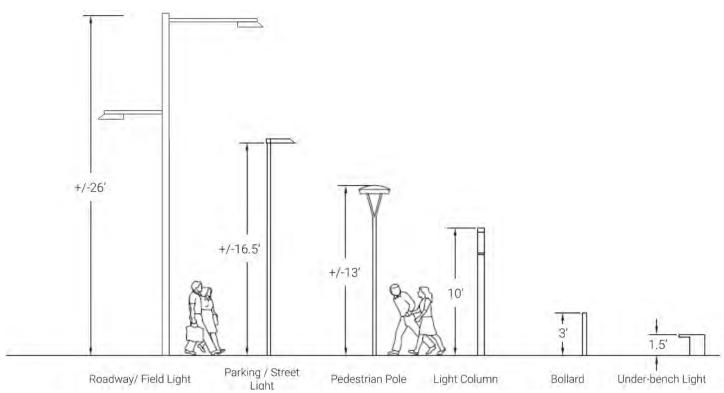
- lighting such as pole top fixtures, bollards or wall lights to reduce overhead glare while ensuring an evenly lit walking surface.
- 6. All street lighting fixtures should have a simple linear/modern profile.

Prohibited:

- Partially or non-shielded fixtures that do not provide full cut-off illumination.
- 8. Exposed bulbs or "drop" lenses.
- High intensity discharge (HID) lamps including: incandescent, metal halide, or mercury vapor lighting fixtures. Athletic fields must demonstrate undue hardship to be exempt from this requirement and elements that are listed on the International Living Future Institute (ILFI) "Red List".

Regarding Lighting Approvals:

- Lighting selections for streets, parks or any other public areas within The Point shall be submitted for review and approval by the Design Review Committee and the City of Draper.
- Lighting selection on private development parcels shall be approved by the DRC.



Family of Lighting Fixtures

B. Street Lighting

Intent

Street pedestrian lighting should align with vehicular street lighting in terms of individual light spacing and overall light levels being emitted in order to accommodate and provide for safer environments for pedestrian foot and bicycle traffic and vehicular circulation at night.

Guidelines

- 1. All street pedestrian lighting fixtures should have a simple linear/modern profile
- Standard Zone Lighting: Pole-top mounted fixture. Roadway lighting to be spaced at the appropriate intervals based on roadway classification and luminaire mounting height to achieve foot candle requirements per Draper City Code.
- Enhancement Zones: Utilize, in conjunction, the standard roadway/park light, enhanced polemounted pedestrian fixture and incorporate accent lighting such as lit bollards, flush-mount wall lighting and pathway lights.
- 4. Align light poles to trees to create a continuous vertical datum along streetscapes. Align light poles to trees in parks when placed with a row, allée and/or bosque of trees.









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Chapter 5: Enhancement Standards

5.1 Enhancement Zones

Enhanced Frontage

Intent

Enhancement Parcels, Zones, Open Space, and Streetscape & Streetwalls are areas of The Point that have a higher level of detail, amenity, and quality in materials, architectural design, landscaping, paving, and furnishings in realizing the "Where Mountain Meets Urban" theme of The Point.

A complete landscape, lighting, and furnishings schematic design plan shall be developed, reviewed, and approved on submission of the first Individual Project plan.

Guidelines

Required:

- 1. Enhancement Parcels, Zones, Open Space, and Streetscape & Streetwalls shall demonstrate, in their entirety, an overall level of design and construction excellence in material selection, detailing, plant selection, and finish, including but not limited to the following components: buildings, streetscape, landscape, hardscape, public areas, signage and furnishings. The following areas will undergo enhanced scrutiny by the Design Review Committee:
 - The Promenade
 - Pedestrian Alley
 - River to Range Courtyard
 - Central Green
 - River to Range Trail
 - Chapel Trail
 - Chapel Park

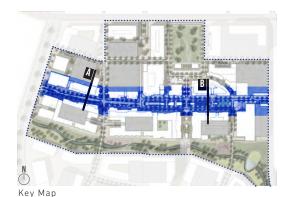


Enhancement Zones Map

5.2 The Promenade

A. Vision and Intent

The Promenade is the primary urban space in The Point - full of vibrant energy where pedestrians are prioritized amidst a lively shopping district anchored by a performing arts venue. Urban buildings provide the active walls of this important space and the median is surrounded by curbless "festival streets" to allow people to safely walk throughout - even with slow-moving vehicular traffic. This design also provides opportunities to close off the Promenade from vehicular access at key intensive use periods providing a place for special events and festivals.



B. Building Design

- Seventy-five (75%) of the building frontage around the Promenade should be a minimum of five (5) stories with a minimum ground floor height of 18 feet however a freestanding building on parcel H3A a minimum of 2 stories in height is permitted subject to the following criteria:
 - a. The property must provide active uses and architecture on all four (4) sides of the building; and
 - b. The rooftop must have a minimum of fifty percent (50%) occupiable space that may include such uses as restaurant seating or private event space; and
 - The tenant may not be a discount-brand retailer.
- 4. Provide an engaging building design at designated locations to denote important destinations and visual landmarks.
- 5. Articulate the building mass to reinforce the public street edge from the private spaces above.
- 6. Articulate rooftop edges with deep reliefs, terraces, and / or edge details to vary building heights and massing volumes.



Promenade Section (A) and Plan: ~70 ft right-of-way



Promenade Section (B) and Plan: ~140 ft right-of-way

- 7. Provide visual texture along facades facing the Promenade such as balconies, bays, and building recesses.
- 8. Corner buildings should provide an architecture feature, corner entry, or strong tenant activation and transparency.
- Provide human-scale elements and variety to buildings and edges by integrating engaging retail and food & beverage outdoor seating zones along the street edge to enhance the users journey and activate the street frontage.
- 10. Consider use of bold architectural statements with double-height facades.
- 11. Perimeter buildings shall be an average of five (5) stories to provide sufficient variation, a sense of visual enclosure, and a compact critical mass of residents and visitors.
- 12. A more detailed Tenant Storefront Design Criteria package may be developed and submitted for review and approval by the DRC to be used as a guide to provide flexibility for tenants to express individual retail character.

- 13. Each building's character along the promenade should be a complimentary architectural style and studied in context to the adjacent buildings to ensure it adds to the overall richness and diversity of the Promenade. Allow for diversity with clear breaks in building style or design at least every 160 feet to provide the appearance of multiple buildings on the block in-lieu of one single large and continuous building.
- 14. Provide a clear demarcation in building elevations between ground floor retail and office / residential above. This can be achieved through change in design vocabulary, materials, color, vertical articulation or other devices.
- 15. A buildings interface, between the retail and the residential/office, should alternate per parcel to promote visual variety along the street. The following two articulations are encouraged:
 - Buildings that use a continuous horizontal edge
 - Buildings that have a continuous vertical plane
- 16. All ground floor windows should provide direct views to the building's interior extending a minimum of 5 feet behind the window.



Large-scale glazing and innovative facade patterning that provoke a landmark presence



The ground level is differentiated with larger areas of transparency from the levels above utilizing a mix of materials, opacities, and facade articulation



Facade insets and articulated rooftop volumes, edges, and parapets



Full depth and/or "Juliet" balconies on upper stories



Open up the corners of signature tenants to extend the public realm to the interior of the space



Smaller-scaled volumes with glazing and outdoor seating for social interaction along the street edges



Signature, two-level tenants with transparency and rooftop terrace to visually connect with the streets, plazas, and paseos



Activated street fronts with outdoor seating & porous storefronts combined with landscape features, canopies/awnings, and lighting elements along the street edge create an active, approachable environment



Small retail and food & beverage pavilions that are simple in form, have clean lines, and are visibly porous



Mixed use of materials, textures, and facade articulation and fenestration differentiate activated ground plane from above programs



Bold facade materials and graphic treatments that evoke the tenant's branding & identity

Prohibited:

17. Avoid standard commercial aluminum storefronts.

C. Landscape & Lighting Design

Guidelines

Required:

- 1. Use large canopy trees along the street edges that can be limbed up a minimum of 8 feet at maturity.
- 2. Use a variety of smaller canopy and understory trees in the Plaza space of the Promenade to create outdoor rooms while maintaining flexibility for larger outdoor events.
- 3. Furnishings should be predominately movable, with consideration for some fixed seating incorporated into planters, and other landscape elements including open lawn areas.
- 4. Use higher light levels for flagship tenants to generate a point of interest that is respectful of adjacent tenants.
- 5. Street lighting should be accomplished with pedestrian-scaled standards that have a full-cutoff fixture.
- 6. Install electrical fixtures at each canopy tree and generously through the Plaza to accommodate lighting, convenience use, and events.

- 7. The installation of a single species of canopy tree within each block as a street tree is preferred to create a consistent rhythm, growth pattern, and aesthetic.
- 8. Incorporate layers of landscape that allow for changes in seasonal colors at a variety of levels including hanging baskets, planters, and window boxes.
- 9. Illumination of the sidewalk zone should primarily come from interior storefront lighting that spills outside.
- 10. Use Silva Cells (or similar strategies) to maximize root growth and tree canopy health.



Streets lined with canopy trees



Smaller-scale canopy trees in a plaza space



Fixed seating incorporated into landscape elements



Landscaping that promotes indoor and outdoor dining



Higher light levels for interiors spill onto the sidewalk



Warm internal glow effects with matching exterior vertical recessed lighting accents

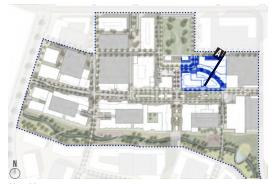


Seasonal plantings and a mix of paving materials

5.3 Pedestrian Alley

A. Vision and Intent

The Pedestrian Alley is an intimate, pedestrian-only passageway providing a mix of flexible, small-scale gathering spaces, local retail, and eclectic food & beverage with engaging edges and a "back alley" porosity design character that evoke a "raw, edgy meets innovative tech vibe." Targeting young demographics with an 18-hour activity environment. Frequent, tall, adaptable spaces encourage creative tenant spaces and counter service-engaging edges with operable walls to enhance porosity. Lookouts and bridges encourage upper-level social activation and movements.



Key Map

B. Building Design

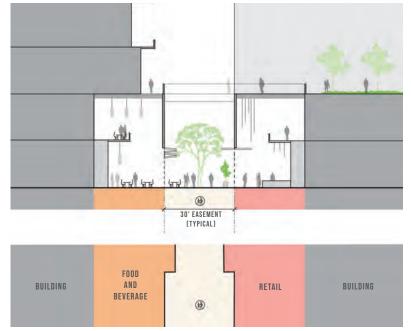
Guidelines

Required:

- Average heights shall be a minimum of two (2) stories with a minimum 18 foot ground floor height
- 2. The typical width of a pedestrian alley should be 30 feet with a minimum average width of 24 feet.
- Incorporate engaging architecture into the design of the base building(s) that frame the space.
- 4. Articulate building facades to reinforce the Pedestrian Alley's rhythm and character with unique mix of materials and textures.
- Activate edges with expressive retail storefronts and indoor/outdoor dining areas.
- Install artwork and placemaking elements that create a creative, edgy, and an immersive environment.

Recommended:

7. Encourage social interaction and porosity along the street frontages by integrating operable walls or bi-folding doors a minimum of 15-20 feet in height or horizontal sliding walls a minimum of 10 feet in height



Pedestrian Alley Section (A) and Plan



Omni-directional distinctive architectural forms to promote pedestrian flow & provides an engaging streetscape



Double-height tenant spaces with articulated volumes, facades, and bridged walkways above



Mix of materials and textures that add charm and character



Outdoor dining, unique identifiable architectural archway elements, and a complimentary mix of materials



Immersive graphics and artwork on building facades

- 8. Provide a roof element over a portion of the space as protection from rain and snow. This can be integrated into an overhead walkway. Any roof structure should provide a clear space a minimum of two-stories.
- Consider industrial design elements to provide the feel of an adaptive re-use of a manufacturing space.
- 10. Use two-level tenant spaces.
- 11. A more detailed Tenant Storefront Design Criteria package may be developed and submitted for review and approval by the DRC to be used as a guide to provide flexibility for tenants to express individual retail character.

C. Landscaping & Lighting Design

Guidelines

Required:

- Use landscaping to tell a visual story and encourage exploration around the blend of Pedestrian Alley with layered landscape elements, such as but not limited to textural pedestrian paving patterns and materials, and central respite landscape parklets with site furnishings.
- 2. Provide opportunities for retail and food & beverage tenant outdoor zones that enhance the landscape environment and activation.
- Install overhead string lights throughout the length of the space along with a layered light program to provide lighting to the pathway and the buildings.
- 4. Consider industrial lighting elements to provide the feel of an adaptive re-use of a manufacturing space.

- 5. Consider locally-adapted vegetation on architectural facades and in planter boxes.
- 6. Integrate industrial-design and artwork elements into building design, public realm amenities, and signage
- Integrate bio-retention into any landscape elements where practical to display visible water conservation and reclamation techniques.
- 8. Incorporate elements that bring natural daylight into the space either directly or indirectly.





A variety of operable wall solutions to create indoor/outdoor environments and flexible spaces



A public-use central respite zone with planting & site furnishings



A tree-lined central zone with landscaped outdoor dining





Direct & indirect facade lighting, festoon ambiance lighting, and accent signage lighting



Locally-adapted plants on architectural facades and structural features



Outdoor tenant zones with planting & site furnishings

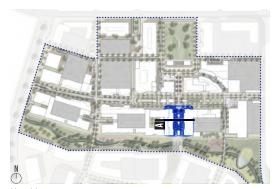


Ground plane graphics & artwork

5.4 River to Range (R2R) Courtyard

A. Vision and Intent

The River To Range Courtyard is both an intimate courtyard and a space that connects the Central Green and Promenade to the River to Range Trail. It is a public urban living and dining room destination surrounded by all-season outdoor dining; rooftop culinary experiences; tiered terraces for activated social interactions; pavilions and conservatories. It is envisioned to be a composition of fine-grained architectural elements such as arbored walkways and pocket parks for a unique but harmonious destination.



Key Map

B. Building Design

Guidelines

- Retail / food and beverage buildings with R2R Courtyard frontage should be a minimum of two (2) stories or 20 feet in height with a rooftop patio.
- 2. Articulate building facades and roofs and provide human-scaled architectural elements to break down massing.
- 3. Incorporate indoor/outdoor patios at the ground level and terraces along upper level building edges for rooftop dining and visual activations from lower levels.
- 4. Provide large- and small-scaled integrated shade and weather protection structures for outdoor dining terraces.
- 5. Design facades to be highly permeable to extend the indoor experience outside when inseason and with seasonable protections.



River to Range Courtyard Section (A) and Plan



Stepped down massing with activated rooftops, weather protected canopies and awnings



Two-level dining with rooftop overlooks





Shade and weather protection elements for patrons



Facade porosity at multiple levels



A collection of conservatories provide all season dining

- 6. Any roofing structures over the public space should transmit a high degree of daylight and connections to the evening sky.
- 7. Provide a variety of scale and type of tenants to provide an eclectic and varied mix.

Recommended:

- 8. Provide food & beverage conservatory structures that are filled with daylight and weather protection.
- 9. Encourage social interaction and porosity along the street frontages by integrating operable walls or bi-folding doors.

Prohibited:

10. Standard commercial store fronts, encourage variety with individual tenant expression.

C. Landscaping & Lighting

Guidelines

Required:

- 1. Layer landscape elements, including, but not limited to textural pedestrian paving patterns and materials, and landscape parklets with site furnishings to integrate plaza and terraces.
- 2. Extend the paving of the primary pathway and lighting treatment of the Promenade.
- 3. Provide outdoor seating zones that enhance the landscape environment and activation.
- 4. Install overhead string lights or similar ambient throughout the dining spaces with a layered light program to provide lighting to the indoors and outdoors and the buildings.
- 5. Integrate layered lighting effects to create human-scaled environments, tenant zones, pathways, and landscape elements.

- 6. Install public art elements on the ground and as integral landscape and building elements.
- 7. Incorporate "Social Steps" as a transition element from the Courtvard to the River to Range trail corridor.



An all season environment with layered landscape elements



Various paving materials and textures to designate outdoor dining and circulation areas



Integrated landscaped planters to provide shade and an intimate



Intimate terrace experiences using landscape, lighting to create comfortable outdoor rooms



A combination of facade, signage, interior, Intimate outdoor dining lighting effects and rooftop festune lighting elements





A balanced mix of landscape, exterior, and interior lighting effects



In-ground plaza & landscape lighting



Contextual relevant public art at points of interests and along user journey highlights



Active social steps with integrated landscape between elevation changes and access points

5.5 Central Green

A. Vision and Intent

The Central Green is the largest and most formal of the public spaces and is intended to visually connect both sides of North Loop Road and provide a 24/7 public green suitable for large events and daily respite. It will be framed by urban buildings that define and enliven the space through a density of building occupants, appropriate massing, long-views of high-quality architecture, and ground floor activity. The festival street around the green extends the public space of to the doorstep of the fronting buildings and minimizes the visual impact of the vehicular surface.



Key Map

B. Building Design

Guidelines

- 1. Seventy-five (75%) of building frontages around the Central Green shall be a minimum of four (4) stories however a freestanding building on parcel H3A a minimum of 2 stories in height is permitted subject to the following criteria:
 - a. The property must provide active uses and architecture on all four (4) sides of the building; and
 - b. The rooftop must have a minimum of fifty percent (50%) occupiable space that may include such uses as restaurant seating or private event space; and
 - c. The tenant may not be a discount-brand retailer



Central Green Section (A) and Plan



Innovative & distinct facade systems create points of interest for an office/hotel anchor



and forms limited to and utilize greenspace shorter facades to create streetscape rhythm



Juxtaposed materials Landscape elements extend



Activate supermarket facades with inviting & seamless transparency & shaded outdoor dining



Lightweight, porous, and convertible pavilions for all-season dining and activity programming within the green





Tenant and rooftop balconies overlooking green

4. The ground floor tenant spaces for all Green-facing facades should be designed to accommodate active ground-floor uses. For buildings on the south side of the Green, active ground-level uses are expected.

Recommended:

- 5. Activate green edges and interiors with retail, event programming, and food & beverage pavilions.
- Provide visual texture along facades facing the Central Green such as balconies, bays, and building recesses.
- 7. No adjacent height building variation of more than one story. An alternative is to provide a consistent cornice height around the green to create a formal spatial frame.

C. Landscaping & Lighting Design

Guidelines

Required:

- 1. Extend the Central Green to the facade of the fronting buildings in a "festival street" environment with pavers.
- 2. Integrate outdoor site furnishings with tree canopy shading.
- Create layered lighting effects that provide safety and comfort for people and as well as illumination for landscape, art, and building elements.
- 4. Pedestrian-scaled street lighting and street trees should be chosen to match the lighting of the Promenade. Lighting and landscaping interior to the Green may be a different design.
- 5. Integrate sustainable practices in the landscape and rely on water-wise landscaping.

Recommended:

 Design recommended food & beverage pavilions with soft interior lighting, canopy down-lighting, and ground-level pedestrian height lighting around the circulation zones, entries, and seating areas.



Paving materials, planting, and site furnishings enhance the "festival street" landscape environment



Large-scale signature sculptural art statements and gateway markers provide points of interest and a dramatic impression of Central Green





Street lamps that provide uniform lighting around trees, pathways, and site furnishings



Pavilions with indoor / outdoor porosity and soft lighting effects

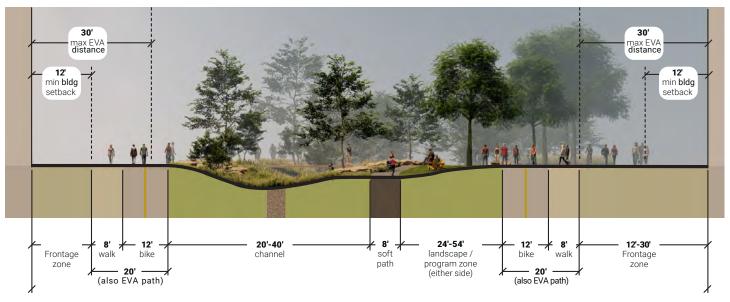
5.6 River To Range (R2R) Trail

A. Vision and Intent

This linear green serves as a rainwater channel and provides a regional bicycle and pedestrian connection from the Jordan River to the Wasatch Mountains and transitions from a rural amenity to a 24/7 urban public space, as it parallels the Promenade, with accessibility from all adjacent streets and trails. The pedestrian-focused environment brings an element of nature and active lifestyles through the urban core and seamlessly engages the frontage of the buildings with a network of trails to additional outdoor spaces, building entrances, and high-quality architectural treatment.



Key Map



River To Range Narrowest Cross Section (A)

B. Building Design

Guidelines

- 1. Seventy-five (75%) of buildings with R2R frontage should be a minimum of four (4) stories however no building shall be less than 2 stories or 30 feet in height.
- 2. Express the tenants' building mass facing the River To Range trail by modulating facades and roofs horizontally and vertically with porosity and transparency at ground level to encourage activation between the tenants and the public trail
- 3. Articulate the building mass to differentiate the public trail edge from the private spaces above.
- 4. Each building's character along the trail should be of similar quality as the Promenade frontage and should be a complimentary architectural style.

- 5. Provide visual texture along facades facing the R2R such as balconies, bays, and building recesses.
- Ground floor facades should have articulations with transparency at lobby entries, amenity spaces, and opportunities for private residential terrace extensions in strategic locations along the trail.

Recommended:

- 7. Design multi-leveled food & beverage tenant facades along the River to Range trail to be highly permeable to extend the indoor experience with outside dining terraces. Incorporate indoor/outdoor patios at the ground level and terraces along upper level building edges for rooftop dining and visual activations from lower levels.
- 8. Encourage social interaction and porosity along the trail frontages by integrating operable walls or bi-folding doors at ground and upper-level terraces.
- 9. Where a blank wall condition is required, incorporate public art as a screening element.
- 10. Use natural or artificial landscape elements native to the surrounding environment to screen parking structure facades.

Prohibited:

11. Avoid a single blank wall condition, even if screened, for more than 100 feet and a total aggregated width of 400 feet between Porter Rockwell Blvd and the transit corridor.



Articulated ground floor setbacks with private landscaped terraces for residential units along the trail



Breaks between buildings with pedestrian connections



Integration of various balcony conditions facing the River To Range to optimize visual connections



Porosity and transparency at the ground floor



Stepped-down articulated massing with activated rooftops, weather protected roofs and canopies. - also a grand stair for a grade transition



Two-level dining with ground level patios and rooftop terraces



Indoor / Outdoor spaces that activate building frontages along trail



Public art installations on blank walls



Artificial rock installation used to screen parking

C. Landscape & Lighting Design

Guidelines

Required:

- Connect the River To Range trail corridor to the fronting buildings with tree-lined landscape buffers, sidewalks, and bike paths. Final parcel property lines may be adjusted based on final R2R green design to provide clear definition and efficiency of maintenance.
- 2. Incorporate layers of landscape that allow for changes in seasonal colors at a variety of levels including trees and planters.
- Layer landscape elements, including, but not limited to textured paving patterns and materials, and landscape parklets with site furnishings to integrate along the trail path and connection with the Trail.
- 4. Design a hierarchy of pathway and landscape light levels to highlight various circulation flows and points of interests.
- 5. Create layered lighting effects that provide human-scaled environments, pathways, at the same time highlighting landscape elements.
- 6. Provide a minimum 20 foot fire access lane, regardless of Building Code requirements.
- 7. Final parcel property lines may be adjusted based on final R2R green design to provide clear definition and efficiency of maintenance.

- 8. A combined and bike trail is a solution for two core blocks and may be combined with an Fire Apparatus Access Road. As the R2R right-of-way widens, the bike path may separate from the pedestrian trail.
- Design moments of respite to enjoy the Trail by integrating small "pocket greens" along the trail edge.



Separation between pedestrian & bike paths through paving material changes & landscape elements



A mix of paving patterns and materials to highlight pedestrian flows and moments along the trail journey



Trees that provide seasonal color changes along the trail



All-season native plant species and integrated site furnishings



Design various layered scales of landscape elements along the trail



Integrate localized lighting effects with street lamps that provide uniform lighting around trees, pathways, & site furnishings



A range of pathway, landscape, and overhead lighting to create various moments along the trail



Well-lit pathway lighting with various light levels for landscape & integrated site furnishings

5.7 Chapel Trail

A. Vision and Intent

This linear parkway connects the River to Range to the Chapel Park and serves to provide a natural corridor for landscaping and an alternate means of mobility.



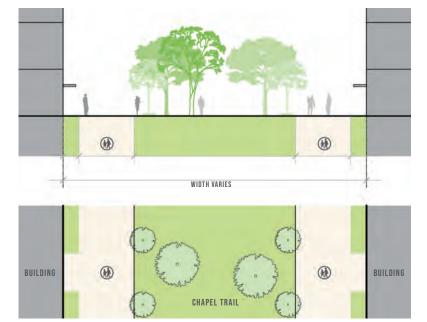
B. Building Design

Guidelines

Required:

- Buildings facing the trail shall be a minimum of three (3) stories to provide a sense of visual enclosure and a compact critical mass of residents, tenants, and visitors.
- 2. Encourage activation between the tenants and the public trail.
- 3. Ground floor facades should provide transparency at lobby entries, amenity spaces, and opportunities for private residential terrace extensions in strategic locations along the trail.

- 4. Provide active uses at key trail crossings.
- 5. Where a blank wall condition is required, incorporate public art as a screening element.



North To South Trail Section (A) and Plan



Architectural gateway featured towers that frame the Central South District. Large-scale glazing and innovative facade patterning that provoke an iconic essence



The ground level is differentiated with larger areas of transparency from the levels above utilizing a mix of materials, opacities, deep reliefs, and facade articulation



Vertical and horizontal articulated upper levels and ground floor setbacks with Indoor / Outdoor spaces that activate building frontages along landscaped trail



Varied scaled buildings with a mix of materials, textures, and articulations surrounded by soft landscaped features

C. Landscaping & Lighting Design

Guidelines

Required:

- Layer landscape elements, including, but not limited to textured paving patterns and materials, and landscape parklets with site furnishings to integrate along the trail path and connection with the Trail.
- 2. Incorporate layers of landscape that allow for changes in seasonal colors at a variety of levels including trees and planters.
- 3. Use large canopy trees along the Park trail that can be limbed up a minimum of 8 feet at maturity.
- 4. Provide a minimum 20 foot fire access lane, regardless of Building Code requirements.
- 5. Create layered lighting effects that provide human-scaled environments, pathways, at the same time highlighting landscape elements.
- 6. Design a hierarchy of pathway and landscape light levels to highlight various circulation flows and points of interests.
- Street lighting should be accomplished with pedestrian-scaled standards that have a fullcutoff fixture.
- 8. Install electrical fixtures at each canopy tree and generously through the Plaza to accommodate lighting, convenience use, and events.

- Design moments of respite to enjoy the Trail by integrating small "pocket parks" along the trail edge.
- Create a naturalistic story in the landscape that draws inspiration from Utah's geographic features including rock outcroppings and tree clusters.



Mixed use of materials, facade articulation, and fenestration differentiate activated retail ground plane from above programs



Design various layered scales of landscape elements along the trail with allseason native plant species and integrated furnishings. A mix of paving patterns and materials to highlight pedestrian flows and moments along the trail journey



Streets lined with canopy trees and small-scaled trees in plaza space with fixed seating incorporated into landscape



Integrate respite, pocket green moments between residential and office / commercial neighborhoods



Localized lighting effects with integrated landscape lights, street lamps, and soft glows from building interiors and facades that provide uniform ambient lighting around trees, pathways, & site furnishings

5.8 Chapel Green

A. Vision and Intent

The Chapel Green is a picturesque public space anchoring the South Loop Road with the existing, historic 1961 Utah State Prison chapel landmark and provide a space suitable for community gatherings and daily respite. The green will be framed by urban mixed-use buildings that define and enliven the space through a density of building occupants, appropriate massing, long-views of high-quality architecture, and ground floor activity. The North To South Trail extends into the Chapel Green, connecting and balancing the vibrant, yet natural settings.





Chapel Green Conceptual Plan

B. Building Design

Guidelines

Required:

- To provide the greatest visual benefit to the long views across Chapel Green, building architecture should be of the highest quality for design, materials and finishes that compliment the historical chapel.
- 2. Seventy-five (75%) of the building frontage along the perimeter of the Chapel Green should be a maximum of three (3) stories within 100 feet of the Chapel building.
- All facades facing the green should be designed as active frontages.

Recommended:

4. Fifty percent (50%) of the facades around the perimeter of Chapel Green should be designed to accommodate active uses.



Existing historic Utah State Prison Chapel landmark to remain as an architecture feature



Articulated volumes with landscaped terraces to soften ground plane



Active frontages and landscape transitions help to provide a distinctive and dignified setting for the historic structure

C. Landscaping & Lighting Design

Guidelines

- 1. Design a hierarchy of all-season flexible green spaces for formal and informal activities anchored around the historic chapel.
- 2. Consider intimate community events and programming when designing the Chapel Park to ensure maximum flexibility at a neighborhood scale.
- 3. Integrate outdoor site furnishings with tree canopy shading.
- 4. Create layered lighting effects that provide safety and comfort for people and as well as illumination for landscape, art, and building elements.



Varied landscape elements break down the scale of lawn to create various green spaces with pathways, seating, & landscaping



Large green pockets with shaded canopy trees provide all-season community activities and events throughout the year



A community green with various tree canopies, low planting, elevation changes with integrated seating for respite moments



Large-scale sculptural art statements and gateway markers provide points of interest



A balanced mix of landscape, exterior, and interior lighting effects comfortably transitions the ambiance from day to nighttime

Chapter 6: Signage Guidelines

6.1 General Provisions

A. Vision and Intent

Signage within The Point is intended to establish an overall sense of architectural and graphic cohesion while creating a unique identity and expression within each Enhancement Zone and generally. To this end, these guidelines provide standards of acceptability for signs in order to facilitate the review and approval process.

B. Signage Programs

Definition

Signage programs are a unified series of graphic elements that provide orientation, wayfinding, direction, or other information. A signage program is defined as three or more types of signs that are conceived and produced as a cohesive group and share similar design, color, and fabrication attributes. Every project will be required to create a signage program that reflects the intent and specifics of the guidelines in this chapter.

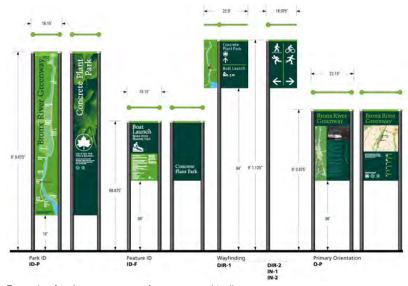
The City of Draper, POMSLA, the Master Developer, or an approved entity may seek to create a signage program for portions of the public realm including streets, parks, or other shared spaces. Similarly, the Master Developer, an individual developer, or another similar entity may seek to create a signage program for a private development parcel or group of parcels. All signage programs for any aspect of public or private development shall follow the below quidelines.

Guidelines

- Signage programs shall meet or exceed the highest industry standards for design, durability and fabrication.
- 2. Signage programs will be reviewed and approved by the DRC to ensure cohesion and design consistency with other similar programs within The Point.
- Implement a collection of permitted sign types that creates a graphic continuity throughout the project and make a positive contribution to the general appearance of the street, pedestrian corridor, or distinctive district in which they are located. Use project signage and environmental



Example of a signage program for blocks or buildings



Example of a signage program for greens and trails

- graphics to assist wayfinding and reinforce project identity.
- Provide vehicular directionals that guide motorists to important destinations on-site, including major attractions, parks, and parking facilities.
- Include directional signs and maps that guide persons on foot and bicycle to important public services and facilities, parks, outdoor gathering areas, and major tenants.

C. General to all Districts

Guidelines

Required:

- 1. Signs shall:
 - Express quality and unique characteristics in their design; and
 - Be legible and easily understood; and
 - Contribute positively to the sense of place and the character of The Point; and
 - Communicate the nature of the corresponding use; and
 - Reinforce pedestrian scale in size and mounting height.
- Enhancement Zones are to be considered special signage districts. The material, scale, and placement requirements in these areas should be more stringent to provide more visual cohesion and reinforce the district identity.
- 3. All signage requires formal approval and a building permit, as appropriate.
- 4. Nothing shall prohibit or regulate the installation of emergency, street, public interest, or public warning signs.
- 5. Signage shall not obscure street signage, traffic signals, or pedestrian and vehicular street signs.

- 6. Choose materials and the color palette to complement the building architecture.
- 7. Select signage colors that contribute to legibility and design integrity. Too many colors used thoughtlessly can confuse the reader and negate the sign's message.
- 8. Primary materials should include metal, faux wood, stone or other similar components that reflect quality and permanence.



Wall Signs - Internally Illuminated



Tenant canopy signs - internally illuminated



Skyline sign for anchor tenants



Primary Orientation Monument



Projecting Sign



Tenant Wall Sign

D. Building Signs

Guidelines

Required:

- Building mounted signage should be located on simple and unadorned surfaces. The signage band should be incorporated into the design of the facade and situated above storefront clerestory and generally below the second story windows.
- 2. Storefront signage is to have a consistent placement on the building along a street front.
- 3. Signs located further than 2 feet inside a building (e.g., behind a window) or otherwise not visible from the exterior under normal lighting conditions shall not count as exterior signage.
- 4. Nothing in these Guidelines shall prohibit signs intended for viewing principally from within a building or signs temporarily attached to the inside face of a display window, announcing a sale or similar feature, provided that the latter shall not occupy more than 15 percent of the total display window area, exclusive of permanent Window Signs.
- 5. Decorative painting of windows that does not include the brand or identity of the establishment and does not advertise a product offered by the establishment within the building shall be considered part of the building's architecture and does not count toward signage so long as it does not exceed 35 percent of the glazing area.

Recommended:

- Consider signs (storefront signs in particular) as part
 of a continuum with adjacent storefronts; using similar
 scale, color, and materials to create a rhythm along the
 street front.
- 7. For signs that are mounted directly on a building, respect the scale and rhythm of the architectural façade when considering placement and size so that they appear to be a part of the overall composition and design.
- 8. Colorful graphics or decals on the storefront glass are allowed as long as they do not exceed 10 percent of the storefront elevation surface.

E. Freestanding Signs

Guidelines

Required:

- 1. The maximum clear area (i.e., post height) between the finished grade and the bottom of sign shall be two feet.
- For monument signs where the bottom of the sign if flush with the finished grade, there shall be a base consistent with the materials specified within the public realm a minimum of 12 inches in height above finished grade.
- 3. The maximum area for changeable copy shall be 50%.

F. Prohibited Signs

Guidelines

Prohibited:

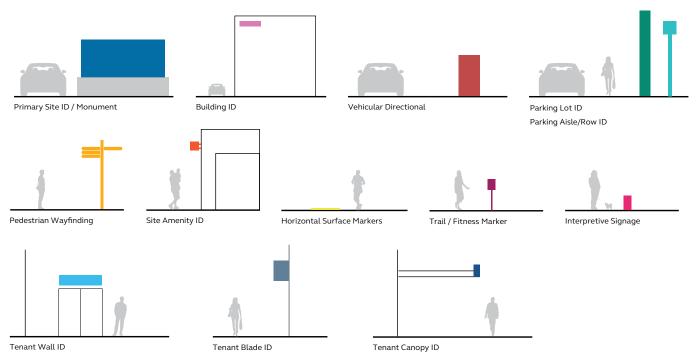
- 1. Internally illuminated cabinet signs
- 2. Any "box" or "can" letters or signs (internally-lit boxes with translucent covers).
- 3. Illuminated signs are not to include any flashing, flickering or animated elements.
- 4. Any sign illuminated by bare floodlight, blinking or flashing bulbs or that otherwise poses a distraction to drivers.
- 5. The use of paperboard or other poor quality and/or limited lifespan materials.
- 6. Building-mounted signage that obscures architectural features or ornamental elements.
- 7. Signage placed in any sight distance triangle.

G. Temporary Signs

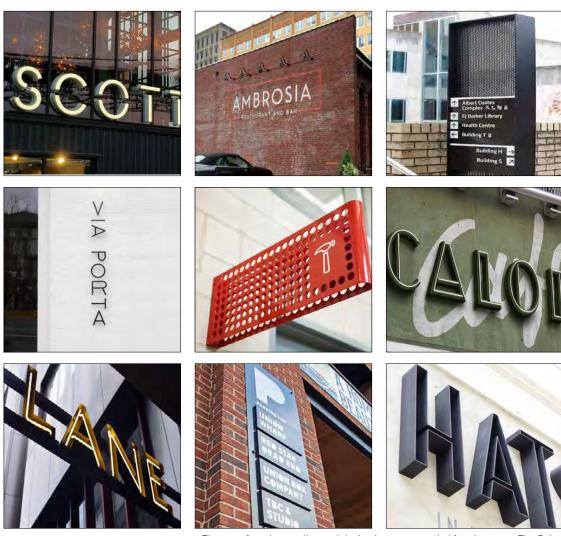
Guidelines

Permitted:

- 1. Temporary wall-mounted banners are permitted subject to a maximum area of 32 square feet and a duration of 30 days.
- 2. All other temporary signs shall comply with Draper City standards.



Examples of various sign types to be used at The Point



The use of modern styling and design is recommended for signage at The Point

6.2 Specific Signage Standards

Intent

To control the size, location and number of signs in the public realm and private development and to ensure that building signage is in reasonable proportion to the facade or building to which they are affixed.

Guidelines

Sign Area Calculations:

- 1. Sign size and location shall follow the matrix in Section 6.2.A. All others may be submitted for discretionary review by the DRC.
- 2. Signage area is generally measured by the smallest rectangle or rectangles that can surround the sign. In the case of channel letters/logos, the actual measurement for each element can be submitted.
- The maximum area applies to each side (up to 2) of a
 freestanding sign and is inclusive of all sign elements
 including the frame, base, and copy area. The maximum
 area for a wall sign includes the entire combined surface
 excluding any mounting brackets.
- 4. Street address signage (number and/or street name) shall be excluded from maximum signage area calculations.
- Murals with no commercial copy are exempt from these standards. Murals with commercial copy are subject to the maximum standards for the commercial copy area only.
- 6. Public open space signage (e.g., trails, greens) are exempt from these specific standards and shall be submitted as a program and approved by the DRC.

Encroachments & Clearances

- 7. Building signage (wall, canopy/awning, arcade, or projecting/blade) is permitted to encroach into any yard provided it:
 - Does not exceed more than 4 feet into the setback or right-of-way and shall not extend over a travelway; and.
 - Has a minimum clearance height of 9 feet above the sidewalk.
- 8. All signs shall be placed outside of any sight distance areas.

Illumination

 Lighting of signs shall be arranged so as to not produce undue glare to adjacent properties in the immediate vicinity of The Point. The source of light shall not be visible from adjacent properties or a public street.

Special Signage

10. Signage not otherwise noted in the table below may be permitted with approval by the DRC provided it is otherwise consistent with these Guidelines.

A. Specific Standards by Signage Type

Sign Type	Area	Maximum Height	Illumination	Other Requirements
Building Signs				
Wall Signs	10% of the tenant's leasable building wall square footage **	n/a	Internal, External Directional, Halo, Backlit, Acrylic Edge, Die-cut Metal, Open face Channel Letters	 Wall signage includes but is not limited to building identification, standard wall signage; parapet signs, tenant directory signs; under canopy/awning signs; and projecting/blade signs. Maximum area is aggregated for all signs in this category only. No sign shall extend more than 2 feet above any parapet Maximum aggregate area per tenant is 300 square feet without DRC approval Projecting signs are limited to a maximum of 75 square feet
Skyline Signs	Subject to building height (see other requirements)	2 feet above the roofline or parapet	Internal, Halo, Backlit, Acrylic Edge, Die-cut Metal, Open face Channel Letters	 Skyline signs shall be placed within the top 20% of the height of the structure and cannot cover any fenestration or architectural features. Maximum sign area shall be subject to the building height as follows 50 feet – 75 feet: 300 square feet Greater than 75 feet – 100 feet: 480 square feet Greater than 200 feet – 200 feet: 600 square feet Greater than 500 feet: 850 square feet
Canopy/Awning Signs	30% of total canopy area	n/a	Internal, Halo, Backlit, Acrylic Edge, Die-cut Metal, Open face Channel Letters	 Lettering, emblems, or logos are permitted on the upper awning surface itself or on the awning flap The awning flap may be no greater than 10 inches in height Maximum height of any sign face area attached to and located above the top of the canopy is 24 inches
Window Signs	25% of each window area	n/a	n/a	Only applies to signs placed within 2 feet of the window and are generally visible under normal conditions
Video Wall				Subject to DRC approval
Freestanding Signs	5			
Monument Signs	32 square feet	6 feet (including base)	Internal, External Directional	 Buildings must be setback more than 15 feet to qualify for a freestanding sign There shall be no more than 1 freestanding sign per per 650 feet of frontage per project. There shall be a minimum of 200 feet spacing in between signs Such signs shall be placed within a landscaped setting of not less than two hundred forty (240) square feet.
District Identity Signs	64 square feet	8 feet	Internal, External Directional	 Such signs shall be placed within landscaped area of four (4) square feet for each one square feet of sign area. Up to one (1) may be placed at each intersection with Porter Rockwell Blvd, North Loop Road, and South Loop Road

Sign Type	Area	Maximum Height	Illumination	Other Requirements
Incidental Pedestrian Signs	6 square feet	8 feet	Internal, External Directional	Examples include interpretive, trail/fitness, and wayfinding
Incidental Vehicular Signs	6 square feet	8 feet	Internal, External Directional	 Examples include but are not limited to parking directional and tenant identification signs Up to one (1) may be placed at driveway entrance from a public or private right of way Maximum of 2 may be placed in the front yard; side or rear yard - not limited
A-Frame/ Sidewalk Signs	8 square feet	4 feet	None Permitted	 1 permitted on the sidewalk in front of the business associated with the sign Sign shall be stabilized to withstand wind gusts A minimum of 5 feet of clear pedestrian access shall be maintained Businesses located in pedestrian alleyways or in courtyards are permitted one (1) A-Frame Sign at the entry to the alley or court. The sign may be lit for evening legibility
Neighborhood/ District Sign	64 square feet	8 feet	Internal, External Directional	 Up to one (1) may be placed at each intersection with Porter Rockwell Blvd, North Loop Road, and South Loop Road Such signs shall be placed within a landscaped setting of not less than two hundred forty (240) square feet.

6.3 Enhancement Zone Signage

The following guidelines are intended to provide higher standards of design, quality and finish in designed Enhancement Zones.

A. The Promenade

Intent

A collection of iconic, identity, and human-scaled signage types that celebrate diversity, richness, and street activation in a pedestrian-prioritized vibrant town center.

Guidelines

Required:

- Design identity signs on iconic buildings or at architectural features that are visible from various view points.
- 2. Implement identity signs for anchor tenants and at key locations that make a positive contribution to the general appearance of the street or pedestrian corridor in which they are located.
- 3. Provide overhead directional, wayfinding signage that guide pedestrians and vehicles to important public services and amenities along The Promenade.

Recommended:

- 1. Interactive digital signage.
- 2. Changeable copy/video as part of comprehensive signage program.

B. Pedestrian Alley

Intent

A collection of experimental and industrial art-focused signage that provides a diverse and immersive environment, and encourages exploration.

Guidelines

Required:

- 1. Design overhead internally-illuminated identity signage for anchor tenants and/or at entry gateway.
- 2. Create a "family" of tenant signage that creates graphic continuity throughout the space.

- 1. Use industrial materials that are both art and commercial copy.
- 2. Implement public art graphic murals on large blank walls.

- 3. Integrate painted wall graphics for wayfinding and information to important public amenities and key tenants.
- 4. Integrate a combination of bold, painted-wall tenant graphics and canopy signage.

C. R2R Courtyard

Intent

A collection of iconic, identity, and human-scaled signage types that provides diversity, richness, and to activate this all-season urban dining destination.

Guidelines

Required:

- 1. Implement identity signs for anchor tenants or at the gateway entry into the district that make a visual impact along the pedestrian corridor.
- 2. Install overhead gateway project signage that reinforces the identity for the district at various viewpoints.
- 3. Design imaginative and innovative primary, large-scaled placemaking signage at each gateway entry location.

Recommended:

- 4. Consider embedded informational graphics on architectural features to provide an element of surprise and discovery.
- 5. Select signage materials and colors that complement the all-season, vibrant, urban dining destination environment.

D. Central Green & Chapel Green

Intent

A collection of iconic and human-scaled signage types that provide a community park setting, combining festive, playful, and respite settings.

Guidelines

Required:

- Use materials that complement the surrounding environment.
- 2. Extend wayfinding throughout the Central Green zone including on the sides of the street opposite the parks to help visually enlarge the space(s)

Recommended:

3. Design imaginative and innovative primary, large-scaled placemaking signage integrated at key landscape feature and gateway areas.

E. River To Range Trail & Chapel Trail

Intent

A collection of identity and human-scaled signage types that provide diversity, richness combining nature and respite settings, unique within the trail system.

Guidelines

Required:

- 1. Design imaginative and innovative primary, large-scaled placemaking signage integrated at key landscape feature areas.
- 2. Design freestanding monuments at key locations along the trail, providing educational information about the site, sustainability and landscape features.

- 3. Consider pole mounted banner signs along the trail to identify points of interest and key locations.
- 4. Use materials that complement and are compatible with the surrounding environment.
- 5. Interpretive signage to provide information (e.g., history, geology)

Chapter 7: Parking and Mobility

7.1 Mobility at The Point

Intent

Thousands of Utahns helped shape the vision for The Point, and creating a multi-modal, future-focused transportation system was one of the highest priorities emphasized by residents and stakeholders. The Point represents a unique opportunity to provide a model for communities across Utah and throughout the country of how integrating smart mobility into the site's planning and design from the onset can deliver tangible, long-lasting benefits.

Development at The Point will support a one-car-household community that minimizes car dependence, reduces congestion, and supports regional transit investments and air quality goals. This is accomplished by providing residents, workers, and visitors with a range of transportation options and providing targeted incentives to make sustainable modes accessible, simple, and attractive for users.

Guidelines

Six guiding principles steered the development of The Point's mobility program:

- 1. **Transit-Supportive** utilize smart mobility to support regional transit investments and make sustainable options the first choice for getting to and around The Point.
- 2. **User-Centric** promote choice and extreme convenience in personal mobility using universal design principles to satisfy the needs of all users.
- **3.** Partnership-Driven encourage partnerships, both public and private, to accelerate innovation and deployment of mobility solutions to benefit all.
- **4. Technology-Enabled** Leverages emerging and innovative use of technologies to enable and incentivize smart decision making by all users and operators in the mobility ecosystem.
- 5. Park-Once-and Walk Parking will be located and managed to encourage convenient access from the larger region but promote high-quality pedestrian experiences after parking.
- **6. Practical and Proven** focus on technologies with a proven business model and use cases.

Required:

- Transportation Demand Management (TDM) Plan –
 Prior to the Certificate of Occupancy of one million
 square feet of gross building area a traffic demand
 management plan should be provided to POMSLA for
 review. Each project shall provide \$10,000 per 100,000
 sf of gross building area to be escrowed with the master
 developer for its share of the cost of the Traffic Demand
 Management Plan.
- Transportation Demand Manager Prior to the certificate of Occupancy of one million square feet of gross building area a travel demand manager will be hired by Developer, Association, PID or other entity to be created at the Point for the purpose of managing the Traffic Demand Management Plan.

The Point's mobility program consists of **five key elements:**

- 1. Parking Parking facilities for vehicles and bicycles will balance overall needs using state-of-the-art management and a park-once-and-walk methodology.
- Active Transportation and Micromobility A fleet of shared bikes, e-bikes, and e-scooters accompanied by design and technology solutions that deliver a safe, comfortable experience for people of all ages and abilities.
- 3. Car Share A fleet of shared cars that gives residents and workers access to a car when they need it while encouraging people to use transit, walking, and biking for more trips.
- 4. Mobility Hubs Dedicated spaces across the site that bring together the many mobility options at The Point including transit, circulators, active transportation, and micromobility—along with information, wayfinding, and amenities—to create a unified, easy to use, and convenient system.
- **5. Mobility as a Service** A platform that compiles The Point's mobility options into a single application and payment channel, enabling users to plan and pay for trips across different modes in one place. Residents and workers also receive discounts to incentivize using transit, walking, biking, and shared modes.

7.2 Vehicle and Bicycle Parking

A. Intent

Parking areas have been intentionally located to facilitate a "park once and walk environment" and to encourage shared parking arrangements. Consistent with the environmental sustainability standards which include a directive to reduce vehicle trips, these standards do not explicitly mandate minimum parking thresholds.

In general, parking facilities will be in structures and been placed away from public spaces so as not to disrupt the pedestrian journey. However, there are certain circumstances when these structures may be visible - hence the need for these guidelines.

B. Provision of Parking Intent

The adequate supply of parking in a mixed-use environment requires a fine-grained combination of parking space provision, management, and a diversity of mobility choices. Because parking needs are based purely on human behavior - the length of time for a particular stay and the willingness/ability of person to walk to a destination - they are difficult to manage from a regulatory perspective. To this end, these Guidelines set forth a set of minimum parking standards that seek to guard against unintended consequences of limited parking provision while encouraging creativity and technology in overall parking management.

Guidelines

Required:

- The minimum standards in the table on this page shall be provided using on-site space, on-street parking immediately in front of the proposed building, and/or off-site space as a part of an approved common parking strategy.
- These minimum standards may be further reduced with the submission of a parking study by a parking professional that demonstrates use of reduced market demand, shared strategies, travel demand management, and/ or other commonly accepted parking demand reduction techniques.
- 3. When UDOT has approved funding and a construction schedule established for a fixed-guideway transit system to be commenced within two (2) years, all areas within 1/4 mile of a planned station shall have no minimum parking standards. Temporary parking may be permitted in the interim.

Use	Minimum Requirement
Residential	
Accessory Dwelling Units	none
Group Living	1 per 6 persons design capacity
Housing	1 per dwelling unit
Student Housing	1 per 3 persons design capacity
Public, Institutional & Civic Uses	
Civic Uses	2 per 1000 sf
College/University	1 per 1000 sf of general space plus 1 per 10 seats in assembly areas
Day Care Center (Adult or Child)	2 per 1000 sf
Hospital	1 per 3 patient beds design capacity
Medical/Dental Clinic/Office	4 per 1000 sf
Schools, K-12	1 per 20 students design capacity
Commercial Uses	
Bowling Alley	2 spaces per lane
Health and Fitness Facility/Indoor Recreation	2 per 1000 sf
Lodging	1 per guest bedroom
Office (General Use)	2 per 1000 sf
Restaurants/Taverns/Brewpubs	2 per 1000 sf
Retail (General)	1.5 per 1000 sf
Retail (Centers over 55,000 sf of gross leasable area)	2 per 1000 sf
Theater, Live Performance or Movie	1 per 6 seats in assembly areas

- 4. Parking should be managed, to the extent practical, as a shared amenity across the various districts in The Point.
- 5. No more than 10% of the total parking spaces provided per project may by in a surface lot.
- 6. Interim surface parking may be provided subject to perimeter landscaping in Section 4.4.A except that interior plantings are not required.

C. Bicycle Parking Intent

To facilitate the usage of bicycles as a primary form of transportation around The Point, a set of minimum guidelines have been established.

Guidelines

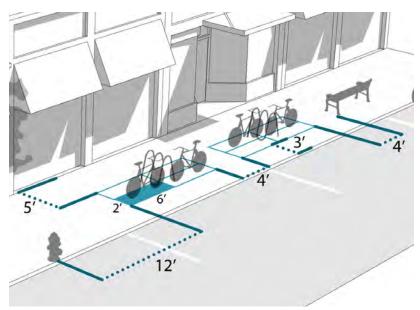
- Bicycle parking shall be placed in a convenient, highly-visible, active, and well-lit location not more than 75 ft walking distance of the main entrance, but shall not interfere with pedestrian movements.
- Bicycle parking is required in accordance with the table below for all uses except as noted below. The standards regarding bicycle parking shall apply to all new construction, expansions and changes in use. Bicycle parking for an individual site adjacent to or within the same block as mobility hub in the same or adjacent block.

Applicability	Requirement
Residential Uses	1 space per 3 units
Commercial Uses	1 space per 4,000 sq ft
All Other Uses	1 space per 5,000 sq ft

- 3. Each bicycle parking space shall provide 6 feet by 2 feet in area per bicycle and at least 4 feet between parallel racks for access.
- Bicycle racks installed on sidewalks should provide for a clear, unobstructed width of at least 5 feet for pedestrians and should be installed at least 3 feet from the face of the curb.
- 5. Bicycle parking shall be located no closer than 3 feet to any wall to provide adequate space for access and maneuvering and a minimum of 4 feet from existing street furniture and other obstruction (e.g., mailboxes, light poles, benches) and be no closer than 12 feet from the edge of fire hydrants. A bicycle rack or an equivalent design approved by the City of Draper shall have the ability to accommodate a minimum of five (5) bicycles.



Key Map - Conceptual Parking Locations



Appropriate placement of bike racks in a streetscape

- 6. Bicycle racks shall allow bicycles to be securely attached to the apparatus with a high security, U-shaped lock and shall be securely anchored to the ground, a building, or a paved surface. Sign poles, planters, and lighting shall not be considered bicycle parking racks to satisfy these requirements.
- 7. Acceptable bicycle parking elements, location, access, area, and site conditions shall conform to the latest edition of the Association of Pedestrian and Bicycle Professionals (APBP) Bicycle Parking Guidelines.
- 8. Maintenance: The required bicycle racks and spaces shall be maintained and kept clean and in proper working order at all times.
- 9. Bike Repair Stations: Prior to the Certificate of Occupancy of each 2 million square feet of gross building area a Bike Repair Station will be included in a location to be determined by the Developer in the project. Any project that does not include a Bike Repair Station shall provide \$20,000 per 100,000 sf of gross building area to be escrowed for its share of the cost of the Bike Repair Station.

D. Electric Vehicle Parking

Intent

To facilitate the implementation of zero-emission electric vehicles around The Point, a set of minimum guidelines have been established.

Specifications

- Light-duty Electric Vehicle Supply Equipment Ready (EVSE-Ready). Provision of electrical panel capacity and raceway to parking areas for the future installation of electric vehicle charging equipment.
- 2. Light-duty Electric Vehicle Supply Equipment Home Installation (EVSE-Home). Provision of 240-volt charging outlet within 10 feet of a parking space.
- 3. Light-duty Electric Vehicle Supply Equipment (EVSE). Provision of Level 2 (240-volt charging outlet) or greater (or its successor equivalent) equipped with Society of Automotive Engineer (SAE) J-1772 connectors to charge one EV at a time or two SAE J-1772 connectors to charge two EVs at once.

Guidelines

Required:

- Parking for electric vehicles is required based on the table below.
- 2. These provisions may be combined with the requirements for Car Share Stations in 7.2.E below.

Use	Applicability	Requirement	
All Residential	Less than 20 rooms/units	Minimum of 1 EVSE space	
and Lodging Uses	20 or more rooms/units	5% of all spaces shall have EVSE & Additional 15% shall be EV-Ready	
All other	20-50 provided spaces in a single development	10% shall be EVSE- Ready	
uses	50 or more provided spaces in a single development	5% of all spaces shall have EVSE & Additional 15% shall be EVSE-Ready	

3. Electric vehicle parking spaces shall be reserved for the exclusive use of electric vehicles.

E. Car Share

Intent

To provide a fleet of shared, electric cars available for short-term rentals. Car share provides users with access to a car when they need it while encouraging people to use transit, walking, and biking for more trips. At The Point, car share vehicles may be provided designated parking locations in parking facilities and on streets around the site.

Land Authority Guidelines

1. Contract with a car share vendor to provide and operate a fleet of shared electric cars at The Point.

Project Developer Guidelines

2. Car Share Stations - Prior to the Certificate of Occupancy of each one million five hundred thousand (1,500,000) square feet of gross building area, a Car Share Station will be included in a location to be determined by the Developer in the project that will include 6 electric vehicles for car sharing at each station. Any project that does not include a Car Share Station shall provide \$50,000 per 100,000 sf of gross building area to be escrowed for its share of the cost of the Car Share Station. This standard can be combined with the required EV parking in Section 7.2.D above. See the map in Section 7.3 for approximate distribution and locations.

F. Parking Structure Design

The following standards are intended to mitigate any negative aesthetics of structured parking. Large expanses of upper level facades on conventional parking decks should be screened with public art, graphic and/architectural embellishment. Ground floor treatments should encourage pedestrian activity with a combination of active uses and interesting facades as appropriate to the street.

Guidelines

Required:

- Where noted on the Urban Design Plan (Section 1.2), provide Active Uses or Active Frontages (as noted) along the ground floor frontage of parking structures to facilitate the visual aesthetic and comfort of the pedestrian journey
- Use architectural treatments to provide facade design variety and screen long spans of 3 or more parking structural bays with exposed slabs and columns, and parked vehicles from streets.
- 3. Any exposed elevations within 100 feet of a public right-of-way or greenway/trail should include both vertical and horizontal treatment that resembles patterns and architecture of the buildings within the development, including use of similar materials and a similar rhythm of window openings. Any openings shall be screened by a wall or panel measuring a minimum of 42 inches in height as measured from the finished surface of the parking level, using decorative elements such as grillwork, louvers, art, green walls, or a similar treatment.
- 4. Provide clear pedestrian entries. The vertical circulation for pedestrian access should not be located in the center of the structure so that it is difficult or circuitous to locate.
- Any openings for ventilation, service, or emergency access located at the first floor level in the building façade shall be designed as an integral part of the overall building design.
- 6. Ground-floor, street levels not identified as Active Use or Active Frontage:
 - Shall incorporate a minimum 10 feet landscape planter for screening
 - Parked cars shall not be visible
 - Engaging materials, patterns, shadows, and other devices shall be used to provide architectural interest





Liner retail that activates parking structure bases through operable facades and integrated architectural screening



Three-dimensional artistic screens

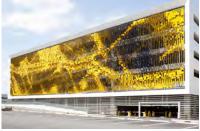


Illuminated screening as public art in front of structural elements





Three-dimensional architectural facade treatments including the continuation of window openings to blend in with surrounding contextual aesthetics





Public art installations as screens on large spans of building facades

- 7. Provide occupiable space to fully screen the structure along any pedestrian-oriented frontages.
- 8. Incorporate public art installations as screening elements, when required, along visible frontages of parking structures.

7.3 Mobility Hubs

Intent

Mobility hubs bring together a range of transportation options and amenities into a single location to enable seamless connectivity. Mobility hubs have the following key benefits:

- Bring together the many mobility options at The Point into a unified, easy to use, and convenient system.
- Improve availability of transportation information and wayfinding to empower smart decision making.
- Enable first/last mile connections to regional transit and the circulator.
- Foster "park once" behavior and reduce the need for expensive urban parking

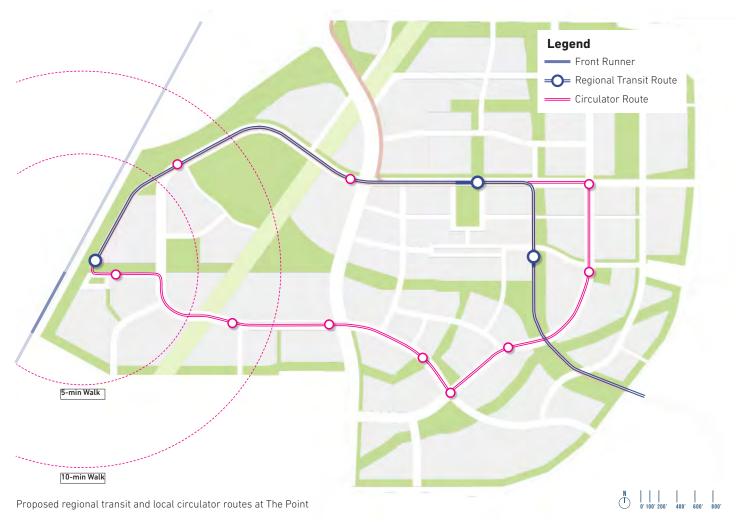
Two types of hubs are planned at The Point:

1. Major Mobility Hubs are located within a block of the site's regional transit stations and include amenities including bike/scooter sharing, transportation network company (TNC)/taxi spaces, and private bicycle parking. They use a combination of curbspace, space within the street furniture zone, and ground floor space in adjacent buildings and/or parking facilities.

2. Minor Mobility Hubs are smaller in scale than Major Mobility Hubs and use a combination of curbspace, space within the street furniture zone and ground floor space in adjacent buildings and/or parking facilities to provide mobility amenities.

Land Authority Responsibilities

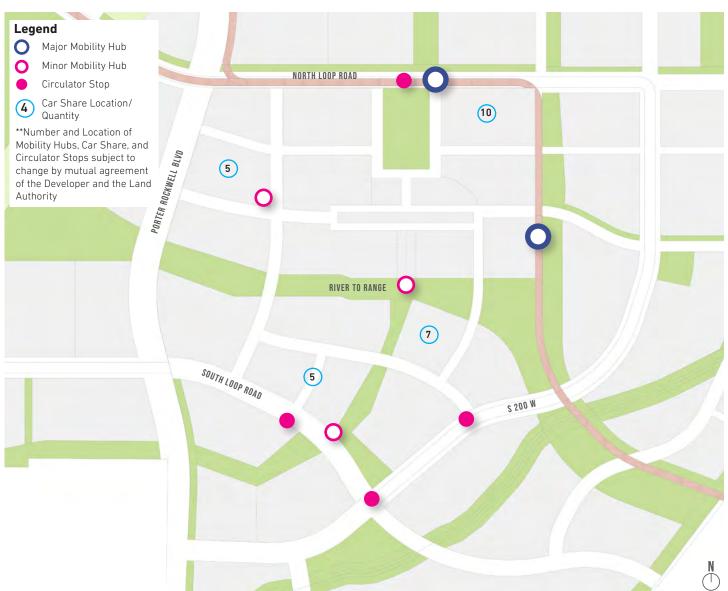
- 1. Construct regional mobility hubs at The Point's regional transit stations in coordination with UTA and adjacent project developers.
- 2. Construct Circulator stations in coordination with adjacent project developers.
- 3. Provide mobility rolling stock (e.g., shared bicycles, scooters) at each designated hub as apportioned.



Project Developer Responsibilities

- If a Major Mobility Hub is to be located within the specific phase of the project that is being developed, then the developer of that phase will coordinate with POMSLA on the design and approval of the Major Mobility Hub. Every project shall provide \$75,000 per 100,000 sf of gross building area to be escrowed for its share of the cost of the Major Mobility Hub.
- 2. If a Minor Mobility Hub is to be located in the approximate location show on the map below within the specific phase of the project that is being developed, then the developer of that phase will coordinate with POMSLA on the design and location of the Minor Mobility Hub. Every project shall provide \$35,000 per 100,000 sf of gross building area to be escrowed for its share of the cost of the Minor Mobility Hub.

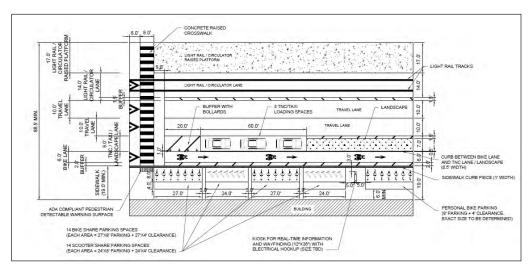
Mobility Hub Amenities	Total Spaces Allocated per Hub
Major Mobility Hub (2 planned in Phase 1)	
Bike/Scooter Share Spaces	34
Ride-hailing/Taxi Loading Spaces	3
Bike Parking (Can be combined with standards in 7.2.C)	10
Minor Mobility Hub (3 planned in Phase 1)	
Bike/Scooter Share Spaces	11
Ride-hailing/Taxi Loading Spaces	1
Bike Parking (Can be combined with standards in 7.2.C)	5



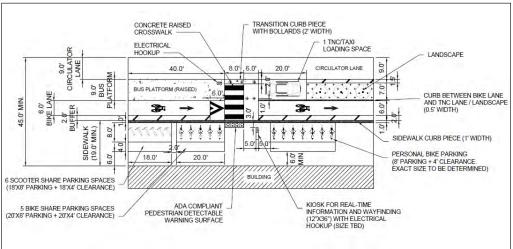
Map of approximate locations of major and minor mobility hubs (subject to change)



Conceptual Depiction of Major Mobility Hub



Typical Major Mobility Hub (image by Sam Schwartz and Associates subject to site-specific adjustments)



Typical Minor Mobility Hub (image by Sam Schwartz and Associates subject to site-specific adjustments)

7.4 Mobility as a Service Program

Intent

Mobility as a Service (MaaS) is a platform that compiles a menu of transportation options into a single application and payment channel, enabling users to plan and pay for trips across different modes in one place. Cities across the world are piloting partnerships with MaaS providers to test its potential.

The Point's MaaS program could consist of an app where residents, workers, and visitors can plan, book, and pay for their transportation across all available options. The MaaS program could also incorporate a mobility package for residents and workers that provides discounted UTA transit passes, memberships and discounts for shared mobility services (i.e., car share and micromobility). Ideally, residents and workers will be automatically enrolled in the MaaS program (with the option to opt-out) through their employer/rental company/homeowner's association.

Key Benefits

- Bring together the many mobility options at The Point into a unified, easy to use, and convenient system.
- Improve availability of transportation information and wayfinding to empower smart decision making.
- Incentivize alternatives to driving alone and reduce driving.
- Reduce the number of vehicles households at The Point own and foster a one-car community.
- Reduce the amount of expensive urban parking needed at The Point.
- Save families and employees at The Point money by lowering household transportation costs

Land Authority Responsibilities

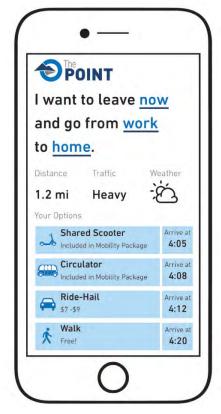
- 1. Coordinate closely with UTA on the agency's plans for MaaS or integrated fare payment infrastructure. Negotiate discounted transit pass rates.
- Contract with a vendor to develop the MaaS app, including front-end user interface and back-end system. Additional services required will include ongoing maintenance, program management, and performance monitoring.
- 3. Incorporate requirements into contracts/permits for mobility service providers (e.g., circulator operator, car share vendor, and shared micromobility vendor) to natively integrate with the MaaS system. Engage with mobility service providers without contracts/ permits with The Point (e.g., ride-hailing companies) to participate in the program.
- 4. Work with employers, rental companies, and associations at The Point to develop structure for enrolling workers and residents in the program. Develop education and informational materials on the MaaS program.

Project Developer Responsibilities

N/A







Conceptual example of MaaS app user interface with capability to plan, book, and pay for trips across modes and services.

Chapter 8: Sustainability Guidelines

Intent

All development at The Point is intended serve as a sustainable model of development and redevelopment in the state of Utah. To achieve this vision, development and infrastructure are expected to incorporate national and international best practices and be open to the innovation of new solutions to achieve a set of measurable goals that address carbon, energy, water, waste, mobility, and high performance systems. Of the established goals, those addressing carbon and water are the most important.

In some cases, a project will be able to demonstrate compliance using a well-tested accreditation system whereas in others, a modeling effort will be required. Given the long-term nature of development at The Point, it is expected that changes in technology and improvements in operations will help to surpass these minimum goals.

Note: All reduction thresholds are measured from BAU - Business as Usual

Land Authority Responsibilities

- Appoint a Sustainability Coordinator to provide compliance assistance to development teams and deliver ongoing education for capital and operating tools to improve overall performance.
- 2. Establish a dashboard to track sustainability performance on a voluntary basis across a range of measures for all aspects of development at The Point. Note that measurement tracking is not intended as a tool to ensure compliance with minimum standards.
- 3. Ensure compliance for all major infrastructure projects constructed by the Land Authority.
- 4. Coordinate with regional utility providers to achieve system-level improvements that are necessary antecedents for accomplishing the stated sustainability goals within The Point.
- 5. Maintain a regional clearinghouse for qualified local contractors and service providers.

A. Carbon & Energy

Achieving net zero carbon requires a comprehensive strategy that minimizes energy demand, utilizes systems that do not use fossil fuel and generates and utilizes clean energy. However, achieving this goal in a cost-effective manner requires strategies to be balanced to avoid pushing the required financial investment to a level that is challenging to justify. With this balance in mind, this section describes the energy strategies considered for The Point.

Embodied Carbon Reduction Goals

Required:

 Demonstrate within the design the intent to reduce embodied carbon generated during construction by providing the current Embodied Carbon in Construction Calculator (EC3) tool (https://docs.buildingtransparency. org/) or equivalent at the time of TRC approval that shows a more than 25% reduction in embodied carbon.

Operational Carbon Reduction Goals

Required

- 2. Reduce operational carbon by **35%**. The 35% reduction target is based upon the Energy Use Intensity ("EUI") calculations from the Energy Model at the time of Permitting.
- 3. Demonstrate within the design or program the intent to reduce operational carbon generated by each building to be supplied from clean energy sources, beyond the baseline provided by the utility purveyor. Potential pathways for clean energy sources include any combination of the following:
 - 35% on site renewable energy, including photovoltaics or geothermal
 - 35% off site renewable energy, including ground mounted solar arrays
 - 100% solar or renewable energy purchasing from the utility purveyor for retail, office, hotel buildings, or multifamily common areas
 - Other clean energy purchase agreements

Energy Reduction Goals

- 4. All projects shall be required to achieve a **55% reduction** in kBtu/sf/yr over the Baseline Energy Use Intensity (EUI) shown in the Table below, the ("55% Reduction Requirement"). This reduction can be achieved through efficient building design and/or through generating sufficient on/off-site energy to reduce the energy demand from the grid.
- 5. In achieving the 55% Reduction Requirement, and as a condition of plan approval for each building plan submittal, each submitted design must account for an energy reduction percentage from the Baseline EUI equal to or greater than the Percent Reduction Requirement shown in the table below. This will result in the maximum EUI produced by each building being no greater than those shown in the Maximum EUI column of the table.

Product Type	Baseline Energy Use Intensity (EUI)	Percent Reduction Requirement	Maximum EUI
Office	53.5 kBtu/sf/yr	21%	42.3 kBtu/sf/yr
Residential	40 kBtu/sf/yr	33%	26.8 kBtu/sf/yr
Retail	53.6 kBtu/sf/yr	7%	52.6 kBtu/sf/yr
Hospitality	55.9 kBtu/sf/yr	27%	40.8 kBtu/sf/yr
Event or Performance Venue	55.7 kBtu/sf/yr	33%	37.3 kBtu/sf/yr

6. The required reductions shall be shown by the use of an energy model done in conformance with, and in comparison to, the 2018 IECC for all commercial buildings and the 2015 IECC for residential buildings. This modeling will be in addition to energy modeling required to document compliance with the currently adopted energy code at the time the project is being permitted.

Example Energy Reduction Calculation

For example, an Office building design must demonstrate that it has a 21% reduction of energy use from the Office Baseline EUI of 53.5 kBtu/sf/yr, resulting in a maximum energy use of 42.3 kBtu/sf/yr.

If the modeled energy reduction for the building (the "Modeled Reduction") is equal to or greater than the 55% Reduction Requirement, then no further energy reduction measures must be taken. Because it is probable that the Modeled Reduction for a building may be less than the 55% Reduction Requirement, each submitted project must either (a) include plans to construct an on-site renewable energy source to generate sufficient additional power to offset the energy savings needed beyond the Modeled Reduction which are required to achieve the 55% Reduction Requirement, the ("Remainder Requirement"); or (b) set aside \$2 per kwh/ yr of the Remainder Requirement (the "Escrow Amount") to be placed in an escrow account managed by the Master Developer under the DDA as a pro-rata share contribution towards an on or off-site renewable energy source to be constructed in the future to offset the energy used by the project.

For further clarification, calculations for the Remainder Requirement and the Escrow Amount are provided for a sample residential building below:

Assume the energy model shows a Modeled EUI of 26.8 kBTU/sf/yr for a planned building, the ("Modeled EUI"). This building's Modeled EUI would qualify under the Percent Reduction Requirement because its Modeled EUI is equal to or below the Maximum EUI allowed for residential product.

The calculations for the Remainder Requirement would be as follows:

Product Type	Residential
Modeled EUI	26.8 kBTU/sf/yr (Provided by engineer based on design)
Modeled Reduction	13.2 kBTU/sf/yr (Baseline EUI – Modeled EUI)
55% Reduction Requirement	22 kBTU/sf/yr (55%) X Baseline EUI
Remainder Requirement	8.8 kBTU/sf/yr (Modeled Reduction – Remainder Requirement)

The calculations for the Escrow Amount would be as follows:

Gross Building Area	300,000 sf
Divisible Amount	3.412 (Fixed Given Number)
Kwh/yr Remaining	2.5791 kwh/yr (Remainder Requirement/Divisible Amount)
Escrow Rate	\$2.00 (Fixed Given Number)
Escrow Amount	\$1,547,460 (Gross Building Area X kwh/yr Remaining X Escrow Rate)

B. Water

Water is a precious resource in the Wasatch Front with natural sources limited largely to snowfall in the mountains. Population growth and inconsistent weather patterns have strained this system causing the need for aggressive measures to protect its availability. While there are significant water rights associated with The Point, it is critical that this district be a model of resource conservation for the entire region.

Water Reduction Goals

Required

- All projects will be piped to use non-potable water for irrigation from a source provided by POMSLA or the local water utility and will be connected when that source is provided.
- 2. Fixtures shall comply with the following minimum standards:
 - Toilet Flush Rate: 1.28 gallons per flush
 - Urinal Flush Rate: 0.125 gallons per flush
 - Commercial Lavatory Faucet Flow Rate: 0.35 gallons per minute
 - Residential Lavatory Faucet Flow Rate: 1.2 gallons per minute
 - Shower head Flow Rate: 1.8 gallons per minute
 - Kitchen Sink Faucet Flow Rate: 1.8 gallons per minute

C. High Performance Systems

Required

1. The following are High Performance Systems requirements by product type which must be included as part of the building design or the subsequent operational programming within the projects:

High Performance System	Product Type Requirement				
	Office	Retail	Hotel	Event	Apts
Smart Metering (Energy/Water)	Х	Χ	Χ	Х	Χ
Smart Thermostats	Х	Χ	Х	Х	Χ
Internet of Things (IOT) Sensors (Occupancy, Daylight, CO2)	Х	Х	Х	Х	
Intelligent Battery Management Systems (BMS)	Х			Х	
Lighting Controls	Х	Х	Х	Х	
	(X = required)				

D. Waste

Construction Waste Diversion

Required

 60% of Construction Waste during construction is required to be diverted from the Landfill. Documentation of this must be provided prior to the final Certificate of Occupancy.

Operational Solid Waste Diversion

Required

 At the time of TRC approval, each project will be required to provide a plan showing how the project is designed to divert solid waste. This includes the use of recycling and composting.

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Chapter 9: Design Review Procedures

The Point of the Mountain State Land Authority ("Land Authority") developed this design review process to ensure quality community development that will stand the test of time and achieve elevated design standards that accomplish the goals of the Utah State Legislature and the "Key Elements" adopted by the Board of Directors of the Land Authority (the "Board").

- "Concept Plan" means a general overall site plan of the concepts for development within all of Phase One, any other phase within the Overall Project, and any Sub Campus as recommended to the Board for approval by the DRC.
- "Individual Project" means any single building or group of buildings that occupy a single subdivision plat, including related infrastructure.
- "Infrastructure Project" means any wet or dry utility or service, parkway, open space, grading or roadway project that is not included within an Individual Project.

9.1 Review Agencies/Boards

A. Design Review Committee (DRC)

- 1. Roles and Responsibilities: The DRC shall act under the direction of the Executive Director to determine consistency with these Design Guidelines.
- 2. Application Oversight: Development plans or other development-related applications
- 3. Membership: The DRC consists of representatives from relevant fields with expertise required to evaluate The Point's complex development project. Members of the DRC are appointed by the Executive Director of the Land Authority ("Executive Director").
- Meeting Frequency: Bi-weekly (subject to subject to holidays, need, and unforeseen circumstances). The DRC will provide the anticipated schedule at the beginning of each year.

B. Design Review Executive Board (DREB)

- Roles and Responsibilities: The Design Review Executive Board will review appeals by the Developer regarding the decisions of the DRC and changes to the Priority Zone in the DDA.
- 2. Application Oversight: Appeals

3. Membership:

- The Executive Director;
- The DFCM Director;
- The Land Authority Director of Operations; and
- Other non-voting members as determined necessary by the Executive Director.
- 4. Meeting Frequency: As needed

C. Technical Review Committee (TRC)

- Roles and Responsibilities: The TRC ensures that all development within The Point is completed in conformance with the concept and specific approvals of the DRC, the state construction codes adopted by Utah Code, Applicable Law, and rules and policies of all entities providing services and utilities to The Point ("Technical Requirements"). The TRC is the primary building and construction permitting agency for Land Authority. TRC shall issue permits, execute subdivision and other site plans and dedication plats, and provide such other documents to confirm the approval of an Application.
- 2. Application Oversight: Subdivision plats, site plans, and schematic and construction documents.
- 3. Membership:
 - A representative of the Division of Facilities and Construction Management ("DFCM") appointed by the DFCM Director ("DFCM TRC Coordinator");
 - A building official;
 - A structural and code review official;
 - The State Fire Marshal;
 - A representative of Draper City with responsibility for transportation, water and public works; and
 - Any additional members as the DFCM TRC Coordinator determines necessary to sufficiently review an Application.
- 4. Meeting Frequency: The TRC will provide the anticipated schedule at the beginning of each year.

9.2 Design Review Requirements

A. Applicable to all Submissions

The following submission requirements pertain to all Applications.

- All submission materials shall be submitted digitally to the DFCM Electronic Document Management System ("EDMS") at: http://dfcm2.wc-3.com/login
- 2. Submission materials shall comply with the specific format requirements found at: https://dfcm.utah.gov/wp-content/uploads/2016-PDF-Submission-Requirements.pdf
- Questions and clarifications should be directed to the DRC coordinator.
- 4. All plans will be to the scale identified in the submittal requirements. If no scale is noted, the applicant may use its discretion.
- 5. Plans shall be prepared by a licenses/registered professional in accordance with all applicable codes.
- 6. Parcel, lot and tract numbers shall be labeled on all plans and other documents submitted for review.
- Any changes materially affecting an approved Application's conformity with the Design Requirements before or during the construction of an improvement must first be submitted for review and approval by the DRC.
- 8. Other Jurisdictions: The Point is on State of Utah lands with Land Authority having jurisdictional power of approval for land use, zoning, master plan, and infrastructure and building plan submissions. Other jurisdictions and agencies may be consulted and will require review of certain components, primarily regarding roads and infrastructure. Non-Land Authority and DFCM agency reviews and approval shall occur after conditional approval by the TRC. The entities from which review and approval will be required during the TRC review process, include, but are not limited to:
 - Rocky Mountain Power Power Grid Infrastructure;
 - Dominion Gas Natural and reclaimed gas infrastructure; and
 - South Valley Sewer District.

After documentation of third-party review and approval are provided to the TRC, the TRC will certify final approval within five (5) Business Days after agency approval.

B. Design Review and Approval

The design review process and requirements will vary depending on which type of project is under review. The Developer may make concurrent submissions to both the DRC and the TRC. Responsibility for Design Review will be shared between the Land Authority and DFCM through their representation on the DRC. The delegation of responsibility for lead review and approval is as shown in the following table.

Application Type	DRC Review	TRC Review
1. Concept Plan Update		
a) Pre-Design Meeting and Orientation	✓	
b) Concept Plan	✓	
2. Individual Project		
a) Pre-Design Meeting and Orientation	√	
b) Conceptual Site Plan & Building Design	√	
c) Schematic Plans - Subdivision Plats		✓
d) Construction Documents		✓
3. Infrastructure Project		
a) Pre-Design Meeting and Orientation		✓
b) Schematic Plans		√
c) Construction Documents		✓

C. Phase 1 Concept Plan Update

- 1. Reviewing Entity: DRC
- 2. Concept Plan Updates: The Phase One Concept Plan attached to the DDA is the approved Concept Plan for Phase One. A Concept Plan shall be submitted to the DRC for each phase of development and Sub Campus within the Overall Project for its review and recommendation to the Board. As development proceeds in Phase One, Developer shall update the Phase One Concept Plan at the following intervals for approval by the DRC that it meets the Design Requirements, confirms that the minimum density of 1.4 FAR requirement, and the design and use requirements of the DDA can be met:
 - Upon obtaining a certificate of occupancy for 1,600,000 gross square feet of buildings ("GBA") for Phase One;
 - Upon obtaining a certificate of occupancy for 3,200,000 GBA for Phase One; and
 - Upon obtaining a certificate of occupancy for 4,800,000 GBA for Phase One.

3. Concept Plan Review Process

- a. Step One: Pre-design meeting and orientation:
 The Developer shall meet with a Land Authority
 representative to review the design review
 process, regulatory documents relevant to the
 project, and site opportunities and constraints. It
 is recommended that applicant provide high-level
 concept studies to discuss with DRC representatives
 prior to engaging in more intensive plan
 development.
- b. Step Two: Concept Plan Package: Developer shall provide a conceptual package so issues can be identified prior to more detailed documentation.

Review Process	Approving Authority/ Required Application Materials	
Concept Plan Update		
a) Pre-Design Meeting and Orientation	DRC/Concept Plan	
b) Concept Plan	DRC/Concept Plan	

D. Individual Projects

- 1. Reviewing Entity: DRC & TRC
- 2. Application Due Date: One week prior to a meeting.
- 3. DRC Actions:
 - a. Determination of Completeness: If an Application is incomplete, the DRC will notify the applicant within four (4) days of receipt. The DRC may require any details it deems necessary to make a determination of compliance with all requirements.
 - b. Period for Review: The DRC will provide its recommendations within one week of a DRC meeting, unless the DRC requests clarifications from the applicant and requires additional time to review those clarifications. If the Developer has not received a decision related to an Application within thirty (30) days of a DRC meeting, the Developer may submit a request for decision and DRC shall provide its written decision within fourteen (14) days. Failure by DRC to act within the foregoing time period will result in the Application being deemed approved.
 - c. The DRC will present its findings in a single, consolidated report with a recommendation to the Technical Review Committee ("TRC").
 - d. If the Application is consistent with the Design Requirements, the DRC will approve the Application.

- e. If the Application is not consistent with the Design Requirements, the DRC will not approve the Application, but will identify the reasons for its determination and identify any changes needed to conform the Application consistent with the Design Requirements.
- f. If DRC representatives are unable to agree upon an approval determination, a determination of compliance with the Design Requirements shall be made by the Executive Director, whose decision will be the decision of the DRC. The Executive Director has the option of meeting with the Developer to clarify outstanding questions or issues.
- g. Appeals: The Developer shall have the right to appeal a DRC decision or recommendation to the DREB by submitting a statement of reasons for the appeal to the DREB. The DRC shall respond in writing to the statement of reasons within twenty (20) days of the Developer first filing its statement of reasons. The DREB shall hold a meeting within twenty (20) days of the DRC response. At the DREB meeting, DRC and Developer shall present on the nature of the dispute and the potential resolution. The DREB shall issue a written decision within thirty (30) days of the public meeting contemplated by this section.

8. TRC Actions:

- a. Under the direction of the Executive Director the TRC shall review an Application to determine its compliance with Technical Requirements:
- b. The TRC will present its findings and decision on the Application in a single consolidated report.
- c. Determination of Completeness: Within ten (10)
 Business Days from receipt of a DRC approved
 Application, the TRC shall determine if an
 Application is complete. If the TRC determines
 that it needs additional information or changes to
 apply the Technical Requirements and approve the
 Application, the TRC shall provide the Developer
 with a response identifying all of the deficiencies of
 the Application ("TRC Comments"). Upon Developer
 submitting revised plans and information in
 response to the TRC Comments, the TRC shall
 have an additional ten (10) Business Day period to
 determine if the resubmitted Application addresses
 the deficiencies identified in the TRC Comments, and
 that the Application is complete.

- d. The TRC shall identify any items not resolved by Developer's resubmission in a new set of TRC Comments within an additional ten (10) Business Day review period for the Developer to resolve the deficiencies. When the TRC has accepted an Application as complete, the TRC shall issue its decision on the Application within ten (10) Business Days, which may be conditioned upon service or utility provider commitment to serve.
- e. If the Application is consistent with the Technical Requirements, the TRC will approve the Application.
- f. If the Application is not consistent with the Technical Requirements, the TRC will not approve the Application, but will specify the reasons for its determination and identify any changes needed to conform the Application consistent with the Technical Requirements. If TRC determines that the Application is not consistent with the Design Requirements it shall refer those specific items to the DRC for resolution.
- g. If there is a dispute as to whether the Application meets the Technical Requirements, the DFCM TRC Coordinator shall determine what changes are required for the Application to comply with the Technical Requirements.

8. Review Process:

- a. Step One: Pre-Design Meeting and Orientation:
 The Developer shall meet with a Land Authority
 representative to review the design review process,
 regulatory documents relevant to the project, and
 site opportunities and constraints for the Individual
 Project. It is recommended that applicant provide
 high-level concept studies to discuss with DRC
 representatives prior to engaging in more intensive
 plan development.
- b. Step Two: Context Conceptual Plan: If the Individual Project within Phase One differs from the Phase One Concept Plan, then the Developer shall provide a context conceptual plan (each, a "Context Conceptual Plan") showing any additional revisions to the Phase One Concept Plan, if any, for the sites directly adjacent to the site of the Individual Project. Context Conceptual Plans may be submitted concurrent with the Step Three.
- c. Step Three: Concept Design: This package is meant to be conceptual in detail so issues and potential refinement can be identified prior to more detailed documentation.
- d. Step Four: Schematic Plans and Subdivision Plats: This package is intended to provide a refined level of detail for review by the TRC.
- e. Step Five Construction Documents: The Developer shall provide a full set of construction documentation for the Individual Project for review by the TRC.

f. Step Six – Execute Plats and Issue Permits: Upon determining the Application meets the Technical Requirements by the TRC, the TRC shall execute such subdivision or other plats and issue the permits necessary to complete the Individual Project.

Review Process	Approving Authority/ Required Application Materials	
Individual Project		
a) Pre-Design Meeting and Orientation	DRC/Concept Plan	
b) Context Conceptual Plan	DRC/Concept Plan for Surrounding Parcels	
c) Conceptual Site Plan & Building Design	DRC/Conceptual Site Plan & Building Design	
d) Schematic Plans & Subdivision Plats	TRC/Schematic Plan and/or Subdivision Plat	
e) Construction Documents	TRC/Per EDMS Application Requirements	
f) Execute Plats & Issue Permits	TRC/Per EDMS Application Requirements	

E. Infrastructure Projects

- 1. TRC Actions:
 - a. Under the direction of the Executive Director the TRC shall review an Application to determine its compliance with Technical Requirements:
 - b. The TRC will present its findings and decision on the Application in a single consolidated report.
 - c. Determination of Completeness: Within ten (10)
 Business Days from receipt of a DRC approved
 Application, the TRC shall determine if an
 Application is complete. If the TRC determines
 that it needs additional information or changes to
 apply the Technical Requirements and approve the
 Application, the TRC shall provide the Applicant
 with a response identifying all of the deficiencies of
 the Application ("TRC Comments"). Upon Developer
 submitting revised plans and information in
 response to the TRC Comments, the TRC shall
 have an additional ten (10) Business Day period to
 determine if the resubmitted Application addresses
 the deficiencies identified in the TRC Comments, and
 that the Application is complete.

d. Upon determining the Application meets the Technical Requirements by the TRC, the TRC shall issue such permits as are necessary to complete the Infrastructure Project.

Review Process	Approving Authority/ Required Application Materials
3. Infrastructure Project	
a) Pre-Design Meeting and Orientation	Concept Plan
b) Schematic Plans	TRC/Schematic Plan and/or Subdivision Plat
c) Construction Documents	TRC/Per EDMS Application Requirements

9.3 Submittal Requirements

A. Concept Plans

- Land Use Program and Statistical Summary Statistical summary of various uses envisioned including acreage, land use, density, gross floor area ("GFA"), floor to area ratio ("FAR"), parking, and other relevant components for each parcel.
- 2. Land Use Plan (1" = 100') Subject area divided into individual parcels with each parcel linked to the statistical summary noted above.
- 3. Master Site Plan (1" = 100') Conceptual site plan for subject area including at least the following:
 - Roadways, both public and private;
 - Building footprints with notations for ground floor and upper floor use and height;
 - Parks, plazas and other open spaces;
 - · Primary trail networks; and
 - Public transit facilities.

B. Conceptual Individual Project Plans

- Architectural Character Provide intentions as to architectural character for the Individual Project. Identify consistencies with and deviations from related criteria in the Design Guidelines. Provide image boards, concept elevations and/or sample 3-D renderings.
- 2. Parking Identify parking facilities and the buildings/ uses being served by each. Provide statistical summary including parking criteria and methodology utilized (e.g., shared). If parking is to be located on a surface parking area initially, describe circumstances for conversion to a structured or shared parking facility.
- 3. Mobility Program Define strategy for compliance with the Phase One project features regarding compliance with the Phase One mobility guidelines. Identify where facilities are located including trail and bikeway connections.
- 4. Conceptual Landscape Plan Provide a landscape concept for the Individual Project including:
 - Landscape character; and
 - Image boards to communicate intent.
- 5. Conceptual Sustainability Program Define strategy for compliance with the Phase One project features regarding sustainability set forth in the Phase One sustainability guidelines.

C. Schematic Plan and Subdivision Plats

- Land Use Program and Statistical Summary Detailed statistical summary of various uses envisioned including acreage, land use, density, GFA, FAR, parking and other relevant components for the Individual Project.
- 2. Subdivision Plats As applicable, a subdivision plat of the Individual Project with sufficient detail to meet the Technical Requirements applicable to such subdivision plats.
- 3. Schematic Site Plan (1"=50') Concept site plan for subject area including at least the following:
 - Roadways, both public and private;
 - Building footprints with notations for ground floor and upper floor use and height; and
 - Parks, plazas and other open spaces.
- 4. Floor Plans Floor plans to indicate organization of building by floor.
- Architectural Elevations Provide architectural elevations for all sides. Identify consistencies and deviations to related criteria in the Design Guidelines. Provide image boards, concept elevations and at least one 3-D rendering.
- 6. Parking Identify parking facilities and the buildings/ uses being served by each. Provide a statistical summary including parking criteria and methodology

- utilized. If a shared parking concept is used, include modeling summary. If parking is to be located on a surface parking area initially, describe circumstances for conversion to a structured or shared parking facility.
- Mobility Program Define strategy for compliance with the Phase One project features regarding mobility set forth in the Phase One sustainability guidelines. Identify where facilities are located including trail and bikeway connections.
- 8. Landscape Plan Provide a landscape plan for the site including:
 - Planting plan;
 - Plant palette;
 - Hardscape plan including lighting, outdoor furniture and materials samples; and
 - Image boards to communicate intent, materials and character.
- 9. Sustainability Program Define strategy for compliance with the Phase One project features regarding sustainability set forth in the Phase One sustainability guidelines.
- Signage Provide project-specific signage plan for public facing (exterior) areas, which must demonstrate consistency with the sign standards in the Design Requirements (as applicable).

D. Infrastructure Plans

- 1. Submissions shall meet the format and requirements of the EDMS submission system.
- 2. Schematic Plans: This package is intended to provide a refined level of detail. Multiple aspects of the Infrastructure Project should be expressed including, but not limited to, the following:
 - a. Summary Detailed summary of the proposed Infrastructure Project and the purpose it serves for an Individual Project and/or The Point.
 - b. Utility Plan (1"=50') As applicable, or as otherwise required by Land Authority, a utility plan for the subject area including at least the following:
 - Location of the Infrastructure Project in context within The Point; and
 - The locations, layouts, and sizes of all services within the Infrastructure Project, existing and proposed.
- 3. Construction Documents: The Developer shall provide a full set of construction documentation for the Infrastructure Project per the EDMS requirements.

Appendix A: Glossary of Terms

Arcade Sign

Signs that hang from the overhead structure, such as an awning or a canopy, above a pedestrian walkway or underneath an arcade.

Active Frontage

The portion of any building, typically the primary facade with a minimum of 60% glazing, that abuts or aligns with a public right-of-way or open space. Primary level entries are required on each building frontage.

Active Uses / Active Ground Floors

Uses within the ground floor of a building that provide retail, F&B, residential and office lobbies with perceivable occupancy and activity during daylight hours of weekdays and the weekend. This applies only to portions of the ground floor public streets or parks.

Such uses include, but are not limited to: Other tenantoccupied spaces, building lobbies not exceeding 60 feet, retail, food & beverage, civic functions, art galleries or cultural uses, and health clubs.

Uses that do not qualify as "active uses" include, but are not limited to: parking, loading, storage, and visible building service areas and utilities.

Architecture Feature

A prominent or significant design of a building, or a portion thereof, to express an important characteristic or point of interest.

Freestanding Sign

A sign mounted directly to the ground.

Gateway, Primary

Use of architecture features to frame a chief importance to a vehicular / pedestrian entry to a special district or neighborhood

Gateway, Secondary

Use of active uses / active ground floors to frame an important vehicular / pedestrian entry to a special district or neighborhood

Landscape Feature

A prominent or significant landscape element that expresses an important characteristic or point of interest.

Monument Sign

A free-standing ground sign generally having a low profile with little or no open space between the ground and the sign.

Projecting Sign

Signs that project from the facade of a building. For example, marquees, awnings (canopy), and blade signs all constitute a projecting sign.

Public Plaza / Event Plaza

A flexible outdoor public space that offers an area for community and quest events and various activities.

Sandwich or A-Frame Sign

Two boards facing opposite directions hinged at the top to create a self-supporting advertisement.

Skyline Sign

A sign attached to the topmost band or bands of the building facade.

Story

A story is a habitable level within a building from finished floor to finished ceiling. Unoccupied attics less than 7 feet in height and raised basements less than 6 feet in height (as measured from the average grade of the fronting sidewalk) are not considered stories for the purposes of determining building height. A mezzanine shall be considered a story if it is contiguous with at least 60% of the building's front façade, is designed to be occupiable, and maintains an average depth of at least 16 feet. A penthouse shall be considered a story if it exceeds one-third of the area of the roof. The under-roof area with dormers does not count as a story.

Wall-Mounted Sign

A sign that is attached directly to an exterior wall of a building or dependent upon a building for support and projects 18 inches or less from the wall of a structure with the exposed face of the sign in a plane substantially parallel to the face of the wall. Window signs, roof signs, and skyline signs are not considered wall signs.

Window Signage

Commercial content applied directly to a window or mounted within two feet of the window visible from the outside of the window.

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Appendix B: Landscape Plant List

Deciduous Trees

- Indicates trees suitable for streetscape application
- * Indicates Utah native species

Botanical Name	Common Name	Size HxW	Notes
Acer x freemanii	Freeman Maple	45'-60' x 20'-40'	
Amelanchier laevis • 'Spring Flurry'	Spring Flurry Serviceberry	20'-30' x 15'-25'	Single and multi-stem
Carpinus betulus 'Fastigiata'	European Hornbeam	30'-40' x 20'-30'	
Cercis canadensis	Eastern Redbud	20'-30' x 20'-30'	May need more water in full sun
Gleditisia triacanthos f. inermis	Thornless Honeylocust	40'-60' x 30'-40'	
Gingko biloba 'Autumn Gold'	Autumn Gold Maidenhair Tree	50'-80' x 30'-40'	
 Koelreuteria paniculata 	Goldenrain Tree	30'-40' x 25'-35'	
Prunus cerasifera	Flowering Plum	15'-30' x 15'-30'	
Prunus Sargentii	Sargent Cherry	20'-30' x 15'-20'	
Prunus x yedoensis	Yoshino Flowering Cherry	20'-30' x 20'-30'	
■ Tilia cordata	Littleleaf Linden	40'-50' x 20'-30'	
Ulmus 'Morton'	Accolade Elm	40'-60' x 30'-40'	Street/Shade Tree
Ulmus parvifolia	Lacebark Elm Japanese Zelkova	40'-60' x 40'-50'	Street/Shade Tree
Zelkova serrata 'City Sprite'	City Sprite Japanese Zelkova	20'-25' x 12'-18'	Street/Shade Tree
Zelkova serrata 'Green Vase'	Green Vase Japanses Zelkova	50'-80' x 40'-50'	Street/Shade Tree







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Coniferous Trees

- - Indicates trees suitable for development entrance application and non-traditional park strips with a minimum of 20 feet
- * Indicates Utah native species

Botanical Name	Common Name	Size HxW	Notes
* Abies concolor	White Fir	40'-70' x 20'-30	
Calocedrus decurrens	Incense Cedar	30'-50' x 8'-10'	
Cedrus atlantica	Blue Atlas Cedar	40'-60' x 30'-40'	
Cedrus deodora 'Karl Fuchs'	Deodar Cedar	40'-70' x 20-40'	
*Juniperus scopulorum	Rocky Mountain Juniper	10'-25' x 5'-15'	
Juniperus virginiana	Eastern Red Cedar	30'-65' x 8'-25'	
Picea abies	Norway Spruce	40'-60' x 25'-30'	
*Picea pungens	Colorado Blue Spruce	30'-60' x 10'-20'	
Pinus flexilis 'Vanderwolf's Pyramid'	Vanderwolf Pine	20-30' x 10'-15'	
Pinus nigra var. columnar	Austrian Pine	50'-60' x 20'-40'	
*Pseudotsuga menziesii	Douglas Fir	40'-80' x 12'-20'	







Image credit © Adobe Stock Images

Shrubs

* - Indicates Utah native species

Botanical Name	Common Name	Size HxW	Notes
Berberis thunbergii 'Concorde'	Concorde Barberry	2'-3' x 2'-3'	
Cornus alba 'Ivory Halo'	Ivory Halo Dogwood	4'-6' x 4'-6'	Best in consistently moist soil
Cornus sericea 'Kelseyi'	Kelsey's Red Twig Dogwood	2'-3' x 2'-3'	
Euonymus alatus	Dwarf Burning Bush	4'-6' x 4'-6'	
Juniperus squamata	Blue Star Juniper	1'-3' x 1'-4'	
Mahonia aquifolium 'Compacta'	Compact Oregon Grape	2'-3' x 2'-3'	
*Philadlphus microphyllus	Littleleaf Mock Orange	4'-5' x 4'-5'	
Picea abies 'Nidiformis'	Nesting Spruce	3'-5' x 4'-6'	
Pinus mugo 'Mops'	Mops Mugo Pine	3'-4' x 3'-4'	
Pinus mugo 'Slowmound'	Slowmound Mugo Pine	1'-3' x 2'-3'	
*Potentilla fruticosa	Shrubby Cinquefoil	3'-4' x 3'-4'	
*Prunus besseyi	Western Sand Cherry	4'-6' x 4'-6'	
Rhus aromatica 'Grow-Low'	Grow-Low Sumac	1.5'-2' x 6'-8'	Spreading, rambling
*Ribes alpinum	Alpine Currant	3'-6' x 3'-6'	
Rosa 'Meicoublan'	Meidiland Rose	1'-2' x 4'-6'	Spreading
Spiraea x bumalda 'Anthony Waterer'	Anthony Waterer Spiraea	2'-3' x 3'-4'	Need moderate amounts of water
Spiraea japonica 'Double Play'	Double Play Spirea	2'-3' x 2'-3'	
Spiraea thunbergii	Thunberg Spirea	3'-5' x 3'-5'	
*Symphoricarpos albus	Common Snowberry	3'-6' x 3'-6'	

Perennials

* - Indicates Utah native species

Botanical Name	Common Name	Size HxW	Notes
*Achillea spp.	Yarrow varieties	6"-36" x 18"-24"	
*Anaphalis margaritacea	Pearly Everlasting	1.5'-2' x 1.5'-2'	
*Antennaria parviflora/rosea	Pussy Toes, Pink Pussy Toes	4" x 1'-1.5'	
*Aquilegia spp.	Columbine varieties	1.5'-2' x 1.5'-2'	Cool, shady areas
*Asclepias speciosa	Showy Milkweed	3' x 3'	
*Astragalus utahensis	Utah Lady Finger; Milkvetch	6" x 1'	Needs good drainage
*Campanula spp.	Bellflower varieties	6"-1' x 1'-2'	
*Epilobum canum spp.	Hummingbird Trumpet varieties	1'-2' x 1.5'-4'	
*Eriogonum umbellatum	Sulfur Flower	1' x 1'-1.5'	
*Gaillardia aristata, grandiflora	Blanketflower varieties	2'-3' x 2'-3'	
*Geranium voscosissimum	Sticky Geranium	2'-3' x 2'-3'	
Hemerocallis spp.	Daylily	1'-4' x 1'-6'	
*Oenothera spp.	Evening Primrose varieties	6"-1' x 6"-2'	
*Penstemon spp.	Penstemon varieties	2'-4' x 1'-3'	Most need good drainage
Perovskia atriplicifolia	Russian Sage	3'-4' x 3'-4'	
*Ratibida columnifera	Prairie Coneflower, Mexican Hat	1.5'-2' x 1.5'-2'	Needs good drainage, low fertile soils
Salvia nemorosa 'May Night'	May Night Sage	12"-18" x 12"-18"	
*Sphaeralcea spp.	Globemallow	2'-3' x 1'-2'	

Groundcovers

* - Indicates Utah native species

Botanical Name	Common Name	Size HxW	Notes
* Arctostaphylos uva-ursi	Kinnickinnick	0.5'-1' x 3'-6'	
Cerastium tomentosum	Snow in Summer	6"-12" x 8"-12"	
Coreopsis verticillata 'Moonbeam'	Moonbeam Tickseed	18"-24" x 3'-4'	
Cotoneaster horizontalis	Rockspray Cotoneaster	2'-3' x 8'-12'	
*Fragaria spp.	Wild Strawberry varieties	2" x 24"	Utah natives F. vesca and F. virginiana
Galium odoratum	Sweet Woodruff	6"-12" x 8"-18"	Use in consistently moist areas
Helianthemum nummularium	Rock Rose	6"-12" x 2'-3'	
*Mahonia repens	Creeping Oregon Grape	1'-2' x 2'-4'	
Sedum spp.	Sedum varieties	4"-8" x 6"-14"	
Thymus spp.	Creeping Thyme varieities	1"-4" x 4"-12"	

Grasses

* - Indicates Utah native species

Botanical Name	Common Name	Size HxW	Notes
*Achnatherum speciosum	Desert Needlegrass	1'-2 x 1'-2'	
Bouteloua curtipendula	Sideoats Grama	18"-30" x 18"-24"	
Bouteloua gracilis	Blue Grama	8"-24" x 8"-18"	
Calamagrostis x acutiflora 'Overdam'	Overdam Feather Reed Grass	3'-5' x 18"-24"	
Calamagrostis x 'Karl Foerster'	Karl Foerster Feather Reed Grass	4'-6' x 2'-3'	
Carex spp.	Sedge varieties	12"-18" x 12"-24"	Use approved varieties only in moist areas (accent to water features/ drainage areas)
Chasmanthium latifolium	Northern Sea Oats	2'-4' x 1'-2'	Prefers moist soil; more shade tolerant than other grasses
*Festuca idahoensis	Idaho Fescue	1'-2' x 1'-2'	
*Leymus cinereus	Basin Wildrye	4'-6' x 2'-4'	
Muhlenbergia reverchonii	Ruby Muhly Grass	2'-3' x 18"-24"	Needs good drainage
*Oryzopsis/Stipa hymenoides	Indian Rice Grass	2' x 2'	
Schizachyrium scoparium	Little Bluestem	2'-3' x 1'-2'	
*Sporobolus airoides	Alkali Sacaton	2'-4' x 2'-3'	
Sporobolus heterolepis	Prairie dropseed	2'-3' x 2'-3'	

Appendix C: Image Credits

All graphics, diagrams and photographs by Arcadis unless noted below.

3.2 Building Design

A. General to all District

Page 17 (From Top to Bottom, Left to Right): Muse Apartments by GBD Design Team - https://www.gbdarchitects.com/portfolio-item/muse-apartments/; The Clayton Members Club Hotel by David Lauer - https://www.4240architecture.com/the-clayton-1/; St Paul Collection, Denver by David Lauer Photography - https://smdesign.com/work/rodeo-39?s=4; Mechanical Screen Courtesy of BOK Modern Products - https://bokmodern.com/products-standard/mechanical-screen/

B. Material and Color Guidelines

Page 19: Images Courtesy of SOM

Page 20 (From Top to Bottom): Wasatch House Courtesy of Olsen Kundig. com - https://olsonkundig.com/projects/wasatch-house/; Wabi Sabi Residence by Matt Winquist - https://www.dezeen.com/2023/01/10/sparano-mooney-cedar-wabi-sabi-residence-utah/; Remaining images Courtesy of SOM

3.4 Parking Facilities

B. Parking Facility Design

Page 23 (From Top to Bottom, Left to Right): Nino Market by Adria Goula - https://www.world-architects.com/en/architecture-news/reviews/remodeling-of-the-ninot-market; Santa Monica Parking Garages by John Edward Linden - https://www.archdaily.com/201412/santa-monica-parking-garage-brooks-scarpa; Mission Bay Parking Structure by Tim Griffith - https://www.wrnsstudio.com/project/mission-bay-parking-structure/; Santa Monica Civic Center Parking Structure by John Edward Linden - https://www.architecture-parking-structure/; Legacy Village of Sugarhouse Parking Structure Courtesy of Legacy Retirement Communities - https://www.aplaceformom.com/community/lagacyllage-of-sugar-house-1396388; Eskenazi Parking Garage by Serge noeltschi - https://www.architecturagazine.com/technology/architectural-detail/detail-mayseptember-installation-at-eskenazi-hospital-parking-garage_o; Lyric Centre Garage and Plaza Courtesy of Kirksey Architecture - https://www.kirksey.com/portfolio/projects/lyric-centre-garage-and-plaza

5.2 The Promenade

B. Building Design

Page 37 (From Top to Bottom, Left to Right): The Getty by Tim Fisher https://www.timfisherphotos.com/thegetty; Girard Residential by Gustav Hoitland - www.sgh.com; BMK Marina by Joachim Grothus for blocher partners - https://archello.com/pt/story/87766/attachments/photosvideos/1; Marthashof Residential by Stoffel Group - https://www.stoffelholding.de/immobilien-objekt/marthashof/?lang=en; Erewhon Market by Carlos R. Hernandez - <u>oculuslightstudio.com</u>; Superanfibio Cafe by Gonzalo Viramonte - https://worldarchitecture.org/architecture-news/egepc/ grupo-studio-designs-transparent-superanfibio-cafe-in-crdoba-argentina. html; Commonwealth Restaurant and Skybar by Commonwealth Restaurant & Skybar/Facebook - https://www.onlyinyourstate.com/virginia/rooftopdining-virginia/; Assembly row by Anthony Crisafulli - https://copley-wolff. com/assembly-row-phase-1; Blue Bottle Cafe by Courtesy of Blue Bottle - https://fortune.com/2022/04/24/blue-bottle-popular-coffee-chain-didntlay-off-a-single-employee-during-the-pandemic/; The Clayton Members Club Hotel by David Lauer - https://www.4240architecture.com/the-clayton-1/; Nike by Glendale by Courtesy of Nike - https://www.latimes.com/socal/ glendale-news-press/news/story/2020-02-21/nike-glendale-store-opens-inamericana-at-brand

C. Landscape & Lighting Design

Page 38 (From Top to Bottom, Left to Right): Santana Row by SWA - https://www.swagroup.com/projects/santana-row/; Pont Neuf by Karolina Samborska - https://landezine.com/pont-neuf-and-la-samaritaine-place-by-in-situ/; Seaport Village, Boston by Lance Tyrrell - Arcadis IBI Group; The Yards Convent Garden by Visit London - https://www.visitlondon.

com/things-to-do/place/8786019-yards-covent-garden; Nike ABC Mart by Masayuki Saito - oculuslightstudio.com.; Mayumi by Benny Chan - http://fotoworks.cc/; Santana Row by SWA - https://www.swagroup.com/projects/santana-row/

5.3 Pedestrian Alley

B. Building Design

Page 39 (From Top to Bottom, Left to Right): Powisle Park by Dodaj Do Porownania - https://officepoland.pl/biura-do-wynajecia/warszawa/powisle-park/386-2/; Chophouse Row by SKL/Graham Baba - https://wrbannext.net/chophouse-row/; Portsmouth New Hampshire Courtesy of Newhampshireway.com - https://newhampshireway.com/things-to-do-in-portsmouth-nh/; Chophouse Row by Alex Garland - https://www.capitolhillseattle.com/2020/08/reopening-new-at-chophouse-row-light-sleeper-terroir-bar-and-a-new-capitol-hill-outdoor-dining-street-closure/; Louis Vuitton Miami by Photo Courtesy of Louis Vuitton - https://www.architecturaldigest.com/gallery/art-basel-miami-travel-guide-shops-hotels-restaurants-slideshow

Page 40 (From Top to Bottom, Left to Right): Elephant Grounds Coffee by Zach Hone - https://homeworlddesign.com/elephant-grounds-coffee-star-street-jja-bespoke-architecture/; Peet's Coffee Donghu by Seth Powers Photography - https://www.architectmagazine.com/project-gallery/peets-coffee-donghu-road-kokaistudios

C. Landscape & Lighting Design

Page 40 (From Top to Bottom, Left to Right): Girl & The Goat by Hunter Kerhart - https://la.urbanize.city/post/arts-districts-mateo-unwrapped; Girl & The Goat by Wonho Frank Lee - https://song-new-inside-photos; The Dairy Block by Frank Ohts Andre Baros - https://sararch.com/project/dairy-block/; Girl & The Goat by Doug de Wet - https://foursquare.com/v/girl-the-goat/60c3a5ef874c56008f9ead87?openPhotold=60ea6e058ffe46363e790a52; Chophouse Row by Lara Swimmer, Tim Bies. Tony Archie Kim - http://grahambabaarchitects.com/chophouse-row; Row DTLA by Jim Simmons - jimsimmonsphotography.com; http://grahambabaarchitects.com/chophouse-row; Row DTLA by Jim Simmons - jimsimmonsphotography.com;

5.4 River To Range (R2R) Courtyard

B. Building Design

Page 41 (From Top to Bottom, Left to Right): 10 Barrel Brewing by Peter Eckert, Quanta Collectiv - https://www.seallp.com/work/hospitality/10-barrel-brewing-co; Cactus Club Cafe by Cactus Club Cafe - <a href="https://www.toronto.com/news/business/popular-chain-of-casual-fine-dining-restaurants-expands-to-etobicoke/article_a7418ac3-dc34-551a-8404-d5e4fc207a73.html; Perez Art Museum by Iwan Baan, Jaon Brough - https://www.ronstantensilearch.com/vertical-garden-hanging-gardens-at-the-perez-art-museum-miami/; Restoration Hardware Weho by RH - https://www.architecturaldigest.com/story/new-rh-west-hollywood; Restoration Hardware by Andrew Macpherson - https://d1e1jt2fj4r8r.cloudfront.net/2b1cef23-1b58-48f6-918a-d41417f94463/njQJtJKNB/8899%20
Beverty%20Neighborhood%20Booklet.pdf; The Line by Courtesy of Openaire - https://www.venuereport.com/venue/openaire/

C. Landscape & Lighting Design

Page 42 (From Top to Bottom, Left to Right): Pavillion Park, Great Park Neighborhoods by David Lauer Photography - rsmdesign.com/work/pavillion-park-irvine-ca; League of Captains Coffee Shop by Maria Mashkova - https://costacoffee19.blogspot.com/2021/03/coffee-shop-bandung-2020.html; Filifera Hollywood Proper by The Kor Group - https://thekorgroup.com/project/hollywood-proper-residences/; Hillshire Brands Roof Deck by Hillshire Brands - https://www.thinkconfluence.com/what-we-do/integrated-design/hillshire-brands-roof-deck; Catch Weho by Wonho Frank Lee - https://la.eater.com/2016/9/26/13055308/catch-west-hollywood-los-angeles; Loop Rooftop Bar Courtesy of Loop Roof and Loop Top - https://www.looprooftopbar.com.au/gallery/; Eataly NYC Flatiron by Courtesy of Eataly North America - https://lessthan3studio.com/serrabybirreriaw2021; Culver Steps by Jonnu Singleton - https://www.aialosangeles.org/event/

arch-tour-fest-12pm-the-culver-steps/; ROW DTLA by Jim Simmons - jimsimmonsphotography.com.; Galitsky Park, Krasnodar, Russia by Alexander Denisenko - Adobe Stock Photo, 443844555; Culver Steps by Eric Staudenmaier - https://www.architectmagazine.com/project-gallery/culver-steps_o

5.5 Central Green

B. Building Design

Page 43 (From Top to Bottom, Left to Right): Hubert Perrodo Building by Jim Stephenson - https://www.architectsjournal.co.uk/buildings/design-engine-completes-hubert-perrodo-building-for-university-of-oxford; The Nightingale Housing by Shannon McGrath - https://architecturenow.co.nz/articles/nightingale-1/#img=1; Sawmill Market by DPS Design - https://architecturenow.co.nz/articles/nightingale-1/#img=1; Sawmill Market by DPS Design - https://com/erewhon-studio-city/; Café Melba by Tafline Laylin - https://rdcollaborative.com/erewhon-studio-city/; Café Melba by Tafline Laylin - <a href="https://rdcollaborative.com/erewhon-st

C. Landscape & Lighting Design

Page 44 (From Top to Bottom, Left to Right): Seaport Village, Boston by Lance Tyrrell - Arcadis Group; The Point, El Segundo, CA Courtesy of AO Architects - https://www.aoarchitects.com/project/the-point; Koper Central Park by Miran Kambic - https://www.archidiaries.com/projects/kopercentral-park-enota/; Mango The Line by Jose Hevia - https://landezine.com/ mango-the-line-by-aeland/; Sovereign Square by Simone Vine - https:// mooool.com/en/sovereign-square-leeds-by-re-form.html; You Tube Offices by Oculus Studio - https://oculuslightstudio.com/2013/moonlit-theater/; Astera Pride Rama II by Tinnaphop Chawatin, Chakkraphob Sermphasit - https://thoughtfuldesign.co/2019/03/06/astera-pride-rama-ii/; UMass Southwest Concourse, MA by Charles Mayer - https://www.stimsonstudio. com/umass-southwest-concourse; Marin County Mart by Courtesy of Marin County Mart - https://www.mommynearest.com/edition/bay-area/article/ take-the-ferry-to-the-marin-country-mart-for-bites-shopping-and-events; Cafe Melba Courtesy of Tadcaster Hospitality - https://tadcaster.com.sg/cafemelba-goodman-arts-centre

5.6 River To Range (R2R) Trail

B. Building Design

Page 46 (From Top to Bottom, Left to Right): Marthashof Residential by Stoffel Group - https://www.stoffel-holding.de/immobilien-objekt/ marthashof/?lang=en; St Edmunds Terrace, London by Gareth Gardner - https://www.architonic.com/en/project/squire-and-partners-st-edmundsterrace/5103633; Marthashof Residential by Stoffel Group - https://www. stoffel-holding.de/immobilien-objekt/marthashof/?lang=en; St Paul Collection, Denver by David Lauer Photography - https://www.ls.lighting/ projects/st-paul-collection; Green Springs Sorano Hotel, Japan Courtesy of Goodtime Inc. - https://goodtimejapan.com/project/green-springs/; Conflux Brewing Company by BLRB Architects - https://www.ascent-architecture. <u>com/project/conflux-brewery/</u>; Cafe Santorini by Urban Dining Guide - https://urbandiningguide.com/city/pasadena-restaurants/place/cafesantorini-pasadena; 300 Ivy by Bruce Damonte - https://www.dbarchitect. com/projects/300-ivy; Santa Monica Parking Garages by John Edward Linden - https://www.archdaily.com/201412/santa-monica-parking-garagebrooks-scarpa; Legacy Village of Sugarhouse Parking Stucture Courtesy of Legacy Retirement Communities - https://www.aplaceformom.com/ community/legacy-village-of-sugar-house-1396388

C. Landscape & Lighting Design

Page 47 (From Top to Bottom, Left to Right): Carmel Farmers Market by Aaron Renn - https://aaronrenn.substack.com/archive?sort=top. Place D'Youville, Montreal by Raphael Thibodeau - https://ccxa.ca/en/projet/place-dyouville/. Rooftop Garden on Funan Mall, Singapore - Adobe Stock # 323128680; Klyde Warren Park, Dallas - Adobe Stock #472872983; UMass Southwest Concourse, MA by Charles Mayer - https://www.stimsonstudio.com/umass-southwest-concourse; San Jacinto Plaza by Jonnu Singleton - https://www.swagroup.com/projects/san-jacinto-plaza/; Highline, NYC - Adobe Stock #170947333

5.7 ChapelTrail

B. Building Design

Page 48 (From Top to Bottom, Left to Right): 15 Union Square West by Robert Granoff - https://www.archdaily.com/139966/15-union-square-west-oda-architecture-and-perkins-eastman-architects; 5 Pancras Square by Hufton + Crow - https://www.corbisstudio.com/projects/5-pancras-square-london#; Arbor Block 57 East by Corbis Studio - https://www.corbisstudio.com/featured-work.php?name=mixed-use-block-52-south-lake-union; The Maven Hotel at Dairy Block by Ayda Ayoubi - https://www.architectmagazine.com/project-gallery/the-maven-hotel-at-dairy-block o#;

Page 48 (From Top to Bottom, Left to Right): Santana Row courtesy Federal Realty - http://www.designforwalkability.com/casefive

C. Landscape & Lighting Design

Page 48 (From Top to Bottom, Left to Right): City Creek courtesy CRTKL - https://www.callisonrtkl.com/projects/taubman-company-city-creek-reserve-inc-ccri-lds/; Arbor Block 57 East by Corbis Studio - https://www.corbisstudio.com/featured-work.php?name=mixed-use-block-52-south-lake-union; Dallas Arts District - AdobeStock_195535835; Castle Braid Factory Courtesy Future Green Studio - https://architizer.com/projects/castle-braid-factory/

5.8 Chapel Green

B. Building Design

Page 50 (From Top to Bottom, Left to Right): Utah State Prison Chapel by Jeffrey D. Alfred - <a href="https://www.ksl.com/article/50404535/this-structure-will-remain-after-the-rest-of-the-utah-state-prison-is-torn-down; Carribean Park.courtesy Oculus - https://kennethpark.com/portfolio/santana-row/

C. Landscape & Lighting Design

Page 51 (From Top to Bottom, Left to Right): Buzi Park - AdobeStock_303586900; Bryant Park - AdobeStock_55335321; Beautiful park with bench - AdobeStock_76257590; University of California San Diego - AdobeStock_554688612; Santana Row courtesy Street Works Studio - https://www.streetworks-studio.com/project/santana-row/

6.1 General Provisions

C. General to all Districts

Page 53 (From Top to Bottom, Left to Right): Pacific City by Allison Richter Photography - rsmdesign.com/work/pacific city-huntington beach-ca; Halcyon Hotel by David Lauer Photography - Hotels / Multi-Units — Denver Architectural Photographer | David Lauer (davidlauerphotography.com); Meu Recanto Courtesy of Vecentaa Arts - https://www.alibaba.com/product-detail/Vincentaa-Customizable-Size-Metal-Signs-Park_1600586516451.html; New Have Marketplace by Allison Richter Photography - rsmdesign.com/work/new-haven; New Have Marketplace by Allison Richter Photography - rsmdesign.com/work/new-haven; Rodeo 39 Courtesy of RSM Design - https://rsmdesign.com/work/rodeo-39?m=7

Page 54 (From Top to Bottom, Left to Right): City Point Courtesy of Cook + Fox Architects - https://www.washsquare.com/portfolio/city-point.
httml; Pacific City by Allison Richter Photography - rsmdesign.com/work/post-blates
post District Courtesy of RSM Design - https://rsmdesign.com/work/post-district-salt-lake-city;
rsmdesign.com/work/lido-marina-village-newport-ca
Charles Smith Wines
benschneider
https://divisare.com/projects/229784-olson-kundig-charles-smith-wines

F. Illumination

Page 55 (From Top to Bottom, Left to Right): Glendora Public Market Courtesy of RSM design team - rsmdesign-glendora-public-market; Chophouse Row by Dunn & Hobbes LLC - https://www.chophouserow.com; Post District by AllisonRichter Photography - rsmdesign.com/work/montclair-place; Mesa Courty Towers Courtesy of RSM Design - https://rsmdesign.com/work/mesa-court-towers-irvine-ca

6.3 Enhancement Zones

Page 57 (From Top to Bottom, Left to Right): Runway Playa Vista by Allison Richter Photography - rsmdesign.com/work/runway-playa-vista-ca; New Haven Marketplace by Allison Richter Photography - rsmdesign.com/work/new-haven; Glendale Galleria Courtesy of RSM design team - rsmdesign.com/work/glendale-galleria; Monet Avenue by Jonnu Singleton - rsmdesign.com/work/glendale-galleria; Monet Avenue by Jonnu Singleton - rsmdesign.com/work/styline-richardson-tx; Silesian Museum in Katowice by Sonia Swiezawska - https://studioblank.pl/

portfolio_page/wayfınding-system-silesian-museum-in-katowice/; Everton Park Courtesy of RSM Design - https://rsmdesign.com/work/rodeo-39?s=4; Girl & The Goat by Doug de Wet - https://foursquare.com/v/girl--the-goat/60c3a5ef874c56008f9ead87?openPhotoId=60ea6e058ffe46363e790a52

Page 58 (From Top to Bottom, Left to Right): Novel Park by Allison Richter Photography - rsmdesign.com/work/novel-park; Crystal Valley Springs, Brazil Courtesy of Plakas Design - https://www.plakas.com.br/portfolio?lightbox=i2gzi; Riu Llobregat Park Courtesy of Essa Punt - https://essapunt.com/project/senaletica-riu-llobregat/; University Circle by Bob Perkoski - https://www.freshwatercleveland.com/features/wayfinding111512.aspx

7.2 Circulator

Page 60: Images Courtesy of SOM

7.3 Active Transportation and Micromobility

Page 61: Images Courtesy of SOM

7.3 Mobility Hubs

Page 64: Images Courtesy of SOM





Architects' Scope and Responsibility Matrix Exhibit

This Exhibit, dated the fourth day of April in the year 2025 is incorporated into the agreement (the "Agreement") between the Parties for the following Project: (In words, indicate day, month, and year.)

for the following **PROJECT**: (Name and location of the Project)

The Point – Pavilions Draper, Utah

OWNER:

(Name and address)

CLW POINT PARTNERS, LLC c/o Lincoln Property Company 8111 Douglas Ave, Suite 600 Dallas, TX 75225

DESIGN ARCHITECT:

(Name and address)

Rios, Inc. 3101 W. Exposition Place Los Angeles, CA 90018

ARCHITECT OF RECORD:

(Name and address)

Arcadis Inc. 333 South Hope Street, C200 Los Angeles, CA 90071

ADDITIONS AND DELETIONS:

The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An Additions and Deletions Report that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

User Notes:

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DESCRIPTION OF SERVICE		ISIBILITY	CLARIFICATIONS	
(This column includes a standard description of each service that may be required for the Project.)	Design Architect (DA)	Architect of Record (AOR)	(If the DA and AOR share respondence of the control	
§ A.1 SCHEMATIC DESIGN PHASE SERVICES				
§ A.1.1 Contact Governmental Authorities and Utilities. As appropriate for this phase of services, the Architect shall contact governmental authorities required to approve the Project and entities providing utility services to the Project. The Architect shall respond to applicable design requirements imposed by those authorities and entities.	R	N		
§ A.1.2 Assist in Filing Documents. As appropriate for this phase of services, the Architect shall assist the Owner in connection with the Owner's responsibility for filing documents required for the approval of governmental authorities having jurisdiction over the Project.	R	N		
§ A.1.3 Preliminary Evaluation. The Architect shall prepare a preliminary evaluation of the Owner's program, schedule, budget for the Cost of the Work, Project site, the proposed procurement and delivery method, and other Initial Information, each in terms of the other, to ascertain the requirements of the Project. The Architect shall notify the Owner of (1) any inconsistencies discovered in the information, and (2) other information or consulting services that may be reasonably needed for the Project.	R	N		
§ A.1.4 Present Preliminary Evaluation. The Architect shall present its preliminary evaluation to the Owner and shall discuss with the Owner alternative approaches to design and construction of the Project. The Architect shall reach an understanding with the Owner regarding the requirements of the Project.	R	N		
§ A.1.5 Preliminary Design. Based on the Project requirements agreed upon with the Owner, the Architect shall prepare and present, for the Owner's approval, a preliminary design illustrating the scale and relationship of the Project components.	R	N		
§ A.1.6 Schematic Design Documents. Based on the Owner's approval of the preliminary design, the Architect shall prepare Schematic Design Documents for the Owner's approval. The Schematic Design Documents shall consist of drawings and other documents including a site plan, if appropriate, and preliminary building plans, sections and elevations; and may include some combination of study models, perspective sketches, or digital representations. Preliminary selections of major building systems and construction materials shall be noted on the drawings or described in writing.	R	N		

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	DESCRIPTION OF SERVICE			ı - * °
	DESCRIPTION OF SERVICE	RESPON		CLARIFICATIONS
	(This column includes a standard description of each service that may be required	Design	Architect of	(If the DA and AOR share respon
	for the Project.)	Architect (DA)	Record (AOR)	architect assists the other, descri
ı	§ A.1.7 Consider Sustainable Design Alternatives. The Architect shall consider	R	N (AOR)	
Ш		K	IN	
	sustainable design alternatives, such as material choices and building orientation,			
	together with other considerations based on program and aesthetics, in developing a			
	design that is consistent with the Owner's program, schedule and budget for the Cost of the Work.			
i	§ A.1.8 Other Design Considerations. The Architect shall consider the value of	R	N	
	alternative materials, building systems and equipment, together with other			
	considerations based on program and aesthetics, in developing a design for the			
	Project that is consistent with the Owner's program, schedule, and budget for the			
	Cost of the Work.			
Ш	§ A.1.9 Meet with Cost Consultant. The Architect shall submit the Schematic Design	R	N	
	Documents to the Owner and the Cost Consultant. The Architect shall meet with the			
	Cost Consultant to review the Schematic Design Documents.			
П	§ A.1.10 Make Recommendations Regarding Cost. If, prior to the conclusion of the	R	N	
	Schematic Design Phase, the Cost Consultant's estimate of the Cost of the Work			
	exceeds the Owner's budget for the Cost of the Work, the Architect, in consultation			
	with the Cost Consultant, shall make appropriate recommendations to the Owner to			
	adjust the Project's size, quality or budget for the Cost of the Work, and the Owner			
	shall cooperate with the Architect in making such adjustments.			
М	§ A.1.11 Request Approval of Schematic Design Documents. The Architect shall	R	N	
	request the Owner's approval of the Schematic Design Documents.			
	§ A.1.12 Other			
	(Insert other Schematic Design Phase Services. Add rows as necessary.)			

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DESCRIPTION OF SERVICE		ISIBILITY	CLARIFICATIONS
(This column includes a standard description of each service that may be required	Design	Architect of	(If the DA and AOR share respon
for the Project.)	Architect (DA)	Record (AOR)	architect assists the other, descri
§ A.2 DESIGN DEVELOPMENT PHASE SERVICES			
§ A.2.1 Incorporate Revisions to Comply with the Budget. If revisions to the	R	N	
Schematic Design Documents are required to comply with the Owner's budget for			
the Cost of the Work at the conclusion of the Schematic Design Phase, the Architect			
shall incorporate the required revisions in the Design Development Phase.			
§ A.2.2 Contact Governmental Authorities and Utilities. As appropriate for this phase	R	N	
of services, the Architect shall contact governmental authorities required to approve			
the Project and entities providing utility services to the Project. The Architect shall			
respond to applicable design requirements imposed by those authorities and entities.			
§ A.2.3 Assist in Filing Documents. As appropriate for this phase of services, the	R	N	
Architect shall assist the Owner in connection with the Owner's responsibility for			
filing documents required for the approval of governmental authorities having			
jurisdiction over the Project.			
§ A.2.4 Design Development Documents. Based on the Owner's approval of the	R	N	
Schematic Design Documents, and on the Owner's authorization of any adjustments			
in the Project requirements and the budget for the Cost of the Work, the Architect			
shall prepare Design Development Documents for the Owner's approval. The			
Design Development Documents shall illustrate and describe the development of the			
approved Schematic Design Documents and shall consist of drawings and other			
documents including plans, sections, elevations, typical construction details, and			
diagrammatic layouts of building systems to fix and describe the size and character			
of the Project as to architectural, structural, mechanical and electrical systems, and			
other appropriate elements. The Design Development Documents shall also include			
outline specifications that identify major materials and systems and establish, in			
general, their quality levels.			
§ A.2.5 Meet with Cost Consultant. Prior to the conclusion of the Design	R	N	
Development Phase, the Architect shall submit the Design Development Documents			
to the Owner and the Cost Consultant. The Architect shall meet with the Cost			
Consultant to review the Design Development Documents.			

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(This column includes a standard description of each service that may be required	Design	Architect of	(If the DA and AOR share respon
for the Project.)	Architect	Record	architect assists the other, descri
for the Project.)	(DA)	(AOR)	architect assists the other, descri
§ A.2.6 Make Recommendations Regarding Cost. If, prior to the conclusion of the	R	N	
Design Development Phase, the Cost Consultant's estimate of the Cost of the Work			
exceeds the Owner's budget for the Cost of the Work, the Architect, in consultation			
with the Cost Consultant, shall make appropriate recommendations to the Owner to			
adjust the Project's size, quality or budget for the Cost of the Work, and the Owner			
shall cooperate with the Architect in making such adjustments.			
If the estimate of the Cost of the Work at the conclusion of the Design Development			
Phase exceeds the Owner's budget for the Cost of the Work, the Owner shall			
.1 give written approval of an increase in the budget for the Cost of the Work;			
.2 terminate in accordance with Agreement;			
.3 in consultation with the Architect, revise the Project program, scope, or			
quality as required to reduce the Cost of the Work; or,			
.4 implement any other mutually acceptable alternative.			
§ A.2.7 Request Approval. The Architect shall request the Owner's approval of the	R	N	
Design Development Documents.			
§ A.2.8 Other			
(Insert other Design Development Phase Services. Add rows as necessary.)			
S A 2 CONSTRUCTION DOCUMENTS DUASE			
§ A.3 CONSTRUCTION DOCUMENTS PHASE	<u> </u>	<u> </u>	
§ A.3.1 Incorporate Revisions to Comply with the Budget. If the Owner chooses to	A	R	See B103 for detailed description
revise the Project program, scope, or quality as required to reduce the Cost of the			comply with budget
Work in accordance with Section A.2.6, the Architect, without additional			
compensation, shall incorporate the revisions in the Construction Documents Phase			
as necessary to comply with the Owner's budget for the Cost of the Work at the			
conclusion of the Design Development Phase Services, or the budget as adjusted.			
The Architect's revisions in the Construction Documents Phase shall be the limit of			
the Architect's responsibility under this Section.			

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(This column includes a standard description of each service that may be required	Design	Architect of	(If the DA and AOR share respon
for the Project.)	Architect (DA)	Record (AOR)	architect assists the other, descri
§ A.3.2 Construction Documents. Based on the Owner's approval of the Design	N	R	
Development Documents, and on the Owner's authorization of any adjustments in			
the Project requirements and the budget for the Cost of the Work, the Architect shall			
prepare Construction Documents for the Owner's approval. The Construction			
Documents shall illustrate and describe the further development of the approved			
Design Development Documents and shall consist of Drawings and Specifications			
setting forth in detail the quality levels and performance criteria of materials and			
systems and other requirements for the construction of the Work. The Owner and			
Architect acknowledge that, in order to perform the Work, the Contractor will			
provide additional information, including Shop Drawings, Product Data, Samples			
and other similar submittals, which the Architect shall review in accordance with			
Section A.5.4.2.			
§ A.3.3 Contact Governmental Authorities and Utilities. As appropriate for this phase	N	R	
of services, the Architect shall contact governmental authorities required to approve			
the Project and entities providing utility services to the Project. The Architect shall			
incorporate the design requirements of governmental authorities having jurisdiction			
over the Project into the Construction Documents.			
§ A.3.4 Assist in Filing Documents. As appropriate for this phase of services, the	N	R	
Architect shall assist the Owner in connection with the Owner's responsibility for			
filing documents required for the approval of governmental authorities having			
jurisdiction over the Project.			
§ A.3.5 Procurement Information and Project Manual. During the development of the	N	R	
Construction Documents, the Architect shall assist the Owner in the development			
and preparation of (1) procurement information that describes the time, place, and			
conditions of bidding, including bidding or proposal forms; (2) the form of			
agreement between the Owner and Contractor; and (3) the Conditions of the Contract			
for Construction (General, Supplementary and other Conditions). The Architect			
shall also compile a project manual that includes the Conditions of the Contract for			
Construction and Specifications, and may include bidding requirements and sample			
forms.			

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(This column includes a standard description of each service that may be required	Design	Architect of	(If the DA and AOR share respon
for the Project.)	Architect (DA)	Record (AOR)	architect assists the other, descri
§ A.3.6 Meet with Cost Consultant about Construction Documents. Prior to the	N	R	
conclusion of the Construction Documents Phase, the Architect shall submit the			
Construction Documents to the Owner and the Cost Consultant. The Architect shall			
meet with the Cost Consultant to review the Construction Documents.			
§ A.3.7 Revisions to Comply with the Budget. After incorporation of modifications	N	R	
under Section A.3.1, the Architect shall, as an Additional Service, make any required			
revisions to the Drawings, Specifications or other documents necessitated by			
subsequent cost estimates that exceed the Owner's budget for the Cost of the Work,			
except when the excess is due to changes initiated by the Architect in scope, basic			
systems, or the kinds and quality of materials, finishes or equipment.			
§ A.3.8 Request Approval of Construction Documents. The Architect shall request the	N	R	
Owner's approval of the Construction Documents.			
§ A.3.9 Other			
(Insert other Construction Documents Phase Services. Add rows as necessary.)			

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DESCRIPTION OF SERVICE	RESPONSIBILITY		CLARIFICATIONS	
(This column includes a standard description of each service that may be required for the Project.)	Design Architect (DA)	Architect of Record (AOR)	(If the DA and AOR share respondence of the control	
§ A.4 PROCUREMENT PHASE SERVICES				
§ A.4 List of Prospective Contractors. The Architect shall assist the Owner in establishing a list of prospective contractors. Following the Owner's approval of the Construction Documents, the Architect shall assist the Owner in (1) obtaining either competitive bids or negotiated proposals; (2) confirming responsiveness of bids or proposals; (3) determining the successful bid or proposal, if any; and (4) awarding and preparing contracts for construction.	N/A	N/A	Owner responsible.	
§ A.4.1 Competitive Bidding				
§ A.4.1.1 Bidding Assistance. Bidding Documents shall consist of bidding requirements and proposed Contract Documents. The Architect shall assist the Owner in bidding the Project by: 1 facilitating the distribution of Bidding Documents to prospective bidders; 2 organizing and conducting a pre-bid conference for prospective bidders; 3 preparing responses to questions from prospective bidders and providing clarifications and interpretations of the Bidding Documents to the prospective bidders in the form of addenda; and, 4 organizing and conducting the opening of the bids, and subsequently documenting and distributing the bidding results, as directed by the Owner.	A	R		
§ A.4.1.2 Requests for Substitutions. If the Bidding Documents permit substitutions, upon the Owner's written authorization, the Architect shall, as an Additional Service, consider requests for substitutions and prepare and distribute addenda identifying approved substitutions to all prospective bidders.	A	R		

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DESCRIPTION OF SERVICE	RESPONSIBILITY		CLARIFICATIONS	
(This column includes a standard description of each service that may be required for the Project.)	Design Architect (DA)	Architect of Record (AOR)	(If the DA and AOR share respondence of the control	
§ A.4.2 Negotiated Proposals				
§ A.4.2.1 Proposal Assistance. Proposal Documents shall consist of proposal requirements and proposed Contract Documents. The Architect shall assist the Owner in obtaining proposals by: .1 facilitating the distribution of Proposal Documents for distribution to prospective contractors and requesting their return upon completion of the negotiation process; .2 organizing and participating in selection interviews with prospective contractors; .3 preparing responses to questions from prospective contractors and providing clarifications and interpretations of the Proposal Documents to the prospective contractors in the form of addenda; and, .4 participating in negotiations with prospective contractors, and subsequently preparing a summary report of the negotiation results, as directed by the Owner.	A	R		
§ A.4.2.2 Requests for Substitutions. If the Proposal Documents permit substitutions, upon the Owner's written authorization, the Architect shall, as an Additional Service, consider requests for substitutions and prepare and distribute addenda identifying approved substitutions to all prospective contractors. § A.4.3 Other	A	R		
(Insert other Procurement Phase Services. Add rows as necessary.)				

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(This column includes a standard description of each service that may be required	Design	Architect of	(If the DA and AOR share respon
for the Project.)	Architect (DA)	Record (AOR)	architect assists the other, descri
§ A.5 CONSTRUCTION PHASE SERVICES			
§ A.5.1 General			
§ A.5.1.1 Contract Administration. The Architect shall provide administration of the	N	R	(Advisory Note: In most cases, th
Contract between the Owner and the Contractor as set forth below and in AIA			having sole responsibility for adm
Document A201 TM –2017, General Conditions of the Contract for Construction. If			Owner and the Contractor.)
the Owner and Contractor modify AIA Document A201–2017, those modifications			
shall not affect the Architect's services under this Agreement unless the Owner and			
the Architect amend this Agreement.			
§ A.5.1.2 Advise and Consult During Construction. The Architect shall advise and	N	R	
consult with the Owner during the Construction Phase Services. The Architect shall			
have authority to act on behalf of the Owner only to the extent provided in this			
Agreement.			

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	for the Project.)	Architect (DA)	Record (AOR)	architect assists the other, describ	
	§ A.5.2 Evaluations of the Work				
	§ A.5.2.1 Site Visits. The Architect shall visit the site at intervals appropriate to the	N	R		
	stage of construction, or as otherwise required in the Agreement, to become				
	generally familiar with the progress and quality of the portion of the Work				
	completed, and to determine, in general, if the Work observed is being performed in				
	a manner indicating that the Work, when fully completed, will be in accordance with				
	the Contract Documents. However, the Architect shall not be required to make				
	exhaustive or continuous on-site inspections to check the quality or quantity of the				
	Work. On the basis of the site visits, the Architect shall keep the Owner reasonably				
	informed about the progress and quality of the portion of the Work completed, and				
	promptly report to the Owner (1) known deviations from the Contract Documents,				
	(2) known deviations from the most recent construction schedule submitted by the				
Į	Contractor, and (3) defects and deficiencies observed in the Work.				
ı	§ A.5.2.2 Authority to Reject Work. The Architect has the authority to reject Work that	N	R		
	does not conform to the Contract Documents. Whenever the Architect considers it				
ı	necessary or advisable, the Architect shall have the authority to require inspection or				
1	testing of the Work in accordance with the provisions of the Contract Documents,				
	whether or not the Work is fabricated, installed or completed. However, neither this				
ı	authority of the Architect nor a decision made in good faith either to exercise or not				
	to exercise such authority shall give rise to a duty or responsibility of the Architect to				
I	the Contractor, Subcontractors, suppliers, their agents or employees, or other persons				
	or entities performing portions of the Work.				

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for the Project.)	Architect	Record	architect assists the other, descri
	(DA)	(AOR)	
§ A.5.2.3 Interpret Contract Documents. The Architect shall interpret and decide	N	R	
matters concerning performance under, and requirements of, the Contract			
Documents on written request of either the Owner or Contractor. The Architect's			
response to such requests shall be made in writing within any time limits agreed			
upon or otherwise with reasonable promptness. Interpretations and decisions of the			
Architect shall be consistent with the intent of, and reasonably inferable from, the			
Contract Documents and shall be in writing or in the form of drawings. When			
making such interpretations and decisions, the Architect shall endeavor to secure			
faithful performance by both Owner and Contractor, shall not show partiality to			
either, and shall not be liable for results of interpretations or decisions rendered in			
good faith. The Architect's decisions on matters relating to aesthetic effect shall be			
final if consistent with the intent expressed in the Contract Documents.			
§ A.5.2.4 Serve as Initial Decision Maker. Unless the Owner and Contractor designate	N	R	(Advisory Note: In most cases, or
another person to serve as an Initial Decision Maker, as that term is defined in AIA			as serving as the Initial Decision
Document A201–2017, the Architect shall render initial decisions on Claims			
between the Owner and Contractor as provided in the Contract Documents.			

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(This column includes a standard description of each service that may be required for the Project.)	Design Architect (DA)	Architect of Record (AOR)	(If the DA and AOR share respondence of the control
§ A.5.3 Certificates for Payment to Contractor			
§ A.5.3.1 Review Applications for Payment. The Architect shall review and certify the amounts due the Contractor and shall issue certificates in such amounts. The Architect's certification for payment shall constitute a representation to the Owner, based on the Architect's evaluation of the Work as provided in Section A.5.2 and on the data comprising the Contractor's Application for Payment, that, to the best of the Architect's knowledge, information and belief, the Work has progressed to the point indicated, the quality of the Work is in accordance with the Contract Documents, and that the Contractor is entitled to payment in the amount certified. The foregoing representations are subject to (1) an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, (2) results of subsequent tests and inspections, (3) correction of minor deviations from the Contract Documents prior to completion, and (4) specific qualifications expressed by the Architect. The issuance of a Certificate for Payment shall not be a representation that the Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work, (2) reviewed construction means, methods, techniques, sequences or procedures, (3) reviewed copies of requisitions received from Subcontractors and suppliers and other data requested by the Owner to substantiate the Contractor's right to payment, or (4) ascertained how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.	N	R	
§ A.5.3.2 Maintain Records of Applications and Certificates for Payment. The Architect shall maintain a record of the Applications and Certificates for Payment.	N	R	

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DESCRIPTION OF SERVICE	RESPONSIBILITY		CLARIFICATIONS	
(This column includes a standard description of each service that may be required for the Project.)	Design Architect (DA)	Architect of Record (AOR)	(If the DA and AOR share respondance architect assists the other, described as a secondary to the content of th	
§ A.5.4 Submittals	(27.)	(, (5) ()		
§ A.5.4.1 Review the Contractor's Submittal Schedule. The Architect shall review the Contractor's submittal schedule and shall not unreasonably delay or withhold approval of the schedule. The Architect's action in reviewing submittals shall be taken in accordance with the approved submittal schedule or, in the absence of an approved submittal schedule, with reasonable promptness while allowing sufficient time, in the Architect's professional judgment, to permit adequate review.	N	R		
§ A.5.4.2 Review Contractor's Submittals. The Architect shall review and approve, or take other appropriate action upon, the Contractor's submittals such as Shop Drawings, Product Data and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. Review of such submittals is not for the purpose of determining the accuracy and completeness of other information such as dimensions, quantities, and installation or performance of equipment or systems, which are the Contractor's responsibility. The Architect's review shall not constitute approval of safety precautions or construction means, methods, techniques, sequences or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.	N	R		
§ A.5.4.3 Review of Delegated Design. If the Contract Documents specifically require the Contractor to provide professional design services or certifications by a design professional related to systems, materials, or equipment, the Architect shall specify the appropriate performance and design criteria that such services must satisfy. The Architect shall review and take appropriate action on Shop Drawings and other submittals related to the Work designed or certified by the Contractor's design professional, provided the submittals bear such professional's seal and signature when submitted to the Architect. The Architect's review shall be for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect shall be entitled to rely upon, and shall not be responsible for, the adequacy and accuracy of the services, certifications, and approvals performed or provided by such design professionals.	N	R		

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The Design Architect (DA) and Architect of Record (AOR) shall provide the Basic Services assigned to them in the Responsibility columns, which designations:

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	DESCRIPTION OF SERVICE	RESPON	<u> </u>	CLARIFICATIONS
	(This column includes a standard description of each service that may be required	Design	Architect of	(If the DA and AOR share respon
	for the Project.)	Architect	Record	architect assists the other, describ
		(DA)	(AOR)	
	§ A.5.4.4 Requests for Information. Subject to the Additional Services provision of	N	R	
	the Agreement, the Architect shall review and respond to requests for information			
	about the Contract Documents. The Architect shall set forth, in the Contract			
	Documents, the requirements for requests for information. Requests for information			
	shall include, at a minimum, a detailed written statement that indicates the specific			
	Drawings or Specifications in need of clarification and the nature of the clarification			
	requested. The Architect's response to such requests shall be made in writing within			
	any time limits agreed upon, or otherwise with reasonable promptness. If			
	appropriate, the Architect shall prepare and issue supplemental Drawings and			
ļ	Specifications in response to the requests for information.			
	§ A.5.4.5 Maintain Submittal Records. The Architect shall maintain a record of	N	R	
	submittals and copies of submittals supplied by the Contractor in accordance with			
	the requirements of the Contract Documents.			
	§ A.5.5 Changes in the Work			
	§ A.5.5.1 Order Minor Changes in the Work. The Architect may order minor changes	N	R	
	in the Work that are consistent with the intent of the Contract Documents and do not			
1	involve an adjustment in the Contract Sum or an extension of the Contract Time.			
	Subject to the Additional Services provision of the Agreement, the Architect shall			
	prepare Change Orders and Construction Change Directives for the Owner's			
	approval and execution in accordance with the Contract Documents.			
	§ A.5.5.2 Maintain Change Order Records. The Architect shall maintain records	N	R	
	relative to changes in the Work.			

The Design Architect (DA) and Architect of Record (AOR) shall provide the Basic Services assigned to them in the Responsibility columns, which designations:

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DESCRIPTION OF SERVICE	RESPONSIBILITY		CLARIFICATIONS	
(This column includes a standard description of each service that may be required	Design Architect	Architect of Record	(If the DA and AOR share respon	
for the Project.)	(DA)	(AOR)	architect assists the other, descri	
§ A.5.6 Project Completion				
§ A.5.6.1 Certificate of Substantial Completion. The Architect shall:	N	R		
.1 conduct inspections to determine the date or dates of Substantial				
Completion and the date of final completion;				
.2 issue Certificates of Substantial Completion;				
.3 forward to the Owner, for the Owner's review and records, written				
warranties and related documents required by the Contract Documents and received from the Contractor; and,				
.4 issue a final Certificate for Payment based upon a final inspection				
indicating that, to the best of the Architect's knowledge, information, and				
belief, the Work complies with the requirements of the Contract				
Documents.				
The Architect's inspections shall be conducted with the Owner to check				
conformance of the Work with the requirements of the Contract Documents and to				
verify the accuracy and completeness of the list submitted by the Contractor of Work				
to be completed or corrected.				
§ A.5.6.2 Inform Owner about Retainage. When Substantial Completion has been	N	R		
achieved, the Architect shall inform the Owner about the balance of the Contract				
Sum remaining to be paid the Contractor, including the amount to be retained from				
the Contract Sum, if any, for final completion or correction of the Work.	NT.	D		
§ A.5.6.3 Forward Closeout Documentation. The Architect shall forward to the Owner the following information received from the Contractor: (1) consent of surety or	N	R		
sureties, if any, to reduction in or partial release of retainage or the making of final				
payment; (2) affidavits, receipts, releases and waivers of liens, or bonds				
indemnifying the Owner against liens; and (3) any other documentation required of				
the Contractor under the Contract Documents.				
§ A.5.6.4 Conduct Post-Completion Meeting. Upon request of the Owner, and prior to	N	R		
the expiration of one year from the date of Substantial Completion, the Architect				
shall, without additional compensation, conduct a meeting with the Owner to review				
the facility operations and performance.				

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- 1	The parties agree that if a son in the Responsibility commit is test stand, the respecti	stitty jo: tite applicate se: ricely		
	DESCRIPTION OF SERVICE	RESPONSIBILITY		CLARIFICATIONS
	(This column includes a standard description of each service that may be required	Design	Architect of	(If the DA and AOR share respon
	for the Project.)	Architect	Record	architect assists the other, describ
		(DA)	(AOR)	
	§ A.5.7 Other (Insert other Construction Phase Services. Add rows as necessary.)			
	(insert other Construction Fhase Services. Add rows as necessary.)			

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SUPPLEMENTAL SERVICES

The services listed below are not included in Basic Services but may be required for the Project. The Design Architect (DA), Architect of Record (services assigned to them in the Responsibility columns below, which shall be indicated by the following designations:

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DESCRIPTION OF SERVICE		SPONSIBIL		CLARIFICATIONS
(Describe in detail the Supplemental Services in each prompt below or, if set forth in an exhibit, identify the exhibit. The AIA publishes a number of Standard Form of Architect's Services documents that can be included as an exhibit to describe the Architect's Supplemental Services.)	Design Architect (DA)	Architect of Record (AOR)	Owner	If there is shared responsibility f another, describe that relationsh
§ A.6.1 Programming	N	N	R	
§ A.6.2 Multiple preliminary designs	N	N	R	
§ A.6.3 Measured drawings	N	N	R	
§ A.6.4 Existing facilities surveys	N	N	R	
§ A.6.5 Site evaluation and planning	N	N	R	
§ A.6.6 Building Information Model management responsibilities	N	R	N	
§ A.6.7 Development of Building Information Models for post construction use	N	N	R	
§ A.6.8 Civil engineering	N	N	R	
§ A.6.9 Landscape design	N	N	R	
§ A.6.10 Architectural interior design	N	N	R	
§ A.6.11 Value analysis	N	N	R	
§ A.6.12 Cost estimating	N	N	R	
§ A.6.13 On-site project representation	N	N	R	

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(The parties agree that if a box in the Responsibility column is left blank, the	ie respective	e pariy nas i	no responsi			
DESCRIPTION OF SERVICE	RE	SPONSIBIL	ITY	CLARIFICATIONS		
(Describe in detail the Supplemental Services in each prompt below or, if set forth in an exhibit, identify the exhibit. The AIA publishes a number of Standard Form of Architect's Services documents that can be included as	Design Architect (DA)	Architect of Record (AOR)	Owner	If there is shared responsibility fanother, describe that relationsh		
an exhibit to describe the Architect's Supplemental Services.)	N.	- D	N.T.	A A 11% 1.0		
§ A.6.14 As-designed record drawings	N	R	N	As Additional Service		
§ A.6.15 As-constructed record drawings	N	N	R			
§ A.6.16 Post-occupancy evaluation	N	N	R			
§ A.6.17 Facility support services	N	N	R			
§ A.6.18 Tenant-related services	N	N	R			
§ A.6.19 Architect's coordination of the Owner's consultants	N	R	R			
§ A.6.20 Telecommunications/data design	N	R	N			
§ A.6.21 Security evaluation and planning	N	N	R			
§ A.6.22 Sustainable Project Services	N	R	N			
§ A.6.23 Historic preservation	N	N	R			
§ A.6.24 Furniture, furnishings, and equipment design	N	N	R			
§ A.6.25 Other services provided by specialty Consultants	N	N	R			
§ A.6.26 Other Supplemental Services						
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Architects' Scope and Responsibility Matrix Exhibit

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This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

Additions and Deletions Report for

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PAGE 1

This Exhibit, dated the <u>fourth</u> day of <u>April</u> in the year <u>2025</u> is incorporated into the agreement (the "Agreement") between the Parties for the following Project:

. .

<u>The Point – Pavilions</u> <u>Draper, Utah</u>

...

CLW POINT PARTNERS, LLC c/o Lincoln Property Company 8111 Douglas Ave, Suite 600 Dallas, TX 75225

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Rios, Inc.
3101 W. Exposition Place
Los Angeles, CA 90018

...

Arcadis Inc.
333 South Hope Street, C200
Los Angeles, CA 90071
PAGE 2

§ A.1.1 Contact Governmental Authorities and Utilities. As appropriate for this phase	<u>R</u>	N	
of services, the Architect shall contact governmental authorities required to approve			
the Project and entities providing utility services to the Project. The Architect shall			
respond to applicable design requirements imposed by those authorities and entities.			
§ A.1.2 Assist in Filing Documents. As appropriate for this phase of services, the	<u>R</u>	<u>N</u>	
Architect shall assist the Owner in connection with the Owner's responsibility for			
filing documents required for the approval of governmental authorities having			
jurisdiction over the Project.			

§ A.1.3 Preliminary Evaluation. The Architect shall prepare a preliminary evaluation of the Owner's program, schedule, budget for the Cost of the Work, Project site, the proposed procurement and delivery method, and other Initial Information, each in terms of the other, to ascertain the requirements of the Project. The Architect shall notify the Owner of (1) any inconsistencies discovered in the information, and (2) other information or consulting services that may be reasonably needed for the	<u>R</u>	N	
Project.			
§ A.1.4 Present Preliminary Evaluation. The Architect shall present its preliminary evaluation to the Owner and shall discuss with the Owner alternative approaches to design and construction of the Project. The Architect shall reach an understanding with the Owner regarding the requirements of the Project.	<u>R</u>	N	
§ A.1.5 Preliminary Design. Based on the Project requirements agreed upon with the Owner, the Architect shall prepare and present, for the Owner's approval, a	<u>R</u>	N	
preliminary design illustrating the scale and relationship of the Project components.			
§ A.1.6 Schematic Design Documents. Based on the Owner's approval of the preliminary design, the Architect shall prepare Schematic Design Documents for the Owner's approval. The Schematic Design Documents shall consist of drawings and other documents including a site plan, if appropriate, and preliminary building plans, sections and elevations; and may include some combination of study models, perspective sketches, or digital representations. Preliminary selections of major building systems and construction materials shall be noted on the drawings or described in writing.	<u>R</u>	<u>N</u>	
§ A.1.7 Consider Sustainable Design Alternatives. The Architect shall consider	<u>R</u>	<u>N</u>	
sustainable design alternatives, such as material choices and building orientation, together with other considerations based on program and aesthetics, in developing a design that is consistent with the Owner's program, schedule and budget for the Cost of the Work.	Δ.	<u> </u>	
§ A.1.8 Other Design Considerations. The Architect shall consider the value of alternative materials, building systems and equipment, together with other considerations based on program and aesthetics, in developing a design for the Project that is consistent with the Owner's program, schedule, and budget for the Cost of the Work.	<u>R</u>	N	
§ A.1.9 Meet with Cost Consultant. The Architect shall submit the Schematic Design Documents to the Owner and the Cost Consultant. The Architect shall meet with the Cost Consultant to review the Schematic Design Documents.	<u>R</u>	N	
§ A.1.10 Make Recommendations Regarding Cost. If, prior to the conclusion of the Schematic Design Phase, the Cost Consultant's estimate of the Cost of the Work exceeds the Owner's budget for the Cost of the Work, the Architect, in consultation with the Cost Consultant, shall make appropriate recommendations to the Owner to adjust the Project's size, quality or budget for the Cost of the Work, and the Owner shall cooperate with the Architect in making such adjustments.	<u>R</u>	N	
§ A.1.11 Request Approval of Schematic Design Documents. The Architect shall	<u>R</u>	N	
request the Owner's approval of the Schematic Design Documents.	==		
PAGE 4			
§ A.2.1 Incorporate Revisions to Comply with the Budget. If revisions to the Schematic Design Documents are required to comply with the Owner's budget for the Cost of the Work at the conclusion of the Schematic Design Phase, the Architect shall incorporate the required revisions in the Design Development Phase.	<u>R</u>	<u>N</u>	
§ A.2.2 Contact Governmental Authorities and Utilities. As appropriate for this phase of services, the Architect shall contact governmental authorities required to approve the Project and entities providing utility services to the Project. The Architect shall respond to applicable design requirements imposed by those authorities and entities.	<u>R</u>	<u>N</u>	
§ A.2.3 Assist in Filing Documents. As appropriate for this phase of services, the Architect shall assist the Owner in connection with the Owner's responsibility for filing documents required for the approval of governmental authorities having jurisdiction over the Project	<u>R</u>	<u>N</u>	

§ A.2.4 Design Development Documents. Based on the Owner's approval of the Schematic Design Documents, and on the Owner's authorization of any adjustments	<u>R</u>	N	
in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare Design Development Documents for the Owner's approval. The			
Design Development Documents shall illustrate and describe the development of the			
approved Schematic Design Documents and shall consist of drawings and other			
documents including plans, sections, elevations, typical construction details, and			
diagrammatic layouts of building systems to fix and describe the size and character			
of the Project as to architectural, structural, mechanical and electrical systems, and			
other appropriate elements. The Design Development Documents shall also include			
outline specifications that identify major materials and systems and establish, in			
general, their quality levels.	D	NI	
§ A.2.5 Meet with Cost Consultant. Prior to the conclusion of the Design	<u>R</u>	<u>N</u>	
Development Phase, the Architect shall submit the Design Development Documents			
to the Owner and the Cost Consultant. The Architect shall meet with the Cost			
Consultant to review the Design Development Documents.		2.7	
§ A.2.6 Make Recommendations Regarding Cost. If, prior to the conclusion of the	<u>R</u>	<u>N</u>	
Design Development Phase, the Cost Consultant's estimate of the Cost of the Work			
exceeds the Owner's budget for the Cost of the Work, the Architect, in consultation			
with the Cost Consultant, shall make appropriate recommendations to the Owner to			
adjust the Project's size, quality or budget for the Cost of the Work, and the Owner			
shall cooperate with the Architect in making such adjustments.			
If the estimate of the Cost of the Work at the conclusion of the Design Development			
Phase exceeds the Owner's budget for the Cost of the Work, the Owner shall			
.1 give written approval of an increase in the budget for the Cost of the			
Work;			
.2 terminate in accordance with Agreement;			
.3 in consultation with the Architect, revise the Project program, scope, or			
quality as required to reduce the Cost of the Work; or,			
.4 implement any other mutually acceptable alternative.			
§ A.2.7 Request Approval. The Architect shall request the Owner's approval of the	<u>R</u>	<u>N</u>	
Design Development Documents.			
PAGE 5			
	Г	Г	T
§ A.3.1 Incorporate Revisions to Comply with the Budget. If the Owner chooses to	<u>A</u>	<u>R</u>	See B103 for detailed des
revise the Project program, scope, or quality as required to reduce the Cost of the			comply with budget
Work in accordance with Section A.2.6, the Architect, without additional			
compensation, shall incorporate the revisions in the Construction Documents Phase			
as necessary to comply with the Owner's budget for the Cost of the Work at the			
conclusion of the Design Development Phase Services, or the budget as adjusted.			
The Architect's revisions in the Construction Documents Phase shall be the limit of			
the Architect's responsibility under this Section.		_	
§ A.3.2 Construction Documents. Based on the Owner's approval of the Design	<u>N</u>	<u>R</u>	
Development Documents, and on the Owner's authorization of any adjustments in			
the Project requirements and the budget for the Cost of the Work, the Architect shall			
prepare Construction Documents for the Owner's approval. The Construction			
Documents shall illustrate and describe the further development of the approved			
Design Development Documents and shall consist of Drawings and Specifications			
setting forth in detail the quality levels and performance criteria of materials and			
systems and other requirements for the construction of the Work. The Owner and			
Architect acknowledge that, in order to perform the Work, the Contractor will			
provide additional information, including Shop Drawings, Product Data, Samples			
and other similar submittals, which the Architect shall review in accordance with			
Section A.5.4.2.			

§ A.3.3 Contact Governmental Authorities and Utilities. As appropriate for this phase of services, the Architect shall contact governmental authorities required to approve the Project and entities providing utility services to the Project. The Architect shall	N	<u>R</u>	
incorporate the design requirements of governmental authorities having jurisdiction over the Project into the Construction Documents.			
§ A.3.4 Assist in Filing Documents. As appropriate for this phase of services, the	<u>N</u>	<u>R</u>	
Architect shall assist the Owner in connection with the Owner's responsibility for	1	<u>K</u>	
filing documents required for the approval of governmental authorities having			
jurisdiction over the Project.			
§ A.3.5 Procurement Information and Project Manual. During the development of the	<u>N</u>	<u>R</u>	
Construction Documents, the Architect shall assist the Owner in the development	1	<u>K</u>	
and preparation of (1) procurement information that describes the time, place, and			
conditions of bidding, including bidding or proposal forms; (2) the form of			
agreement between the Owner and Contractor; and (3) the Conditions of the Contract			
for Construction (General, Supplementary and other Conditions). The Architect			
shall also compile a project manual that includes the Conditions of the Contract for			
Construction and Specifications, and may include bidding requirements and sample			
forms.			
§ A.3.6 Meet with Cost Consultant about Construction Documents. Prior to the	<u>N</u>	<u>R</u>	
conclusion of the Construction Documents Phase, the Architect shall submit the			
Construction Documents to the Owner and the Cost Consultant. The Architect shall			
meet with the Cost Consultant to review the Construction Documents.			
§ A.3.7 Revisions to Comply with the Budget. After incorporation of modifications	N	<u>R</u>	
under Section A.3.1, the Architect shall, as an Additional Service, make any required	_	_	
revisions to the Drawings, Specifications or other documents necessitated by			
subsequent cost estimates that exceed the Owner's budget for the Cost of the Work,			
except when the excess is due to changes initiated by the Architect in scope, basic			
systems, or the kinds and quality of materials, finishes or equipment.			
§ A.3.8 Request Approval of Construction Documents. The Architect shall request the	<u>N</u>	<u>R</u>	
Owner's approval of the Construction Documents.			
PAGE 8			
§ A.4 List of Prospective Contractors. The Architect shall assist the Owner in	<u>N/A</u>	<u>N/A</u>	Owner responsible.
establishing a list of prospective contractors. Following the Owner's approval of the			
Construction Documents, the Architect shall assist the Owner in (1) obtaining either			
competitive bids or negotiated proposals; (2) confirming responsiveness of bids or			
proposals; (3) determining the successful bid or proposal, if any; and (4) awarding			
and preparing contracts for construction.			
§ A.4.1.1 Bidding Assistance. Bidding Documents shall consist of bidding	<u>A</u>	<u>R</u>	
requirements and proposed Contract Documents. The Architect shall assist the	11	<u> </u>	
Owner in bidding the Project by:			
.1 facilitating the distribution of Bidding Documents to prospective bidders;			
.2 organizing and conducting a pre-bid conference for prospective bidders;			
.3 preparing responses to questions from prospective bidders and providing			
clarifications and interpretations of the Bidding Documents to the			
prospective bidders in the form of addenda; and,			
.4 organizing and conducting the opening of the bids, and subsequently			
documenting and distributing the bidding results, as directed by the Owner.			
§ A.4.1.2 Requests for Substitutions. If the Bidding Documents permit substitutions,	<u>A</u>	<u>R</u>	
upon the Owner's written authorization, the Architect shall, as an Additional			
Service, consider requests for substitutions and prepare and distribute addenda identifying approved substitutions to all prospective bidders.			

PAGE 9

§ A.4.2.1 Proposal Assistance. Proposal Documents shall consist of proposal	<u>A</u>	<u>R</u>	
requirements and proposed Contract Documents. The Architect shall assist the			
Owner in obtaining proposals by:			
.1 facilitating the distribution of Proposal Documents for distribution to			
prospective contractors and requesting their return upon completion of the			
negotiation process; .2 organizing and participating in selection interviews with prospective			
contractors;			
.3 preparing responses to questions from prospective contractors and			
providing clarifications and interpretations of the Proposal Documents to			
the prospective contractors in the form of addenda; and,			
.4 participating in negotiations with prospective contractors, and			
subsequently preparing a summary report of the negotiation results, as			
directed by the Owner.			
§ A.4.2.2 Requests for Substitutions. If the Proposal Documents permit substitutions,	<u>A</u>	<u>R</u>	
upon the Owner's written authorization, the Architect shall, as an Additional	_	_	
Service, consider requests for substitutions and prepare and distribute addenda			
identifying approved substitutions to all prospective contractors.			
PAGE 10		•	
§ A.5.1.1 Contract Administration. The Architect shall provide administration of the	<u>N</u>	<u>R</u>	(Advisory Note: In most of
Contract between the Owner and the Contractor as set forth below and in AIA			having sole responsibility
Document A201 TM –2017, General Conditions of the Contract for Construction. If			Owner and the Contracto
the Owner and Contractor modify AIA Document A201–2017, those modifications			
shall not affect the Architect's services under this Agreement unless the Owner and			
the Architect amend this Agreement.			
§ A.5.1.2 Advise and Consult During Construction. The Architect shall advise and	<u>N</u>	<u>R</u>	
consult with the Owner during the Construction Phase Services. The Architect shall			
have authority to act on behalf of the Owner only to the extent provided in this			
Agreement.			
PAGE 11			
§ A.5.2.1 Site Visits. The Architect shall visit the site at intervals appropriate to the	<u>N</u>	<u>R</u>	
stage of construction, or as otherwise required in the Agreement, to become	_	_	
generally familiar with the progress and quality of the portion of the Work			
completed, and to determine, in general, if the Work observed is being performed in			
a manner indicating that the Work, when fully completed, will be in accordance with			
the Contract Documents. However, the Architect shall not be required to make			
exhaustive or continuous on-site inspections to check the quality or quantity of the			
Work. On the basis of the site visits, the Architect shall keep the Owner reasonably			
informed about the progress and quality of the portion of the Work completed, and			
promptly report to the Owner (1) known deviations from the Contract Documents,			
(2) known deviations from the most recent construction schedule submitted by the			
Contractor, and (3) defects and deficiencies observed in the Work.			
§ A.5.2.2 Authority to Reject Work. The Architect has the authority to reject Work that	<u>N</u>	<u>R</u>	
does not conform to the Contract Documents. Whenever the Architect considers it			
necessary or advisable, the Architect shall have the authority to require inspection or			
testing of the Work in accordance with the provisions of the Contract Documents,			
whether or not the Work is fabricated, installed or completed. However, neither this			
authority of the Architect nor a decision made in good faith either to exercise or not			
to exercise such authority shall give rise to a duty or responsibility of the Architect to			
the Contractor, Subcontractors, suppliers, their agents or employees, or other persons			
	i .	1	

§ A.5.2.3 Interpret Contract Documents. The Architect shall interpret and decide	<u>N</u>	<u>R</u>	
matters concerning performance under, and requirements of, the Contract			
Documents on written request of either the Owner or Contractor. The Architect's			
response to such requests shall be made in writing within any time limits agreed			
upon or otherwise with reasonable promptness. Interpretations and decisions of the			
Architect shall be consistent with the intent of, and reasonably inferable from, the			
Contract Documents and shall be in writing or in the form of drawings. When			
making such interpretations and decisions, the Architect shall endeavor to secure			
faithful performance by both Owner and Contractor, shall not show partiality to			
either, and shall not be liable for results of interpretations or decisions rendered in			
good faith. The Architect's decisions on matters relating to aesthetic effect shall be			
final if consistent with the intent expressed in the Contract Documents.			
§ A.5.2.4 Serve as Initial Decision Maker. Unless the Owner and Contractor designate	<u>N</u>	<u>R</u>	(Advisory Note: In most c
another person to serve as an Initial Decision Maker, as that term is defined in AIA			as serving as the Initial D
Document A201–2017, the Architect shall render initial decisions on Claims			
between the Owner and Contractor as provided in the Contract Documents.			
PAGE 13			
			T
§ A.5.3.1 Review Applications for Payment. The Architect shall review and certify the	<u>N</u>	<u>R</u>	
amounts due the Contractor and shall issue certificates in such amounts. The			
Architect's certification for payment shall constitute a representation to the Owner,			
based on the Architect's evaluation of the Work as provided in Section A.5.2 and on			
the data comprising the Contractor's Application for Payment, that, to the best of the			
Architect's knowledge, information and belief, the Work has progressed to the point			
indicated, the quality of the Work is in accordance with the Contract Documents, and			
that the Contractor is entitled to payment in the amount certified. The foregoing			
representations are subject to (1) an evaluation of the Work for conformance with the			
Contract Documents upon Substantial Completion, (2) results of subsequent tests			
and inspections, (3) correction of minor deviations from the Contract Documents			
prior to completion, and (4) specific qualifications expressed by the Architect.			
The issuance of a Certificate for Payment shall not be a representation that the			
Architect has (1) made exhaustive or continuous on-site inspections to check the			
quality or quantity of the Work, (2) reviewed construction means, methods,			
techniques, sequences or procedures, (3) reviewed copies of requisitions received			
from Subcontractors and suppliers and other data requested by the Owner to			
substantiate the Contractor's right to payment, or (4) ascertained how or for what			
purpose the Contractor has used money previously paid on account of the Contract			
Sum.	_	_	
§ A.5.3.2 Maintain Records of Applications and Certificates for Payment. The	<u>N</u>	<u>R</u>	
Architect shall maintain a record of the Applications and Certificates for Payment.			

PAGE 14

	§ A.5.4.1 Review the Contractor's Submittal Schedule. The Architect shall review the	<u>N</u>	<u>R</u>	
	Contractor's submittal schedule and shall not unreasonably delay or withhold			
	approval of the schedule. The Architect's action in reviewing submittals shall be			
	taken in accordance with the approved submittal schedule or, in the absence of an			
	approved submittal schedule, with reasonable promptness while allowing sufficient			
	time, in the Architect's professional judgment, to permit adequate review.			
	§ A.5.4.2 Review Contractor's Submittals. The Architect shall review and approve, or	N	<u>R</u>	
	take other appropriate action upon, the Contractor's submittals such as Shop			
	Drawings, Product Data and Samples, but only for the limited purpose of checking			
	for conformance with information given and the design concept expressed in the			
1	Contract Documents. Review of such submittals is not for the purpose of			
	determining the accuracy and completeness of other information such as dimensions,			
	quantities, and installation or performance of equipment or systems, which are the			
	Contractor's responsibility. The Architect's review shall not constitute approval of			
	safety precautions or construction means, methods, techniques, sequences or			
	procedures. The Architect's approval of a specific item shall not indicate approval of			
	an assembly of which the item is a component.			
l		N	D	
	§ A.5.4.3 Review of Delegated Design. If the Contract Documents specifically require the Contractor to provide professional design services or certifications by a design	<u>N</u>	<u>R</u>	
	professional related to systems, materials, or equipment, the Architect shall specify			
	the appropriate performance and design criteria that such services must satisfy. The			
	Architect shall review and take appropriate action on Shop Drawings and other			
	submittals related to the Work designed or certified by the Contractor's design			
	professional, provided the submittals bear such professional's seal and signature			
	when submitted to the Architect. The Architect's review shall be for the limited			
	purpose of checking for conformance with information given and the design concept			
	expressed in the Contract Documents. The Architect shall be entitled to rely upon,			
	and shall not be responsible for, the adequacy and accuracy of the services,			
	certifications, and approvals performed or provided by such design professionals.			
	§ A.5.4.4 Requests for Information. Subject to the Additional Services provision of	<u>N</u>	<u>R</u>	
	the Agreement, the Architect shall review and respond to requests for information			
	about the Contract Documents. The Architect shall set forth, in the Contract			
	Documents, the requirements for requests for information. Requests for information			
	shall include, at a minimum, a detailed written statement that indicates the specific			
	Drawings or Specifications in need of clarification and the nature of the clarification			
	requested. The Architect's response to such requests shall be made in writing within			
	any time limits agreed upon, or otherwise with reasonable promptness. If			
	appropriate, the Architect shall prepare and issue supplemental Drawings and			
	Specifications in response to the requests for information.			
	§ A.5.4.5 Maintain Submittal Records. The Architect shall maintain a record of	<u>N</u>	<u>R</u>	
	submittals and copies of submittals supplied by the Contractor in accordance with			
l	the requirements of the Contract Documents.			
	PAGE 15			
	§ A.5.5.1 Order Minor Changes in the Work. The Architect may order minor changes	<u>N</u>	<u>R</u>	
	in the Work that are consistent with the intent of the Contract Documents and do not			
	involve an adjustment in the Contract Sum or an extension of the Contract Time.			
	Subject to the Additional Services provision of the Agreement, the Architect shall			
	prepare Change Orders and Construction Change Directives for the Owner's			
	approval and execution in accordance with the Contract Documents.			
	§ A.5.5.2 Maintain Change Order Records. The Architect shall maintain records	<u>N</u>	<u>R</u>	
	relative to changes in the Work	_	_	

PAGE 16

§ A.5.6.1 Certificate of Substantial Completion. The Architect shall:		N	<u>R</u>	
.1 conduct inspections to determine the date or dates of Substantial		_	_	
Completion and the date of final completion;				
.2 issue Certificates of Substantial Completion;				
.3 forward to the Owner, for the Owner's review and records, written	L			
warranties and related documents required by the Contract Docum				
received from the Contractor; and,				
.4 issue a final Certificate for Payment based upon a final inspection				
indicating that, to the best of the Architect's knowledge, informati	on and			
belief, the Work complies with the requirements of the Contract	211, 4114			
Documents.				
2 common s				
The Architect's inspections shall be conducted with the Owner to check				
conformance of the Work with the requirements of the Contract Documents	s and to			
verify the accuracy and completeness of the list submitted by the Contractor				
to be completed or corrected.	01 // 0111			
§ A.5.6.2 Inform Owner about Retainage. When Substantial Completion has	been	N	<u>R</u>	
achieved, the Architect shall inform the Owner about the balance of the Con		-	==	
Sum remaining to be paid the Contractor, including the amount to be retain				
the Contract Sum, if any, for final completion or correction of the Work.				
§ A.5.6.3 Forward Closeout Documentation. The Architect shall forward to the	e Owner	N	<u>R</u>	
the following information received from the Contractor: (1) consent of sure		_	_	
sureties, if any, to reduction in or partial release of retainage or the making				
payment; (2) affidavits, receipts, releases and waivers of liens, or bonds				
indemnifying the Owner against liens; and (3) any other documentation req	uired of			
the Contractor under the Contract Documents.				
§ A.5.6.4 Conduct Post-Completion Meeting. Upon request of the Owner, and	d prior to	N	<u>R</u>	
the expiration of one year from the date of Substantial Completion, the Arc		_	_	
shall, without additional compensation, conduct a meeting with the Owner t				
the facility operations and performance.				
PAGE 18				
§ A.6.1 Programming	N	N	<u>R</u>	I
y A.o. i Programming	<u> </u>	11	<u>K</u>	
§ A.6.2 Multiple preliminary designs	<u>N</u>	N	<u>R</u>	
3 A.O.Z multiple premimary designs	11	11	<u> </u>	
§ A.6.3 Measured drawings	N	<u>N</u>	<u>R</u>	
3 7 Holo mododiod didmingo	1 1	11	100	
§ A.6.4 Existing facilities surveys	N	<u>N</u>	<u>R</u>	
3 7 HOLY EXISTING CONTROLS	1 1	11	15	
§ A.6.5 Site evaluation and planning	N	<u>N</u>	<u>R</u>	
3 7 1010 Otto Ovaldation and planning	1 1	1	1	
§ A.6.6 Building Information Model management responsibilities	N	<u>R</u>	<u>N</u>	
3 A.o.o Building information model management responsibilities	11	<u> </u>	11	
§ A.6.7 Development of Building Information Models for post construction	N	<u>N</u>	<u>R</u>	
use	1 1	1	1	
uoc				
§ A.6.8 Civil engineering	<u>N</u>	<u>N</u>	<u>R</u>	
3 7 Holo Otti oligiliootilig	1 -	1 11	15	
§ A.6.9 Landscape design	N	<u>N</u>	<u>R</u>	
3 7 11010	1 1	1 1		
§ A.6.10 Architectural interior design	N	<u>N</u>	<u>R</u>	
3 7 ii oliitootal ali liitolioli doolgii	1 11	11	1	
§ A.6.11 Value analysis	N	<u>N</u>	<u>R</u>	
			**	
	1		1	l .

§ A.6.12 Cost estimating	N	<u>N</u>	<u>R</u>	
§ A.6.13 On-site project representation	N	N	<u>R</u>	
§ A.6.14 As-designed record drawings	N	<u>R</u>	N	As Additional Service
§ A.6.15 As-constructed record drawings	<u>N</u>	N	<u>R</u>	
§ A.6.16 Post-occupancy evaluation	<u>N</u>	<u>N</u>	<u>R</u>	
§ A.6.17 Facility support services	N	N	<u>R</u>	
§ A.6.18 Tenant-related services	N	<u>N</u>	<u>R</u>	
§ A.6.19 Architect's coordination of the Owner's consultants	<u>N</u>	<u>R</u>	<u>R</u>	
§ A.6.20 Telecommunications/data design	<u>N</u>	<u>R</u>	N	
§ A.6.21 Security evaluation and planning	<u>N</u>	N	<u>R</u>	
§ A.6.22 Sustainable Project Services	<u>N</u>	<u>R</u>	N	
§ A.6.23 Historic preservation	<u>N</u>	<u>N</u>	<u>R</u>	
§ A.6.24 Furniture, furnishings, and equipment design	<u>N</u>	N	<u>R</u>	
§ A.6.25 Other services provided by specialty Consultants	<u>N</u>	<u>N</u>	<u>R</u>	
			<u> </u>	1

ASSIGNMENT AND ASSUMPTION OF PROFESSIONAL SERVICES AGREEMENT

This ASSIGNMENT AND ASSUMPTION OF PROFESSIONAL SERVICES AGREEMENT (the "Assignment" or "Agreement") is made and entered into as of the 29th day of July, 2025, by and among: CLW POINT PARTNERS, a Delaware limited liability company ("Assignor"), and POINT PHASE 1 PUBLIC INFRASTRUCTURE DISTRICT NO. 1, a quasi-municipal corporation and political subdivision of the State of Utah, (the "Assignee"). The Assignor and the Assignee are referred to herein individually as a "Party" and collectively as the "Parties."

RECITALS

WHEREAS, Assignor is a party to that certain Short Form Professional Services Agreement Between Owner and Consultant, dated September 9, 2024 (the "Professional Services Agreement"), by and between Assignor (as Owner) and Kimley-Horn and Associates, Inc., a North Carolina corporation (the "Consultant"), relating to the design and construction of the project known as "The Point of the Mountain Project" (the "Point Project"), attached hereto as Exhibit A; and

WHEREAS, those capitalized terms used herein and not otherwise defined herein shall have the meanings assigned to them in the Professional Services Agreement; and

WHEREAS, Assignee is a duly formed and acting public infrastructure district that will own and finance public improvements related to the Point Project; and

WHEREAS, Assignor desires to assign to Assignee, and Assignee desires to assume from Assignor, all of Assignor's rights and obligations under the Professional Services Agreement, to the extent related to design and construction of public improvements that are within the scope of the Assignee's statutory purposes; and

WHEREAS, Section 19 of the Professional Services Agreement provides, "[t]his Agreement may be assigned by Owner to an affiliated or related entity, or joint venture entity at its discretion with contemporaneous written notice to Consultant; or to any other assignee, with the prior written consent of Consultant, which shall not be unreasonably withheld, so long as the assignee is financially capable of paying for the Services or Owner shall remain responsible for the obligations under the Agreement."; and

WHEREAS, the Assignee is ready and capable of performing the Assignor's obligations under the Agreement.

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

COVENANTS AND AGREEMENTS

- 1. <u>Recitals are Incorporated</u>. The recitals to this Agreement are incorporated as if fully set forth herein.
- 2. <u>Assignment of Rights</u>: Effective as of the date set forth above, Assignor hereby assigns, transfers, and conveys to Assignee all of its right, title, and interest in and to the Professional Services Agreement, including all obligations and duties thereunder, to the extent relating to the design, permitting, and construction of public improvements described in or contemplated by the Professional Services Agreement.
- 3. <u>Assumption of Obligations and Duties</u>: Assignee hereby accepts the foregoing assignment and assumes and agrees to perform all of Assignor's obligations under the Professional Services Agreement as of the effective date of this Assignment, as such obligations relate to the design and construction of public improvements to be owned or financed by the Assignee.
- 4. <u>Consent of Consultant</u>: Consultant shall evidence its consent to this Agreement by signing below, and upon such execution, shall recognize Assignee as the "Owner" under the Professional Services Agreement for all purposes. Consultant shall continue performance under the Professional Services Agreement without interruption, and acknowledges that this Assignment does not constitute a material change under the Professional Services Agreement. Consultant acknowledges that all invoicing and payment for services rendered on or after the Effective Date shall be directed to Assignee.
- 5. <u>Notices</u>: All notices under the Professional Services Agreement shall be delivered to Assignee at the address designated by the District unless otherwise directed in writing.
- 6. <u>Prior Provisions Effective</u>. Except as specifically provided herein, all the terms and provisions of the Professional Services Agreement shall remain in full force and effect.
- 7. Entire Agreement; Modifications. This Agreement contains the entire understanding of the Parties and supersedes all other agreements or understandings between them with respect to the subject matter of the Agreement. This Agreement may not be changed orally, but only by an agreement in writing, signed by the party against whom enforcement of any waiver, change, modification, extension, or discharge is sought.
- 8. Governing Law. This Agreement is governed by and construed in accordance with the laws of the State of Utah, without giving effect to any choice or conflicts of laws principles.
- 9. <u>Interpretation</u>. Any caption that identifies a paragraph or section heading is for convenience only and the content of the paragraph controls the relationship between the Parties not the language of the heading. Singular includes the plural and plural includes singular. Reference to a paragraph also references all paragraphs. This Agreement shall be considered to have been drafted by the Parties and there will be no construction of ambiguities against any Party.
- 10. <u>Counterparts</u>. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.
- 11. <u>Waiver; Partial Invalidity</u>. No term or condition of this Agreement shall be deemed waived unless such waiver is expressed in writing and is signed by the Parties. Failure or delay on the

part of any Party to exercise any right, power, or privilege under this Agreement shall not be deemed a waiver thereof. In the event that an arbitrator or judge determines that any provision of this Agreement is invalid or unenforceable, the remainder of the Agreement shall remain enforceable deleting therefrom the invalid or unenforceable provision and all other provisions remaining valid and enforceable to the fullest extent permitted by law.

[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.

ASSIGNOR:
CLW POINT PARTNERS, a Delaware limited liability company
Printed Name
Title
ASSIGNEE:
POINT PHASE 1 PUBLIC INFRASTRUCTURE DISTRICT NO. 1 a quasi-municipal corporation and political subdivision of the State of Utah
By: Authorized Board Member
CONSULTANT:
KIMLEY-HORN AND ASSOCIATES, INC. , a North Carolina corporation
Printed Name
Title

Exhibit A

Short Form Professional Services Agreement September 9, 2024 ("Professional Services Agreement")

SHORT FORM PROFESSIONAL SERVICES AGREEMENT

This Agreement (the "Agreement") is made and entered into on September 9, 2024, by and between KIMLEY-HORN AND ASSOCIATES, INC. with addresses at 111 East Broadway Suite 600, Salt Lake City, UT 84111 (the "Consultant") and CLW POINT PARTNERS, LLC (the "Owner").

Whereas, Owner has rights to develop that certain real property commonly known as The Point of the Mountain (the "Property"), more particularly described on <u>Exhibit A-1</u> and <u>Exhibit A-2</u>.

Now, therefore, in consideration of covenants, agreements and stipulations contained herein, the Consultant and Owner hereby covenant, promise and agree to the following:

- 1. <u>Services</u>. The Consultant agrees to furnish all supervision, labor, materials, supplies, and equipment as may be necessary to complete and provide the professional services at the Property as set forth in the Consultant's "Proposal" attached hereto as <u>Exhibit B</u> and hereby included as part of this Agreement (the "Services"). The Consultant shall perform its services consistent with the professional skill and care ordinarily provided by professionals providing similar services for projects of a similar nature in the same locality under similar circumstances (the "Standard of Care"). The terms and conditions of this Agreement shall prevail over any conflicts with the Consultant's Proposal.
- 2. Additional Services. It is understood that, from time to time during the term of this Agreement, Owner may request Consultant to perform services or provide materials which are not set forth in Exhibit B but are related to the services encompassed within the Services (herein "Additional Services"). Consultant hereby agrees to perform such Additional Services so long as prior to the performance of such Additional Services, Owner shall authorize in writing the scope of such Additional Services and compensation payable to Consultant for the full performance of said Additional Services. In the event Consultant shall fail to secure such a writing relating to such Additional Services, any such work thereafter performed shall be deemed a part of the Services and Consultant shall not be entitled to any additional compensation therefore.
- 3. Compensation. Owner agrees to pay Consultant as set forth in Exhibit B. Payment shall be issued to the Consultant by Owner within forty-five (45) calendar days of receipt of invoice. Consultant shall itemize applicable charges and taxes on invoice. Consultant shall be required to submit final lien waivers, in a form consistent with state statutes based on where the Project is located, for all invoices prior to release of payment. Final payment shall not be due until Consultant has delivered to Owner 1) written confirmation that the Services and any Additional Services hereunder have been fully and satisfactorily performed and 2) a complete release, conditioned upon receipt of payment by Owner, of all liens arising out of the Services and any Additional Services or receipts in full covering all labor, materials and equipment for which a lien could be filed, or a bond satisfactory to Owner indemnifying it against any lien. If any lien remains unsatisfied after all payments are made, Consultant shall pay on demand or refund to Owner all moneys that the latter may be compelled to pay in discharging such lien, including all costs and reasonable attorneys' fees.
- 4. <u>Key Personnel</u>. Consultant agrees to identify in advance and obtain Owner's prior written approval for all key personnel who will be utilized by Consultant in carrying out the Services under this Agreement. Individuals assigned by Consultant to such key positions shall not be removed from their positions or reassigned by Consultant except in the case of an employee's voluntary or involuntary termination of employment, due to serious illness, death, or a bona fide family emergency. Unless otherwise directed or approved by Owner, individuals for whom Consultant

has obtained Owner's approval to be assigned to such key positions shall also be retained absent removal for permitted causes.

5. Ownership of Instruments of Service. The term "Instruments of Service" shall mean all work product, including all Drawings, Specifications, shop drawing submittals, Building Information Models, plans, studies, reports, project-related documents, models, photographs, and other expression created by the Consultant, or other so-called instruments of service, in any form, including native format, and all ideas incorporated therein, and all intellectual property rights associated therewith, which are prepared by or on behalf of Consultant in connection with the Property and/or this Agreement. The Consultant warrants that in transmitting Instruments of Service, or any other information, the Consultant is the copyright owner of such information or has permission from the copyright owner to transmit such information for its use on the Property. Upon each payment to Consultant of undisputed sums then due and owing, any and all right, title, and interest in the Instruments of Service developed by or on behalf of the Consultant as of the time of such payment shall fully and completely transfer and be conveyed and assigned to Owner, including without limitation all copyrights and patents. The Instruments of Service are not intended or represented to be suitable for use or reuse by Owner or others on any other project. Any modifications by Owner to any of the Instruments of Service, or any reuse of such documents on any other project without written authorization by Consultant will be at Owner's sole risk and without liability to Consultant. The Owner's obligation to pay the Consultant is expressly conditioned upon the Consultant's obtaining a valid written comprehensive assignment of ownership rights from its subcontractors in terms identical to those that obligate the Consultant to the Owner as expressed in this subparagraph, which copyrights the Consultant, in turn, hereby assigns to the Owner. The Owner, in return, hereby grants the Consultant a nonexclusive license to (i) reproduce the documents for purposes relating directly to the Consultant's performance of this Property, for the Consultant's archival records, and for the Consultant's reproduction of drawings and photographs in the Consultant's marketing materials, provided the contents of those materials, as to this Property, are approved in advance by Owner in writing, and (ii) reproduce and/or reuse the individual elements and aspects used by Consultant in connection with its designs on or with respect to other projects and/or services provided by Consultant to third parties (provided that, notwithstanding the foregoing or any other contrary provision of this Agreement, Consultant shall not repeat the designs prepared under this Agreement). Notwithstanding the foregoing, the Consultant shall retain ownership rights to any pre-existing intellectual property, including any enhancements thereof, or standard construction details or conventions embodied in the Instruments of Service. No other project-related documents may be reproduced for any other purpose without the express written permission of the Owner. No other copyrights are included in this grant of nonexclusive license to the Consultant. This nonexclusive license shall terminate automatically and immediately upon the occurrence of either a breach of this Agreement by the Consultant or the commission by the Consultant of a tort or a crime potentially affecting the Owner or the Property. This nonexclusive license is granted to the Consultant alone and shall not be assigned by the Consultant to any other person or entity. Other provisions of this Agreement notwithstanding, this nonexclusive license shall terminate automatically upon an Consultant's assignment of this nonexclusive license to another or its attempt to do so. However, nothing in this paragraph shall be construed to preclude the Consultant from, in turn, assigning to its subcontractors a nonexclusive license coextensive with the Consultant's applying to the documents originally created by that subcontractor. In connection with the foregoing, Consultant shall secure in writing from all subconsultants any ownership rights or interests necessary to fulfill the Consultant's obligations under this Agreement. Notwithstanding the foregoing, Consultant may use or develop its proprietary software owned by Consultant or its affiliates ("Software") in the performance of this Agreement. Unless explicitly agreed to in writing by both parties to the contrary, Consultant maintains all interest in and ownership of its Software and conveys no interest, ownership, license to use, or any other rights in the Software to Owner. Any enhancements of Software made during the performance of this Agreement are solely owned by Consultant and its affiliates. If Consultant's

services include providing Owner with access to or a license for Consultant's (or its affiliates') proprietary software or technology, a separate software licensing agreement will be negotiated prior to providing Owner with access or a license to use the proprietary software or technology.

- 6. <u>Insurance</u>. Throughout the term of this Agreement, the Consultant and its subcontractors, if any, shall secure and maintain, at its own expense, the following insurance requirements with companies reasonably satisfactory and acceptable to Owner. Consultant and its subcontractors, if any, shall furnish Owner certificates evidencing such insurance prior to commencement of work under this Agreement:
 - a. Worker's Compensation and Employer's Liability Insurance which shall fully comply with the statutory requirements of all state laws as well as federal laws which may be applicable. Employer's Liability limit shall be \$1,000,000.00 per accident for Bodily Injury and \$1,000,000.00 per employee/aggregate for disease.
 - b. Commercial General Liability insurance (naming Owner and LPC as additional insureds using a combination of the ISO CG 20 10 10 01 and ISO CG 20 37 10 01 additional insured endorsements) with a minimum limit of \$1,000,000.00 per occurrence, \$2,000,000.00 in the aggregate and with a \$2,000,000 products-completed operations general aggregate limit for injury and/or death and/or property damage (such insurance shall include contractual liability, personal injury protection and completed operations coverage).
 - c. Automobile Liability insurance covering owned, non-owned and rented vehicles operated by the Consultant with policy limits of not less than \$1,000,000 combined single limit and aggregate for bodily injury and property damage.
 - d. Professional Liability insurance on a claims-made basis covering the Consultant's negligent acts, errors and omissions in its performance of professional services with policy limits of not less than \$3,000,000 per claim and \$3,000,000 in the aggregate. Professional liability coverage shall be maintained through the duration of the applicable statute of repose of the state in which the Project is located.

All Consultant (and subcontractor) insurance coverage, except Professional Liability and Workers' Compensation, as outlined above shall be primary to and shall not seek contribution against any insurance Owner and/or LPC may have in place. In addition, all such insurance policies of Consultant (and any subcontractor) shall contain appropriate clauses pursuant to which the respective insurance carriers shall waive all rights of subrogation against the Owner and LPC with respect to such policies. Further, all such insurance policies shall require no less than 30 days' notice of cancellation to Owner and LPC.

- 7. <u>Representations</u>. Consultant hereby represents and certifies to Owner, with the intention that Owner rely thereon in entering into this Agreement, that:
 - a. Consultant has the qualifications and experience necessary to perform the Services and any Additional Services. Consultant acknowledges that its representatives have visited the Property and are generally familiar with all observable site conditions which may affect the Services and any Additional Services.
 - b. Consultant has the capability, experience, and professional registrations and licenses, required to perform the Services and any Additional Services. Upon Owner's request, Consultant shall submit copies of any required professional or business registrations,

- licenses, or approvals required to perform such services to Owner prior to the commencement of the Services and any Additional Services.
- c. Consultant shall review laws, codes, and regulations applicable to the Consultant's Services consistent with the Standard of Care. Consultant's designs, plans, specifications, documents, and services shall conform to applicable federal, state, and local statutes and regulations governing the project and the Property. The Consultant's designs, documents, and services shall conform to federal, state, and local statutes, regulations, and codes governing the project and the Property and the requirements of entities providing utility services to the Property. Consultant agrees and acknowledges that this duty is nondelegable, and Consultant represents, subject to its Standard of Care, and to the extent applicable as set forth in Consultant's Services in Exhibit B, by signing, stamping, and approving drawings or preparing drawings or permitting drawings to be submitted for purposes of building permits (i) it has acquainted itself with and has actual knowledge of the scope of the construction work, (ii) it has ascertained the codes which are applicable to the project and that Consultant's designs, documents, and services conform to such codes, (iii) it has visited the Property and existing conditions, , the location of adjacent structures and utilities, and access to the Property and is generally familiar with the condition of the Property as of the date of this Agreement.
- 8. <u>Approval not a Release</u>. Approval by the Owner shall not constitute nor be deemed a release of the responsibility and liability of Consultant or any of its subcontractors for the accuracy and competency of the Services, work product, Instruments of Service, deliverables or documents furnished or prepared under this Agreement by Consultant or any subcontractor (collectively, "Work Product"); nor shall such approval be deemed to be an assumption of such responsibility by the Owner for any defect, error or omission in the Work Product. Owner's approval or acceptance of any of Work Product will not release Consultant from any liability for such Work Product because Owner is, at all times, relying upon Consultant's professional skill and knowledge.

9. Indemnification & Liability.

THE CONSULTANT SHALL INDEMNIFY AND HOLD OWNER, LPC AND THEIR RESPECTIVE MEMBERS, MANAGERS, OFFICERS, DIRECTORS, SHAREHOLDERS, AGENTS, REPRESENTATIVES, AND EMPLOYEES (EACH, AN "INDEMNIFIED PARTY" AND COLLECTIVELY, THE "INDEMNIFIED PARTIES") FREE AND HARMLESS FROM ANY AND ALL CLAIMS, LAWSUITS, SICKNESS. LOSSES. LIABILITIES. DAMAGES. INJURIES. INCLUDING REASONABLE ATTORNEYS FEES, TO THE EXTENT CAUSED BY THE NEGLIGENCE, GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF CONSULTANT (OR ANY SUBCONTRACTOR OF CONSULTANT OR OTHERS FOR WHOM CONSULTANT IS LEGALLY RESPONSIBLE), WHICH RESULT FROM OR DURING THE PROVIDING OF PROFESSIONAL SERVICES UNDER THIS AGREEMENT. NEITHER THE OWNER NOR THE CONSULTANT SHALL BEAR ANY LIABILITY TO THE OTHER FOR LOSS OF PRODUCTION, LOSS OF PROFITS, LOSS OF BUSINESS OR ANY OTHER INDIRECT, SPECIAL, PUNITIVE, EXEMPLARY OR CONSEQUENTIAL DAMAGES. NEITHER PARTY WAIVES ANY RIGHT TO MAKE ANY CLAIM AGAINST THE OTHER PARTY FOR ANY DIRECT DAMAGES ALLEGED TO HAVE BEEN CAUSED BY A BREACH OF ANY OF THE PROVISIONS OF THIS AGREEMENT. TO THE EXTENT THE INDEMNIFIED PARTIES INCUR ATTORNEYS' FEES IN DEFENSE OF ANY CLAIM ASSERTED AGAINST THE INDEMNIFIED PARTIES WHICH ARISES OR RESULTS FROM THE ALLEGED NEGLIGENT ACTS OR OMISSIONS OF THE CONSULTANT, CONSULTANT SHALL REIMBURSE THE INDEMNIFIED PARTIES THEIR

REASONABLE ATTORNEY'S FEES IN PROPORTION TO THE CONSULTANT'S LIABILITY FOUND AFTER A FINAL ADJUDICATION OF LIABILITY.

- b. Notwithstanding anything to the contrary contained in this Agreement or in any exhibits attached hereto or in any documents executed or to be executed in connection herewith, it is expressly understood and agreed by and between the parties hereto that the total aggregate liability of the Consultant under this Agreement shall be limited to an amount equal to \$3,000,000; provided, however, that this limitation of liability shall not apply to the extent the claims, losses, or damages are caused by the fraud, gross negligence or willful misconduct of the Consultant.
- c. This Section shall survive the termination of this Agreement.
- 10. Applicable Law. The Consultant agrees that the Services and any Additional Services provided under this Agreement will be provided in compliance with this Agreement and all applicable laws, orders, rules and regulations of governmental agencies having jurisdiction over such services. Such governmental agencies and regulations include but are not limited to the Environmental Protection Agency; Uniform Commercial Code as adopted by the state in which the services are provided; Occupational Safety and Health Administration regulations; Applicable environmental, health and safety laws and regulations pertaining to supplies, materials, tools and machinery used in providing services. This Agreement shall be governed by, and any disputes shall be settled pursuant to, the laws of the state in which the service is provided unless mutually agreed otherwise. Consultant shall not engage in any conduct or practice which discriminates against any employee or applicant for employment because of his or her race, color, gender, religion, national origin, marital status, physical handicap, sex, sexual preference or age in the performance of this Agreement or in any connection with the Property.
- 11. <u>Dispute Resolution</u>. Any claim, dispute or other matter in question arising out of or related to this Agreement shall be subject to mediation as a condition precedent to litigation. If such matter relates to or is the subject of a lien arising out of the Consultant's Services, the Consultant may proceed in accordance with applicable law to comply with the lien notice or filing deadlines prior to resolution of the matter by mediation or by litigation. The Owner and Consultant shall endeavor to resolve claims, disputes and other matters in question between them by mediation which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Mediation Procedures in effect on the date of the Agreement or other mutually agreed to qualified forum. A request for mediation shall be made in writing, delivered to the other party to the Agreement, and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of a petition or complaint but, in such event, mediation shall proceed in advance of litigation, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order. The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Property is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof. If the parties do not resolve a dispute through mediation, the dispute shall be resolved through litigation in a court of competent iurisdiction in the County in which the Property is located, which both parties agree has sole and exclusive jurisdiction to adjudicate all disputes arising between the parties in connection with this Agreement.
- 12. <u>Certifications</u>. All requests for Consultant to execute certificates, lender consents, or other third-party reliance letters must be submitted to Consultant seven (7) days prior to the requested date of execution. Consultant shall not be required to execute certificates, consents, or third-party reliance

letters that are inaccurate, that relate to facts of which Consultant does not have actual knowledge, or that would cause Consultant to violate applicable rules of professional responsibility.

13. Termination of Services

- a. This Agreement may be terminated with or without cause at any time prior to completion of Consultant's services by Owner, upon written notice to the Consultant at the address of record. Upon receipt of written notice from Owner to discontinue work, Consultant shall discontinue Services under this Agreement immediately. In the event Owner terminates the Agreement based on Owner's reasonable opinion that Consultant has failed or refused to prosecute the Services in accordance with the terms of this Agreement, Consultant shall have ten (10) days, from the receipt of written notification by Owner, to cure such failure to perform in accordance with the terms of this Agreement.
- b. If Owner terminates Consultant without cause, Owner shall pay Consultant for all contracted Services rendered and expenses incurred before termination, in addition to termination settlement costs the Consultant reasonably incurs relating to commitments which had become firm before such termination.
- c. If Owner terminates Consultant for cause, Owner shall have no obligation to pay for Consultant's termination costs, and shall retain the right to withhold any unpaid sums to the Consultant to offset Owner's damages arising from such termination.
- d. If Owner fails to comply with any covenant or obligation imposed by this Agreement, then Consultant may furnish written notice to Owner identifying the breach and applicable provisions of this Agreement violated. If Owner fails to cure the breach within thirty (30) days, Consultant may then terminate this Agreement without further written notice to Owner.
- 14. Opinions of Cost. Because Consultant does not control the cost of labor, materials, equipment or services furnished by others, methods of determining prices, or competitive bidding or market conditions, any opinions rendered as to costs, including but not limited to the costs of construction and materials, are made solely based on its judgment as a professional familiar with the industry. Consultant cannot and does not guarantee that proposals, bids or actual costs will not vary from its opinions of cost. If the Owner wishes greater assurance as to the amount of any cost, it shall employ an independent cost estimator. Consultant's services required to bring costs within any limitation established by the Owner will be paid for as Additional Services.
- 15. <u>Construction Costs</u>. Consultant shall have no liability for any costs arising out of the Owner's decision to proceed with construction before Consultant has issued final, fully approved plans and specifications.
- 16. <u>Hazardous Substances and Conditions</u>. Consultant shall not be a custodian, transporter, handler, arranger, contractor, or remediator with respect to hazardous substances and conditions. Consultant's services will be limited to analysis, recommendations, and reporting, including, when agreed to, plans and specifications for isolation, removal, or remediation. Consultant will notify the Owner in writing of unanticipated hazardous substances or conditions of which Consultant actually becomes aware within 24 hours of becoming aware of same. Consultant may stop affected portions of its services until the hazardous substance or condition is eliminated.
- 17. <u>Construction Operations</u>. Consultant shall have no responsibility for any contractor's means, methods, techniques, equipment choice and usage, equipment maintenance and inspection, sequence, schedule, safety programs, or safety practices, nor shall Consultant have any authority or responsibility to stop or direct the work of any contractor. Consultant's visits will be for the purpose of providing the Owner a greater degree of confidence that the completed work of its contractors will generally conform to the construction documents prepared by Consultant. Consultant neither guarantees the performance of contractors, nor assumes responsibility for any

- contractor's failure to perform its work in accordance with the contract documents. Consultant is not responsible for any duties assigned to it in the construction contract that are not expressly provided for in this Agreement.
- 18. Independent Contractor. The Consultant or any agent or employee of Consultant shall be deemed at all times to be an independent contractor and is wholly responsible for the manner in which it performs the services and work requested under this Agreement. The Consultant or any agent or employee of Consultant shall not have employee status with Owner or LPC, nor be entitled to participate in any plans, arrangements, or distributions by Owner or LPC pertaining to or in connection with any retirement, health, or other benefits that Owner or LPC may offer their employees. The Consultant or any agent or employee of the Consultant, as applicable, is liable for the acts and omissions of itself, its employees and its agents. All matters pertaining to the selection, direction, employment, supervision, compensation, promotion and discharge of such personnel are the sole responsibility of Consultant, which shall be in all respects the employer of such personnel, and Consultant shall have total responsibility for and shall fully comply with all applicable laws and regulations having to do with worker's compensation, social security, unemployment insurance, hours of labor, wages, working conditions, and other employer-employee related subjects. Without limiting the foregoing, the Consultant shall be responsible for all obligations and payments, whether imposed by federal, state, or local law, including, but not limited to, Federal Insurance Contributions Act (FICA), income tax withholdings, unemployment compensation, insurance, and other similar responsibilities related to the Consultant's performing services and work, or any agent or employee of Consultant's providing same. Nothing in this Agreement shall be construed as creating an employment or joint venture relationship between Owner or LPC and the Consultant. Any terms in this Agreement referring to direction from Owner or LPC shall be construed as providing for direction as to policy and the result of Consultant's work only, and not as to the means by which such a result is obtained.
- 19. <u>Assignment</u>. This Agreement shall be binding on the successors of the parties hereto. This Agreement may be assigned by Owner to an affiliated or related entity, or joint venture entity at its discretion with contemporaneous written notice to Consultant; or to any other assignee, with the prior written consent of Consultant, which shall not be unreasonably withheld, so long as the assignee is financially capable of paying for the Services or Owner shall remain responsible for the obligations under the Agreement. This Agreement shall not be assigned by Consultant without first obtaining the written consent of Owner.
- 20. <u>Confidentiality</u>. All drawings, specifications, technical documents of any nature, and copies thereof, prepared pursuant to this Agreement are the property of the Owner and are to be treated as confidential. They are not to be disclosed to others without the Owner's prior written approval (except to the extent necessary to comply with the direction of any applicable legal authority) and are to be delivered to the Owner on request and in all events upon completion of the Services and any Additional Services, or termination of this Agreement.
- 21. Notices. Any information or notices required to be given in writing under this Agreement shall be given personal delivery, by overnight courier service or by certified mail (return receipt requested, postage prepaid), to the address of the respective Party set forth below, or to such other address for either Party as that Party may designate by written notice. Delivery shall be deemed effective upon receipt or failure to accept receipt in the case of personal delivery or delivery by overnight courier and three days following deposit with the United States mail in the case of delivery by certified mail.

If to Owner:

CLW POINT PARTNERS, LLC, c/o Lincoln Property Company

8111 Douglas Avenue, Suite 600 Dallas, Texas 75225

With copy to:

Lincoln Property Company 1211 SW Fifth Ave., Suite 700 Portland, OR 97204 Attention: Patrick Gilligan Email: pgilligan@lpc.com

If to Consultant:

Kimley-Horn and Associates, Inc. 111 East Broadway, Suite 600, Salt Lake City, UT 84111

Attention: Leslie Morton, PE, Associate Email: <u>Leslie.Morton@kimley-horn.com</u>

- 22. Miscellaneous. A waiver on the part of the Owner or Consultant of any term, provision or condition of this Agreement shall not constitute a precedent or bind either party to a waiver of any succeeding breach of the same or any other term, provision or condition of this Agreement. This Agreement, including any Exhibits and any addenda thereto, constitutes the entire Agreement between Consultant and Owner. It supersedes all prior or contemporaneous communications, representations or agreements, whether oral or written, relating to the Services set forth in this Agreement. This Agreement may be amended only by a written instrument signed by both parties. The captions in this Agreement are for the convenience of the parties in identification of the several provisions and shall not constitute a part of this Agreement nor be considered interpretative thereof. Every paragraph, part, term or provision of this Agreement is severable from others. If any paragraph, part, term or provision of this Agreement is construed or held to be void, invalid or unenforceable by order, decree or judgment of a court of competent jurisdiction, the remaining paragraphs, parts, terms and provisions of this Agreement shall not be affected thereby but shall remain in full force and effect.
- 23. <u>Applies To Florida Projects Only.</u> PURSUANT TO FS 558.0035, EMPLOYEES OF CONSULTANT MAY NOT BE HELD INDIVIDUALLY LIABLE FOR ECONOMIC DAMAGES RESULTING FROM NEGLIGENCE UNDER THIS AGREEMENT.

In Witness whereof, the parties hereto have acknowledged and agreed to terms and conditions contained hereinabove and executes the same by written acceptance below.

OWNE	CR:	
CLW P	OINT PARTNERS, LLC,	
a Delav	vare limited liability company	
	Signed by:	
By:	Patrick Gilligan	
	2010C29959F5437	
Name:	Patrick Gilligan ame:	
Title:	Authorized Signatory	

CONSULTANT: Kimley-Horn and Associates, Inc.

By:

Zachary A. Johnson

Name:
Title:

Vice President

Exhibit A-1 Legal Description of the Overall Project

POM Phase 1 8-23-2023 SRV

State of Utah Department of Adm Serv Div Fac Const & Mgmnt Parcel No. 33-01-300-007

A part of the South Half of Section 1 and the North Half of Section 12, Township 4 South, Range 1 West, Salt Lake Base and Meridian.

Beginning at a point being 1252.68 feet North 89°31'19" West and 921.15 feet North from the center of Section 12, Township 4 South, Range 1 West, Salt Lake Base and Meridian and running thence North 02°29'26" East 258.45 feet; thence northerly 463.40 feet along the arc of a 1584.00 foot radius curve to the left, through a central angle of 16°45'42", chord bears North 05°53'25" West 461.75 feet; thence North 14°16'16" West 433.70 feet; thence northerly 505.28 feet along the arc of a 916.00 foot radius curve to the right, through a central angle of 31°36'19", chord bears North 01°31'54" East 498.90 feet; thence North 17°20'03" East 255.93 feet; thence North 62°20'41" East 12.73 feet; thence North 17°19'54" East 78.98 feet; thence North 27°39'57" West 12.73 feet; thence North 17°20'03" East 281.52 feet; thence North 62°20'03" East 12.73 feet; thence North 16°53'49" East 65.50 feet; thence North 27°39'57" West 12.02 feet: thence North 17°20'03" East 108.05 feet; thence North 40°00'00" East 77.38 feet; thence East 279.77 feet; thence South 45°00'00" East 9.19 feet; thence East 70.00 feet; thence North 45°00'00" East 9.19 feet; thence East 458.00 feet; thence South 45°00'00" East 12.73 feet; thence East 63.00 feet; thence North 45°00'00" East 12.73 feet; thence East 277.00 feet; thence South 45°00'00" East 12.73 feet; thence East 63.00 feet; thence North 45°00'00" East 12.73 feet; thence East 493.99 feet; thence southerly 28.58 feet along the arc of a 91.50 foot non-tangent radius curve to the right, through a central angle of 17°53'36", chord bears South 08°52'21" East 28.46 feet; thence South 00°04'27" West 1194.45 feet to a point on a spiral curve; thence southerly 90.54 feet along the arc of said spiral curve, chord bears South 01°09'25" East 90.52 feet; thence southeasterly 337.23 feet along the arc of a 708.50 foot radius curve to the left, through a central angle of 27°16'17", chord bears South 17°14'39" East 334.05 feet; thence southwesterly 100.78 feet along the arc of a 639.50 foot non-tangent radius curve to the right, through a central angle of 9°01'45", chord bears South 74°14'37" West 100.67 feet; thence South 78°45'29" West 199.31 feet; thence southwesterly 156.92 feet along the arc of a 660.50 foot radius curve to the left, through a central angle of 13°36'43", chord bears South 71°57'07" West 156.55 feet; thence North 72°31'59"West 8.08 feet; thence South 62°15'28" West 65.08 feet; thence South 13°53'07" West 8.43 feet; thence southwesterly 99.68 feet along the arc of a 660.50 foot non-tangent radius curve to the left, through a central angle of 8°38'49", chord bears South 54°11'39" West 99.59 feet; thence South 49°52'14" West 533.97 feet; thence South 45°22'41" West 140.43 feet; thence South 49°52'14" West 135.52 feet; thence southwesterly 406.07 feet along the arc of a 550.50 foot radius curve to the right, through a central angle of 42°15'51", chord bears South 71°00'10" West 396.93 feet; thence North 87°51'55" West 447.26 feet to the Point of Beginning.

Contains 4,290,939 Square Feet or 98.506 Acres.

Basis of Bearing is North 89°31'19" West between the Center and the East Quarter corner of Section 12, Township 4 South, Range 1 West, Salt Lake Base and Meridian.

POM PHASE 1
POM PHASE 1
POM PHASE 1
NORTH 12 SECTION 12 TOWNSHIP 4 SOUTH,
RANGE 1 NEST, SALT LAKE BASE AND MENDIAN,
AUGUST 22, 2023 S Σ 0 GADE BRUTUTE PS 57954L OUTRIE 1. 18356 DIRECTION - SOF M570005 12.77 FART 61.00 PUTURE ROAD POM PHASE 1 AMARIN A MARKAL 2 8

Exhibit A-2
Depiction of the Overall Project

Exhibit B Consultant's Proposal

See Attached



June 14, 2024

Mr. Aric Yarberry

Lincoln Property Company Via email: AYarberry@LPC.com

Re: The Point Phase 1 Utility Master Planning Proposal

Dear Mr. Yarberry

Kimley-Horn and Associates, Inc. ("Kimley-Horn") is pleased to submit this letter agreement (the "Agreement") to **Lincoln Property Company** ("Client") for providing professional services for the Point of the Mountain Phase 1 in Draper, Utah (the Project). Our Project Understanding, Scope of Services, Schedule and Fee are provided below.

PROJECT UNDERSTANDING

The Client has entered into a development agreement with The Point of the Mountain State Land Authority (POMSLA) and the State Division of Facilities Construction and Management (DFCM) for development of the Point of the Mountain Phase 1. It is understood the Client, in partnership with Wadsworth Development and Colmena Development (collectively Point Partners, PP) plans to develop the 100+/- acres of Phase 1 into a mixed- use development with approximately 2.3 million square feet of office, 314,000 square feet of retail, 3.3 million square feet of multi-family and 441,00 square feet of hotel/entertainment.

This proposal includes master utility planning and mass grading services for the 100-acres known as Phase 1 and shown in the exhibit below.



Given this understanding of the project, we have assumed the following:

- Arcadis will lead the project land planning efforts and Kimley-Horn will coordinate with Arcadis
 and the selected Landscape Architect as part of the project (the "Project Team")
- The documents produced by Kimley-Horn will be reviewed by the Technical Review Committee (TRC) consisting of a representative of DFCM, a building official, a code review official, State Fire Marshall, Draper City representative, and additional members that the TRC Coordinator deems necessary to review the documents.
- The site master plan developed by Arcadis for the project proposal will serve as the basis of Kimley-Horn's understanding of the proposed development.
- A topographic survey of the site has been completed as part of the DFCM Infrastructure project and KH has been provided the CADfile of this survey as part of the base mapping project. This topographic survey will be used as the existing grade for design.
- Utility capacity and supply is assumed to be available for all utilities to service the project.
- A district energy program is no longer being considered for the project.
- An ALTA survey has not been completed for the site.

PROJECT BACKGROUND

Kimley-Horn is a design partner on the Horrocks Engineers team working on the POM Infrastructure Design project through DFCM (Backbone Infrastructure Project). Kimley-Horn responsibilities under that contract include design of above ground infrastructure including roadways, bicycle and pedestrian ways, bridge/tunnel structures, transit coordination and hydrologic modeling. Additionally, the Horrocks team has completed modeling and sizing of the backbone utility systems for the project. In support of this project, Kimley-Horn will utilize existing studies and models to the extent possible. It is intended that the scope of work outlined in this document does not overlap with the Backbone Infrastructure Project but will require coordination with the backbone infrastructure team.

SCOPE OF SERVICES

The following Scope of Services has been developed based on our current understanding of the Project and discussions with the Client.

Task 1 - Meetings, Project Coordination, Project Management

This task consists of project related coordination and meetings with the Client, the Project Team, the County and/or other project related stakeholders throughout the Project. This task is intended to capture effort related to the preparation for, travel for, attendance of and follow up required for these meetings, conference calls and general design coordination for the Project. Assumed bi-weekly meetings for Kimley-Horn project manager and each discipline lead for 3 months. Overall project management is also included in this task, including subconsultant management of Spectrum Engineers.

Stakeholder meetings are anticipated to include the following:

- DFCM/POMSLA and their design teams
- Draper City
- Salt Lake County Flood Control
- UDOT
- UTA
- South Valley Sewer District



- WaterPro
- Dominion Energy
- Rocky Mountain Power

Task 2 - Civil Utility Master Planning

Kimley-Horn will prepare a Utility Master Plan to support the Arcadis land plan. We understand that Horrocks has developed utility models to determine utility sizes in the major roadways as part of the Backbone Infrastructure Project. These models did include some of the roadways within PP's Phase 1 boundaries. Kimley-Horn will utilize Horrocks models of each of the utility systems and further develop models to determine lines sizes within the Phase 1 roadways. The plan will focus on the following elements:

A. Culinary Water

Kimley-Horn analysis will consist of developing recommendations for planned culinary water demands and key infrastructure related to water distribution. It is anticipated water demands and regulatory requirements will follow Utah State Administrative Code for Drinking Water. Working in conjunction with land planning and development efforts, required tasks to complete this analysis consist of the following.

- Development of proposed culinary water system demands based on the land plan and project densities provided by the client
- Hydraulic modeling development and planning scenarios to support project phasing
- Fire flow demands
- Water supply and distribution system
- Existing water rights
- Regulatory requirements
- Offsite infrastructure impacts and limitations

B. Secondary Water

Kimley-Horn analysis will consist of developing recommendations for planned secondary water demands and key infrastructure related to distribution. Working in conjunction with land planning and development efforts, required tasks to complete this analysis consist of the following.

- Development of secondary water system demands based on the proposed land plan and project densities provided by the client
- Hydraulic modeling development and planning scenarios to support project phasing
- Water supply and distribution system
- Existing water rights
- Regulatory requirements
- Offsite infrastructure impacts and limitations

C. Sanitary Sewer

The Kimley-Horn wastewater master plan effort will consist of a preliminary collection system evaluation. Effort to complete this analysis consists of the following:

- Development of wastewater system flows based on the land plan and project densities
- Hydraulic modeling development and planning scenarios

- Proposed wastewater collection system
- Wastewater effluent and reuse requirements
- Associated regulatory requirements

D. Drainage/Stormwater

Kimley-Horn will design the onsite drainage for Promenade through Phase 1 project site. The design will include a storm drain system with inlets to capture onsite runoff. The storm drain system will be designed to tie into the backbone infrastructure roads of Porter Rockwell Boulevard and the North Loop Road as necessary to meet the intent of The Point Stormwater Master Plan. This will include hydrologic and hydraulic calculations to meet City of Draper design standards. A comprehensive stormwater master plan for Phase 1 will be completed in order to provide necessary tie ins to the storm drain system within the Promenade for the adjacent parcels. A drainage report will be prepared to document the drainage design and calculations.

E. Natural Gas

It is understood that the Client desires most of the buildings within the development to be electrified. As such, Kimley Horn will coordinate with the project team to determine what natural gas demands may be for Phase 1. We will also coordinate with Dominion Energy to determine the infrastructure upgrades in order to provide natural gas service as needed. As part of this process, Kimley-Horn will fill out the appropriate applications, meet with the Client, and meet with Dominion Energy. Kimley-Horn will evaluate the options and coordinate initial pricing with Dominion.

Task 3 – Power and Communications Utility Master Planning

Using a qualified and licensed electrical engineering subconsultant, Kimley-Horn will provide electrical and communications master plan for the 100-acre build within Phase 1 of the development. Through coordination with key stakeholders and design team, develop understanding of electrical and communications needs, equipment placement and connectivity requirements. Develop a master plan identifying routing of electrical and communications throughout Phase 1. Site lighting layout will also be included. Subconsultant full scope and fee attached.

Task 4 – Infrastructure Master Plan Document

Kimley-Horn will compile a final infrastructure master plan document that will become the basis of design for Phase 1. The summary document will include the transportation planning and utility master planning efforts. This task consists of the initial preparation of the narrative and exhibits for the Infrastructure Master Plan including culinary/secondary water, wastewater, storm drain, natural gas, communications, and power for review by the Client. Kimley-Horn will address reasonable Client comments and up to two rounds of review comments from reviewing agencies.

ALTERNATE SCOPE OF WORK

Traffic Analysis and Multi-modal Safety Assessment

Kimley-Horn will provide traffic engineering services to support the project. Kimley-Horn will review previous traffic/transportation analysis (TIA) prepared by DFCM for consistency with the proposed project. The review will include:

 Trip generation – consistency of land uses, units/square footage with that assumed in previously completed TIAs

- Trip assignment consistency of the planned roadway network with that assumed in previously completed TIAs.
- Parking demand consistency of planned parking facilities with those assumed in previously completed shared parking analysis.

Kimley-Horn will identify deviations in the Client master plan from previous TIAs assumptions. Kimley-Horn will prepare a memorandum that summarizes findings and recommendations, justification for the changed assumptions, qualitative assessment of the impact of the changed assumptions, and recommendations, as applicable.

Kimley-Horn will also provide an independent team of traffic and safety professionals to review the Schematic Design Documents. Design team review will identify potential modifications/improvements that could be reflected in the Design Development Documents. Recommendations may be related to pavement markings, signage, curb returns, pedestrian safety, ADA, etc.

ADDITIONAL SERVICES

The scope defined above is Kimley-Horn's best estimate as known today. It is anticipated that there will be other requests for services either to be provided by Kimley-Horn or subconsultants. A fee estimate can be provided for these items when a more defined scope is known.

Additional services Kimley-Horn can provide include, but are not limited to, the following:

- Additional land use or permitting processing
- Preparation of permitting, bidding and construction plans
- Traffic Impact Study
- Shared parking analysis or district parking strategy support
- Landscape architecture services
- Structural engineering
- Public engagement/involvement
- ALTA survey or legal descriptions beyond those described
- Record Drawings

Other services Kimley-Horn can provide through a qualified subconsultant include but are not limited to the following:

- Wetland identification or delineation
- Environmental assessments or studies

SERVICES NOT INCLUDED

Any other services, including but not limited to the following, are not included in this Agreement:

- Geotechnical engineering
- Construction staking
- Subsurface utility exploration survey
- Demolition plans
- Mechanical, electrical, or plumbing engineering
- Any other engineering service not specifically listed in the Scope of Services or Additional Services

INFORMATION PROVIDED BY CLIENT

We shall be entitled to rely on the completeness and accuracy of all information provided by the Client or the Client's consultants or representatives. The Client shall provide all information requested by Kimley-Horn during the project, including but not limited to the following:

- Proposed program, land uses and densities
- Anticipated development phasing
- Digital files of the overall Phase 1 site plan along with the master infrastructure plans.

SCHEDULE

We will provide our services as expeditiously as practicable with the goal of meeting a schedule to be mutually agreed upon.

FEE AND EXPENSES

Kimley-Horn will perform the services described within the Scope of Services for the following:

Task	Task Name	Fee	Fee Type
1	Meetings, Project Coordination and Project Management	\$10,800	LS
2	Civil Utility Master Planning	\$154,900	LS
3	Power and Communications Utility Master Planning	\$12,500	LS
4	Infrastructure Master Plan Document	\$37,300	LS
	Total	\$215,500	LS
	Alternate: Traffic Analysis and Multi-modal Safety Assessment	\$25,000	

Lump Sum Fee - Services indicated by a "LS" or "Lump Sum" will be provided for the identified Lump Sum Fee. Where applicable, the Lump Sum Fee consists of a budgeted effort (number of hours) as stated within the Scope of Services. Client will be notified, and an amendment agreed upon in the event that additional effort will be required for completion of the project. Lump sum fees will be invoiced monthly based upon the overall percentage of services performed.

Hourly Fee - Services indicated by "Hourly" will be provided on a labor fee plus expense basis. The fees provided are an estimate based on the budgeted effort (number of hours) as stated within the Scope of Services. The fees provided are for general budgeting purposes only. Actual fees may be less or more than the estimates. Labor fee will be billed on an hourly basis according to our then-current rates.

Reimbursable Expenses - As to these tasks, direct reimbursable expenses such as express delivery services, fees, air travel, and other direct expenses will be billed at 1.15 times cost as incurred. All permitting, application and similar project fees will be paid directly by the Client.

Fees stated herein assume continuous progression of the Project. If significant stoppages occur or individual task authorization is desired, additional fees may be required to complete the noted scope of



services.

CLOSURE

In addition to the matters set forth herein, our Agreement shall include and be subject to, and only to, the attached Standard Provisions, which are incorporated by reference. As used in the Standard Provisions, "Consultant" shall refer to Kimley-Horn and Associates, Inc., and "Client" shall refer to **Lincoln Property Company**

In an effort to expedite invoices and reduce paper waste, Kimley-Horn submits invoices via email in an Adobe PDF format. We can also provide a paper copy via regular mail if requested. Please include the invoice number and Kimley-Horn project number with all payments. Please provide the following information:

Please email all invoices to	
Please copy	

If you want us to proceed with the services, please have an authorized person sign this Agreement below and return to us. We will commence services only after we have received a fully-executed agreement. Fees and times stated in this Agreement are valid for sixty (60) days after the date of this letter.

To ensure proper set up of your projects so that we can get started, please complete, and return with the signed copy of this Agreement and the attached Request for Information. Failure to supply this information could result in delay in starting work on your project. We appreciate the opportunity to provide these services to you. Please contact me if you have any questions.

Very truly yours,

KIMLEY-HORN AND ASSOCIATES, INC.

Leslie Morton, PE Associate



Lincoln Property Company

(Signature)	
(Name / Title)	
(Date)	
Client's Federal Tax ID:	
Client's Business License No.	
Client's Street Address:	
Attachments – Request for Informati Standard Provisions Spectrum Engineerin	

KHAMT 17



Request for Information

Please return this information with your signed contract; failure to provide this information could result in delay in starting your project

Client Identification								
Full, Legal Name of (Client							
Mailing Address for I	nvoices							
Contact for Billing Inc	quiries							
Contact's Phone and	e-mail							
Client is (check one)		Owner	Owner Agent for Owner			Unrelated to Owner		
Duo no auto del caticio atic								
Property Identification	Parcel 1		Parc	al 2	Parcel 3	2	Parcel 4	
Street Address	T dioci i		1 aro	OI Z	T droot c	<u>, </u>	T dioci 4	
County in which Property is Located								
Tax Assessor's Number(s)								
Property Owner Iden	tification Owner 1	1	Own	or 2	Owner 3	<u> </u>	Owner 4	
Owner(s) Name	Owner		Own	ei Z	Owners	3	Owner 4	
Owner(s) Name								
Owner(s) Mailing Address								
Owner's Phone No.								
Owner of Which								
Parcel #?								
Project Funding Iden	tification -	Liet Eu	ndina	Source	s for the Broi	ioct		
r roject i unumg luen	tilication -	- LISt I U	ilailig	Jource	s for the rife	CCL		
								·
Attach add	itional shee	ets if there	e are i	nore tha	n 4 parcels or	more	than 4 owners	



June 14, 2024

Mr. Aric Yarberry

Lincoln Property Company Via email: AYarberry@LPC.com

Re: The Point Phase 1 Promenade Design Proposal

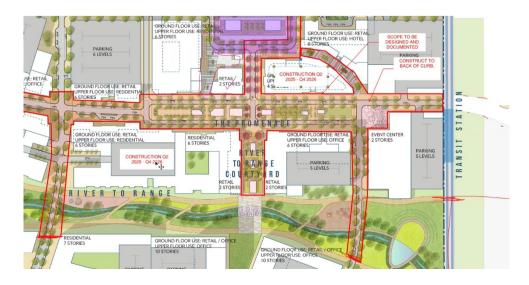
Dear Mr. Yarberry

Kimley-Horn and Associates, Inc. ("Kimley-Horn") is pleased to submit this letter agreement (the "Agreement") to **Lincoln Property Company** ("Client") for providing professional services for the Point of the Mountain Phase 1 in Draper, Utah (the Project). Our Project Understanding, Scope of Services, Schedule and Fee are provided below.

PROJECT UNDERSTANDING

The Client has entered into a development agreement with The Point of the Mountain State Land Authority (POMSLA) and the State Division of Facilities Construction and Management (DFCM) for development of the Point of the Mountain Phase 1. It is understood the Client, in partnership with Wadsworth Development and Colmena Development (collectively Point Partners, PP) plans to develop the 100+/- acres of Phase 1 into a mixed- use development with approximately 2.3 million square feet of office, 314,000 square feet of retail, 3.3 million square feet of multi-family and 441,00 square feet of hotel/entertainment.

This proposal includes Subdivision Platting and Roadway Dedication, Civil Design and Irrigation Design for the Promenade of the project (shown in red in the image below).



Given this understanding of the project, we have assumed the following:

- Arcadis will lead the project land planning efforts and Kimley-Horn will coordinate with Arcadis and the selected Landscape Architect as part of the project (the "Project Team")
- The documents produced by Kimley-Horn will be reviewed by the Technical Review Committee (TRC) consisting of a representative of DFCM, a building official, a code review official, State Fire Marshall, Draper City representative, and additional members that the TRC Coordinator deems necessary to review the documents.
- The site master plan developed by Arcadis for the project proposal will serve as the basis of Kimley-Horn's understanding of the proposed development.
- A topographic survey of the site has been completed as part of the DFCM Infrastructure project and KH has been provided the CADfile of this survey as part of the base mapping project. This topographic survey will be used as the existing grade for design.
- Utility capacity and supply is assumed to be available for all utilities to service the project.
- A district energy program is no longer being considered for the project.
- An ALTA survey has not been completed for the site.

SCOPE OF SERVICES

The following Scope of Services has been developed based on our current understanding of the Project and discussions with the Client.

Task 1 - Meetings and Project Coordination

This task consists of project related coordination and meetings with the Client, the Project Team, the County and/or other project related stakeholders throughout the Project. This task is intended to capture effort related to the preparation for, travel for, attendance of and follow up required for these meetings, conference calls and general design coordination for the Project. Assumed twice weekly meetings for Kimley-Horn project manager for 5 months. Overall project management is also included in this task, including subconsultant management of Spectrum Engineers.

Stakeholder meetings are anticipated to include the following:

- DFCM/POMSLA and their design teams
- Draper City
- UTA
- South Valley Sewer District
- WaterPro
- Dominion Energy
- Rocky Mountain Power
- TRC

Task 2 – Subdivision Plat

It is understood that a subdivision plat is being completed for the 600-acre State-owned property that will create the 98-acre parcel known as Phase 1 and this plat will be recorded before commencement of this task. Kimley-Horn will amend the recorded plat to create a 5-6 lot subdivision including the The Promenade right of way dedication. The resulting lots will be the 3-4 kiosk lots in the center of The Promenade and two lots on each side of the roadway. It is understood that The Promenade will be dedicated to Draper City or a Public Infrastructure District. Kimley-Horn will coordinate with Arcadis and Client to develop the extents of the right of way for The Promenade.



Task 3 – PID Initial Legal Descriptions

It is understood that the 98-acre parcel will be divided into 9 Public Infrastructure Districts. The final District boundaries are yet to be determined so initial District parcels will be 5' x 5' parcels located along the Promenade. Boundary plats will be prepared for each of the 9 parcels.

Task 4 – Civil Schematic Design

Upon receiving direction to proceed from the Client, Kimley-Horn will participate in the schematic design process with the Project Team and produce civil schematic design (SD) drawings for The Promenade to begin the design process. These plans will provide preliminary design based on the Client provided site plan. It is assumed that one submittal and review of the SD package will occur and TRC, Client and Project Team suggested review comments will be implemented into the Design Development package.

The SD civil package is anticipated to include the following sheets:

- Overall Civil Site Plan The overall site plan for The Promenade will apply applicable code
 and design requirements to the Arcadis plan. This plan will be coordinated with the Project
 Team to develop the relationships between site spaces by establishing building, sidewalk,
 and hardscape and landscape areas. The plan will consider ADA parking and paths of travel
 requirements.
- Overall Grading and Drainage Plan This plan will provide an overall grading and drainage
 concept for The Promenade showing existing and proposed contours at one-foot intervals
 and general drainage patterns. Preliminary storm drain layout and design will be shown.
 Inverts will be provided at key locations along the trunk line of the storm drain network to
 demonstrate feasibility and depth. Initial coordination with the Project Team will identify
 lateral locations to development lots.
- Overall Utility Plan Kimley-Horn will coordinate with the Project Team to identify lateral
 connections from The Promenade utilities to development lots. Inverts for the gravity sewer
 will be provided at key locations to demonstrate feasibility. Coordination with the Project
 Team will include preliminary locations for transformers, switch gear, equipment pedestals,
 electrical/communications manholes and duct banks to coordinate equipment site
 requirements. Kimley-Horn will continue identifying and resolving potential utility conflicts in
 this process.
- Overall Electric/Communications Plan The overall electric and communications plan will identify preliminary routing of electrical and communications conduits/ductbanks.
 Subconsultant full scope and fee attached.

Task 5 - Schematic Irrigation Plan

Kimley-Horn will prepare a schematic irrigation layout plan for The Promenade area (approximately 373,000 sf) depicted in the exhibit provided by RIOS on 06/06/2024. Kimley-Horn will participate in one initial virtual kick-off meeting with the Client and project team to confirm design parameters and

direction including water source, existing pressure, point of connection location, existing design precedent and material and controller specifications.

Based on the initial kick-off meeting direction, Kimley-Horn will prepare a schematic irrigation plan depicting a conceptual layout of irrigation areas and zones with primary point(s) of connection, preliminary mainline routing and valve locations, mainline sleeve locations under streets, and preliminary irrigation calculations for each zone based on irrigation type. A preliminary irrigation schedule with components listed by manufacturer, model and size as applicable will be included. The Schematic Irrigation Plan will be provided to the Client for one round of Client review and confirmation of initial project direction.

Kimley-Horn will incorporate Client comments into the Irrigation Construction Document package.

Task 6 - Civil Design Development

Kimley-Horn will participate in the design development process with the Project Team prepare civil design development (DD) drawings. These DD plans will provide preliminary design based on the Client approved schematic design and input from the Project Team. It is assumed that one submittal and review of the DD package will occur and TRC, Client or Project Team suggested review comments will be implemented into the Construction Documents package.

The DD civil package is anticipated to include the following sheets:

Civil Cover Sheet

 This sheet will consist of a project title, sheet index, basis of bearing and benchmark data, general site data, document references, Client and development team information, utility company contacts, and approval blocks.

General Notes Sheets

 These sheets will provide the general notes for the Project. The sheets will also include a list of abbreviations used in the plans together with a general legend.

Existing Conditions Plan

This plan will show the existing site and utility features in the adjacent roadways designed by the DFCM team. Limits showing preservation of existing site elements will be delineated.

Roadway Plan and Profile

- Roadway plan and profiles will be developed for the roadway centerline. Detailed grading of intersections, medians, etc. will be provided on the grading sheets
- Plan view design will be further detailed to show pavement types, curb and gutter, ADA access details, etc.
- This plan will be coordinated with the Project Team to develop the relationships between site spaces by establishing building, sidewalk and hardscape/landscape areas.

Overall Utility Plan

- The overall utility plan will provide a horizontal layout of proposed and existing utility systems, including water, sewer, storm drain, natural gas, electrical and communications systems. Coordination with the Project Team will identify locations for stubs to each lot.
- Kimley-Horn will work with their subconsultant electrical engineer to coordinate locations of electrical and telecommunications equipment as it relates to the locations of other utilities such as sewer, water, and storm drain.

Utility Plan and Profiles

- Sewer service infrastructure including manholes, cleanouts, and lines will be detailed as needed. Invert elevations, pipe material and slope information, and structure data will be shown on the plans. Preliminary sewer profiles will be provided to demonstrate feasibility of the sewer system design.
- Storm drain service infrastructure including manholes, cleanouts, catch basins and lines will be detailed as needed. Invert elevations, pipe material and slope information, and structure data will be shown on the plans. Preliminary storm drain profiles will be provided to demonstrate feasibility of the storm system design.
- Utility conflict identification and resolution activities will continue through the development of the DD package.

Erosion Control Plan

 A preliminary erosion control plan will be provided to identify the best management practices (BMP's) to be implemented onsite by the contractor to mitigate storm water and sediment runoff from the active construction site.

Detail Sheets

- A preliminary compilation of standard details will be developed to provide site, drainage, utility, and erosion control requirements specific to the Project.
- Electrical and Communications Design Development Plans Subconsultant full scope and fee attached.

Task 7 – Irrigation Construction Documents

Based on the Client-approved Schematic Irrigation Plan, Kimley-Horn will prepare Irrigation Plan Construction Documents, consisting of a cover sheet, 2 construction detail sheets, and up to 10 plan sheets at 20 scale for the project area.

The Irrigation Construction Documents will include a detailed layout of the underground irrigation system including point of connection location and size, controller location(s), mainline routing and sleeving, valve locations and sizes, spray heads, bubblers, and emitter locations, and lateral pipe routing and sleeving. Areas to receive dripline and drip emitters will be shown diagrammatically and calculated based on square footage of each area.

The Irrigation Construction Documents will include applicable Flow Analysis and calculations, Valve Schedule with flows, irrigation schedule indicating component make, model, and sizes, and applicable construction details and sheet specifications. The Irrigation Plans will be submitted to the Client for review and submittal to the appropriate jurisdiction if required, and plans will be revised up

to two times based on reasonable Client and/or City comments.

Task 8 - Promenade Construction Documents

After approval of the DD plans by the Client, Kimley-Horn will prepare Civil Construction Documents (CD's) for the Project. The CD's will be further detailed to the extent that the documents provide sufficient detail for the Client and/or the Contractor to obtain cost estimates. These documents will also be submitted for design and code review. It is assumed that the Civil Construction Documents will consist of the following sheets:

Cover Sheet

■ This sheet will consist of a project title, sheet index, basis of bearing and benchmark data, general site data, document references, Client and development team information, utility company contacts, and approval blocks.

General Notes Sheets

These sheets will provide the general notes for the Project along with jurisdictional required notes. These sheets will also include a list of abbreviations used in the plans together with a general legend.

Existing Conditions Plan

This plan will show the existing site and utility features in the adjacent roadways designed by the DFCM team. Limits showing preservation of existing site elements will be delineated.

Roadway Plan and Profiles

 The roadway plan and profile will be further detailed from the design development package in coordination with the Client and the Project Team and prepared for permit/design review submittal.

Detailed Grading and Drainage Plans

The detailed grading and drainage plans will provide detailed, larger-scaled drawings (to depict more clearly the grading details), ADA accessibility requirements and storm drain laterals/inlets required to service the site.

Utility Plan and Profiles

- These plans will be further detailed from the design development package in coordination with the Client and the Project Team and prepared for submittal.
- Final lateral connections to the development lots will be coordinated and shown in these plans.
- Final dry utility coordination with the Project Team.

Erosion Control Plans

These plans will be finalized based on the final site, grading, and storm drain design. These plans may be utilized by the contractor as supplemental documentation for the SWPPP permit application.

Detail Sheets

- These sheets will be supplemented with site-specific details as deemed necessary by Kimley-Horn.
- Electrical and Communications Construction Documents Plans Subconsultant full scope and fee attached.

Task 9 - Permitting/Bidding Assistance

Kimley-Horn will lead the permitting process through the TRC, providing prompt responses in order to complete the permitting in a timely manner. The submittal will be revised to respond to agency review comment for up to two (2) re-submittals. Kimley-Horn will prepare a comment response letter to each jurisdiction. PDF copies of the final permitted documents will be provided to the Client for bidding and implementation. Due to the unknown process and effort associated with the TRC and potential other jurisdictional review and approvals, the fee estimate for this task is hourly. The fee provided assumes approximately 200 hours of effort.

During bidding phase, Kimley-Horn will provide prompt responses to questions from bidders and assist the client with evaluating bids as needed.

Task 10 – Preliminary Opinion of Construction Cost

Kimley-Horn will prepare an engineer's opinion of construction costs (OPC) for the Civil improvements in the Promenade. Kimley-Horn will combine OPC's from landscape and electrical subconsultants to compile a comprehensive opinion of construction costs.

Kimley-Horn has no control over the cost of labor, materials, equipment, or over the Contractor's methods of determining prices or over competitive bidding or market conditions. Opinions of probable costs provided herein are based on the information known to Consultant at this time and represent only the Consultant's judgment as a design professional familiar with the construction industry. Kimley-Horn cannot and does not guarantee that proposals, bids, or actual construction costs will not vary from its opinions of probable costs.

ADDITIONAL SERVICES

The scope defined above is Kimley-Horn's best estimate as known today. It is anticipated that there will be other requests for services either to be provided by Kimley-Horn or subconsultants. A fee estimate can be provided for these items when a more defined scope is known.

Additional services Kimley-Horn can provide include, but are not limited to, the following:

- Additional land use or permitting processing
- Traffic Impact Study
- Shared parking analysis or district parking strategy support
- Landscape architecture services
- Structural engineering
- Public engagement/involvement
- ALTA survey or legal descriptions beyond those described
- Record Drawings
- Development lot site civil engineering
- Custom sub-surface design layout for silva-cell (or similar) tree planting applications
- Site plan or planting plan revisions that result in irrigation system design changes beyond



those noted above

- Booster pump station design and specification
- Water feature design and detailing
- Construction phase services

Other services Kimley-Horn can provide through a qualified subconsultant include but are not limited to the following:

- Wetland identification or delineation
- Environmental assessments or studies.

SERVICES NOT INCLUDED

Any other services, including but not limited to the following, are not included in this Agreement:

- Geotechnical engineering
- Construction staking
- Subsurface utility exploration survey
- Demolition plans
- Mechanical, electrical, or plumbing engineering
- Any other engineering service not specifically listed in the Scope of Services or Additional Services

INFORMATION PROVIDED BY CLIENT

We shall be entitled to rely on the completeness and accuracy of all information provided by the Client or the Client's consultants or representatives. The Client shall provide all information requested by Kimley-Horn during the project, including but not limited to the following:

- Digital files of the overall Phase 1 site plan along with the master infrastructure plans.
- Site surveys completed to date.

SCHE DULE

We will provide our services as expeditiously as practicable with the goal of meeting a schedule to be mutually agreed upon.



FEE AND EXPENSES

Kimley-Horn will perform the services described within the Scope of Services for the following:

Task	Task Name	Fee	Fee Type
1	Meetings, Project Coordination and Project Management	\$28,600	LS
2	Subdivision Plat	\$18,000	LS
3	PID Parcel Initial Legal Descriptions	\$6,300	LS
4	Civil Schematic Design	\$34,900	LS
5	Schematic Irrigation Plan	\$8,000	LS
6	Civil Design Development	\$170,800	LS
7	Irrigation Construction Documents	\$15,500	LS
8	The Promenade Construction Documents	\$280,000	LS
9	The Promenade Permit/Bidding Assistance	\$59,800	HR
10	Preliminary Opinion of Construction Costs	\$11,700	LS
	Reimbursable Expenses	\$1,000	
	Total	\$634,600	LS+HR

Lump Sum Fee - Services indicated by a "LS" or "Lump Sum" will be provided for the identified Lump Sum Fee. Where applicable, the Lump Sum Fee consists of a budgeted effort (number of hours) as stated within the Scope of Services. Client will be notified, and an amendment agreed upon in the event that additional effort will be required for completion of the project. Lump sum fees will be invoiced monthly based upon the overall percentage of services performed.

Hourly Fee - Services indicated by "Hourly" will be provided on a labor fee plus expense basis. The fees provided are an estimate based on the budgeted effort (number of hours) as stated within the Scope of Services. The fees provided are for general budgeting purposes only. Actual fees may be less or more than the estimates. Labor fee will be billed on an hourly basis according to our then-current rates.

Reimbursable Expenses - As to these tasks, direct reimbursable expenses such as express delivery services, fees, air travel, permitting fees, application fees and other direct expenses will be billed at 1.15 times cost as incurred.

Fees stated herein assume continuous progression of the Project. If significant stoppages occur or individual task authorization is desired, additional fees may be required to complete the noted scope of services.

CLOSURE

In addition to the matters set forth herein, our Agreement shall include and be subject to, and only to, the attached Standard Provisions, which are incorporated by reference. As used in the Standard Provisions, "Consultant" shall refer to Kimley-Horn and Associates, Inc., and "Client" shall refer to **Lincoln Property Company**

In an effort to expedite invoices and reduce paper waste, Kimley-Horn submits invoices via email in

an Adobe PDF format. We can also provide a paper copy via regular mail if requested. Please include the invoice number and Kimley-Horn project number with all payments. Please provide the following information:

Please email all invoices to	
Please copy	

If you want us to proceed with the services, please have an authorized person sign this Agreement below and return to us. We will commence services only after we have received a fully-executed agreement. Fees and times stated in this Agreement are valid for sixty (60) days after the date of this letter.

To ensure proper set up of your projects so that we can get started, please complete, and return with the signed copy of this Agreement and the attached Request for Information. Failure to supply this information could result in delay in starting work on your project. We appreciate the opportunity to provide these services to you. Please contact me if you have any questions.

Very truly yours,

KIMLEY-HORN AND ASSOCIATES, INC.

Leslie Morton, PE Associate

Lincoln Property Company

(Signature)	
(Name / Title)	•
(Date)	
Client's Federal Tax ID:	
Client's Business License No.	
Client's Street Address:	

Request for Information, Standard Provisions.

Spectrum Engineering Proposal

KHAMT

17

Attachments:



Request for Information

Please return this information with your signed contract; failure to provide this information could result in delay in starting your project

Client Identification								
Full, Legal Name of 0	Client							
Mailing Address for I	nvoices							
Contact for Billing Inc	quiries							
Contact's Phone and								
Client is (check one)		Owner	ner Agent for		for Owner		Unrelated to Owner	
Property Identification	an.							
-roperty identification	Parcel 1		Parce	el 2	Parcel 3		Parcel 4	
Street Address				-			2, 2	
County in which Property is Located								
Tax Assessor's								
Number(s)								
Property Owner Iden	tification Owner 1		Owne	er 2	Owner 3	3	Owner 4	
Owner(s) Name								
Owner(s) Mailing Address								
Owner's Phone No.								
Owner of Which								
Parcel #?								
		–		•				
Project Funding Iden	itification -	- LIST FUI	naing	Sources	for the Proje	ect		
Attach add	litional shee	ets if there	are n	nore than	4 narcels or	more f	than 4 owners	
Allacirada	inorial sile	ינט וו נווטול	, are n	ioro iriari	+ parcois or	iiioi G t	TIGHT T OWNERS	

ASSIGNMENT AND ASSUMPTION OF EVENT VENUE PROFESSIONAL SERVICES AGREEMENT

This ASSIGNMENT AND ASSUMPTION OF EVENT VENUE PROFESSIONAL SERVICES AGREEMENT (the "Agreement" or "Assignment") is made and entered into as of the 29th day of July, 2025, by and among CLW POINT PARTNERS, a Delaware limited liability company ("Assignor"), and POINT PHASE 1 PUBLIC INFRASTRUCTURE DISTRICT NO. 1, a quasi-municipal corporation and political subdivision of the State of Utah, ("Assignee"). The Assignor and the Assignee are referred to herein individually as a "Party" and collectively as the "Parties."

RECITALS

WHEREAS, Assignor is a party to that certain Short Form Event Venue Professional Services Agreement Between Owner and Consultant, dated March, 24, 2024 (the "Event Venue Professional Services Agreement"), by and between Assignor (as Owner) and Kimley-Horn and Associates, Inc., a North Carolina corporation (the "Consultant"), relating to the design and construction of the project known as "The Event Venue at the Point of the Mountain" (the "Event Venue Project"), attached hereto as Exhibit A; and

WHEREAS, those capitalized terms used herein and not otherwise defined shall have the meanings assigned to them in the Event Venue Professional Services Agreement; and

WHEREAS, Assignee is a duly formed and acting public infrastructure district that will own and finance public improvements related to the Event Venue Project; and

WHEREAS, Assignor desires to assign to Assignee, and Assignee desires to assume from Assignor, all of Assignor's rights and obligations under the Event Venue Professional Services Agreement, that relate to design and construction of public improvements that are within the scope of the Assignee's statutory purposes; and

WHEREAS, Section 19 of the Event Venue Professional Services Agreement provides, "[t]his Agreement may be assigned by Owner to an affiliated or related entity including a public infrastructure district, or joint venture entity at its discretion with contemporaneous written notice to Consultant; or to any other assignee, with the prior written consent of Consultant, which shall not be unreasonably withheld, so long as the assignee is financially capable of paying for the Services or Owner shall remain responsible for the obligations under the Agreement."; and

WHEREAS, the Assignee is ready and capable of performing the Assignor's obligations under the Agreement.

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

COVENANTS AND AGREEMENTS

- 1. <u>Recitals are Incorporated</u>. The recitals to this Agreement are incorporated as if fully set forth herein.
- 2. <u>Assignment of Rights</u>: Effective as of the date set forth above, Assignor hereby assigns, transfers, and conveys to Assignee all of its right, title, and interest in and to the Professional Services Agreement, including all obligations and duties thereunder, to the extent relating to the design, permitting, and construction of public improvements described in or contemplated by the Event Venue Professional Services Agreement.
- 3. <u>Assumption of Obligations and Duties</u>: Assignee hereby accepts the foregoing assignment and assumes and agrees to perform all of Assignor's obligations under the Event Venue Professional Services Agreement as of the effective date of this Assignment, as such obligations relate to the design and construction of public improvements to be owned or financed by the Assignee.
- 4. <u>Consent of Consultant</u>: Consultant shall evidence its consent to this Agreement by signing below, and upon such execution, shall recognize Assignee as the "Owner" under the Event Venue Professional Services Agreement for all purposes. Consultant shall continue performance under the Event Venue Professional Services Agreement without interruption, and acknowledges that this Assignment does not constitute a material change under the Event Venue Professional Services Agreement. Consultant acknowledges that all invoicing and payment for services rendered on or after the Effective Date shall be directed to Assignee.
- 5. <u>Notices</u>: All notices under the Event Venue Professional Services Agreement shall be delivered to Assignee at the address designated by the District unless otherwise directed in writing.
- 6. <u>Prior Provisions Effective</u>. Except as specifically provided herein, all the terms and provisions of the Event Venue Professional Services Agreement shall remain in full force and effect.
- 7. Entire Agreement; Modifications. This Agreement contains the entire understanding of the Parties and supersedes all other agreements or understandings between them with respect to the subject matter of the Agreement. This Agreement may not be changed orally, but only by an agreement in writing, signed by the party against whom enforcement of any waiver, change, modification, extension, or discharge is sought.
- 8. <u>Governing Law</u>. This Agreement is governed by and construed in accordance with the laws of the State of Utah, without giving effect to any choice or conflicts of laws principles.
- 9. <u>Interpretation</u>. Any caption that identifies a paragraph or section heading is for convenience only and the content of the paragraph controls the relationship between the Parties not the language of the heading. Singular includes the plural and plural includes singular. Reference to a paragraph also references all paragraphs. This Agreement shall be considered to have been drafted by the Parties and there will be no construction of ambiguities against any Party.
- 10. <u>Counterparts</u>. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.

11. Waiver; Partial Invalidity. No term or condition of this Agreement shall be deemed waived unless such waiver is expressed in writing and is signed by the Parties. Failure or delay on the part of any Party to exercise any right, power, or privilege under this Agreement shall not be deemed a waiver thereof. In the event that an arbitrator or judge determines that any provision of this Agreement is invalid or unenforceable, the remainder of the Agreement shall remain enforceable deleting therefrom the invalid or unenforceable provision and all other provisions remaining valid and enforceable to the fullest extent permitted by law.

[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.

ASSIGNOR:
CLW POINT PARTNERS, a Delaware limited liability company
Printed Name
Title
ASSIGNEE:
POINT PHASE 1 PUBLIC INFRASTRUCTURE DISTRICT NO. 1 a quasi-municipal corporation and political subdivision of the State of Utah
By: Authorized Board Member
CONSULTANT:
KIMLEY-HORN AND ASSOCIATES, INC. , a North Carolina corporation
Printed Name
Title

Exhibit A

Short Form Event Venue Professional Services Agreement, dated March, 24, 2024 ("Event Venue Professional Services Agreement")

SHORT FORM PROFESSIONAL SERVICES AGREEMENT

This Agreement (the "Agreement") is made and entered into on the 24th of March 2025, by and between Kimley-Horn and Associates, Inc. (the "Consultant") and CLW POINT PARTNERS, LLC a Delaware Limited Liability Company (the "Owner").

Whereas, Owner has rights to develop that certain real property commonly known as The Point of the Mountain (the "Property"), more particularly described on Exhibit A.

Now, therefore, in consideration of covenants, agreements and stipulations contained herein, the Consultant and Owner hereby covenant, promise and agree to the following:

- 1. <u>Services</u>. The Consultant agrees to furnish all supervision, labor, materials, supplies, and equipment as may be necessary to complete and provide the professional services at the Property as set forth in the Consultant's "Proposal" attached hereto as <u>Exhibit B</u> and hereby included as part of this Agreement (the "Services"). The Consultant shall perform its services consistent with the professional skill and care ordinarily provided by professionals providing similar services for projects of a similar nature in the same locality under similar circumstances (the "Standard of Care"). The terms and conditions of this Agreement shall prevail over any conflicts with the Consultant's Proposal.
- 2. Additional Services. It is understood that, from time to time during the term of this Agreement, Owner may request Consultant to perform services or provide materials which are not set forth in Exhibit B but are related to the services encompassed within the Services (herein "Additional Services"). Consultant hereby agrees to perform such Additional Services so long as prior to the performance of such Additional Services, Owner shall authorize in writing the scope of such Additional Services and compensation payable to Consultant for the full performance of said Additional Services. In the event Consultant shall fail to secure such a writing relating to such Additional Services, any such work thereafter performed shall be deemed a part of the Services and Consultant shall not be entitled to any additional compensation therefore.
- 3. Compensation. Owner agrees to pay Consultant as set forth in Exhibit B. Payment shall be issued to the Consultant by Owner within forty-five (45) calendar days of receipt of invoice. Consultant shall itemize applicable charges and taxes on invoice. Consultant shall be required to submit final lien waivers, in a form consistent with state statutes based on where the Project is located, for all invoices prior to release of payment. Final payment shall not be due until Consultant has delivered to Owner 1) written confirmation that the Services and any Additional Services hereunder have been fully and satisfactorily performed and 2) a complete release, conditioned upon receipt of payment by Owner, of all liens arising out of the Services and any Additional Services or receipts in full covering all labor, materials and equipment for which a lien could be filed, or a bond satisfactory to Owner indemnifying it against any lien. If any lien remains unsatisfied after all payments are made, Consultant shall pay on demand or refund to Owner all moneys that the latter may be compelled to pay in discharging such lien, including all costs and reasonable attorneys' fees.
- 4. <u>Key Personnel</u>. Consultant agrees to identify in advance and obtain Owner's prior written approval for all key personnel who will be utilized by Consultant in carrying out the Services under this Agreement. Individuals assigned by Consultant to such key positions shall not be removed from their positions or reassigned by Consultant except in the case of an employee's voluntary or involuntary termination of employment, due to serious illness, death, or a bona fide family emergency. Unless otherwise directed or approved by Owner, individuals for whom Consultant has obtained Owner's approval to be assigned to such key positions shall also be retained absent removal for permitted causes.

5. Ownership of Instruments of Service. The term "Instruments of Service" shall mean all work product, including all Drawings, Specifications, shop drawing submittals, Building Information Models, plans, studies, reports, project-related documents, models, photographs, and other expression created by the Consultant, or other so-called instruments of service, in any form, including native format, and all ideas incorporated therein, and all intellectual property rights associated therewith, which are prepared by or on behalf of Consultant in connection with the Property and/or this Agreement. The Consultant warrants that in transmitting Instruments of Service, or any other information, the Consultant is the copyright owner of such information or has permission from the copyright owner to transmit such information for its use on the Property. Upon each payment to Consultant of undisputed sums then due and owing, any and all right, title, and interest in the Instruments of Service developed by or on behalf of the Consultant as of the time of such payment shall fully and completely transfer and be conveyed and assigned to Owner, including without limitation all copyrights and patents. The Instruments of Service are not intended or represented to be suitable for use or reuse by Owner or others on any other project. Any modifications by Owner to any of the Instruments of Service, or any reuse of such documents on any other project without written authorization by Consultant will be at Owner's sole risk and without liability to Consultant. The Owner's obligation to pay the Consultant is expressly conditioned upon the Consultant's obtaining a valid written comprehensive assignment of ownership rights from its subcontractors in terms identical to those that obligate the Consultant to the Owner as expressed in this subparagraph, which copyrights the Consultant, in turn, hereby assigns to the Owner. The Owner, in return, hereby grants the Consultant a nonexclusive license to (i) reproduce the documents for purposes relating directly to the Consultant's performance of this Property, for the Consultant's archival records, and for the Consultant's reproduction of drawings and photographs in the Consultant's marketing materials, provided the contents of those materials, as to this Property, are approved in advance by Owner in writing, and (ii) reproduce and/or reuse the individual elements and aspects used by Consultant in connection with its designs on or with respect to other projects and/or services provided by Consultant to third parties (provided that, notwithstanding the foregoing or any other contrary provision of this Agreement, Consultant shall not repeat the designs prepared under this Agreement). Notwithstanding the foregoing, the Consultant shall retain ownership rights to any pre-existing intellectual property, including any enhancements thereof, or standard construction details or conventions embodied in the Instruments of Service. No other project-related documents may be reproduced for any other purpose without the express written permission of the Owner. No other copyrights are included in this grant of nonexclusive license to the Consultant. This nonexclusive license shall terminate automatically and immediately upon the occurrence of either a breach of this Agreement by the Consultant or the commission by the Consultant of a tort or a crime potentially affecting the Owner or the Property. This nonexclusive license is granted to the Consultant alone and shall not be assigned by the Consultant to any other person or entity. Other provisions of this Agreement notwithstanding, this nonexclusive license shall terminate automatically upon a Consultant's assignment of this nonexclusive license to another or its attempt to do so. However, nothing in this paragraph shall be construed to preclude the Consultant from, in turn, assigning to its subcontractors a nonexclusive license coextensive with the Consultant's applying to the documents originally created by that subcontractor. In connection with the foregoing, Consultant shall secure in writing from all subconsultants any ownership rights or interests necessary to fulfill the Consultant's obligations under this Agreement. Notwithstanding the foregoing, Consultant may use or develop its proprietary software owned by Consultant or its affiliates ("Software") in the performance of this Agreement. Unless explicitly agreed to in writing by both parties to the contrary, Consultant maintains all interest in and ownership of its Software and conveys no interest, ownership, license to use, or any other rights in the Software to Owner. Any enhancements of Software made during the performance of this Agreement are solely owned by Consultant and its affiliates. If Consultant's services include providing Owner with access to or a license for Consultant's (or its affiliates') proprietary software or technology, a separate software licensing agreement will be negotiated prior to providing Owner with access or a license to use the proprietary software or technology.

- 6. <u>Insurance</u>. Throughout the term of this Agreement, the Consultant and its subcontractors, if any, shall secure and maintain, at its own expense, the following insurance requirements with companies reasonably satisfactory and acceptable to Owner. Consultant and its subcontractors, if any, shall furnish Owner certificates evidencing such insurance prior to commencement of work under this Agreement:
 - a. Worker's Compensation and Employer's Liability Insurance which shall fully comply with the statutory requirements of all state laws as well as federal laws which may be applicable. Employer's Liability limit shall be \$1,000,000.00 per accident for Bodily Injury and \$1,000,000.00 per employee/aggregate for disease.
 - b. Commercial General Liability insurance (naming Owner as additional insureds using a combination of the ISO CG 20 10 10 01 and ISO CG 20 37 10 01 additional insured endorsements) with a minimum limit of \$1,000,000.00 per occurrence, \$2,000,000.00 in the aggregate and with a \$2,000,000 products-completed operations general aggregate limit for injury and/or death and/or property damage (such insurance shall include contractual liability, personal injury protection and completed operations coverage).
 - c. Automobile Liability insurance covering owned, non-owned and rented vehicles operated by the Consultant with policy limits of not less than \$1,000,000 combined single limit and aggregate for bodily injury and property damage.
 - d. Professional Liability insurance on a claims-made basis covering the Consultant's negligent acts, errors and omissions in its performance of professional services with policy limits of not less than \$3,000,000 per claim and \$3,000,000 in the aggregate. Professional liability coverage shall be maintained through the duration of the applicable statute of repose of the state in which the Project is located.

All Consultant (and subcontractor) insurance coverage, except Professional Liability and Workers' Compensation, as outlined above shall be primary to and shall not seek contribution against any insurance Owner may have in place. In addition, all such insurance policies of Consultant (and any subcontractor) shall contain appropriate clauses pursuant to which the respective insurance carriers shall waive all rights of subrogation against the Owner with respect to such policies. Further, all such insurance policies shall require no less than 30 days' notice of cancellation to Owner.

- 7. <u>Representations</u>. Consultant hereby represents and certifies to Owner, with the intention that Owner rely thereon in entering into this Agreement, that:
 - a. Consultant has the qualifications and experience necessary to perform the Services and any Additional Services. Consultant acknowledges that its representatives have visited the Property and are generally familiar with all observable site conditions which may affect the Services and any Additional Services.
 - b. Consultant has the capability, experience, and professional registrations and licenses, required to perform the Services and any Additional Services. Upon Owner's request, Consultant shall submit copies of any required professional or business registrations, licenses, or approvals required to perform such services to Owner prior to the commencement of the Services and any Additional Services.
 - c. Consultant shall review laws, codes, and regulations applicable to the Consultant's Services consistent with the Standard of Care. Consultant's designs, plans, specifications,

documents, and services shall conform to applicable federal, state, and local statutes and regulations governing the project and the Property. The Consultant's designs, documents, and services shall conform to federal, state, and local statutes, regulations, and codes governing the project and the Property and the requirements of entities providing utility services to the Property. Consultant agrees and acknowledges that this duty is non-delegable, and Consultant represents, subject to its Standard of Care, and to the extent applicable as set forth in Consultant's Services in Exhibit B, by signing, stamping, and approving drawings or preparing drawings or permitting drawings to be submitted for purposes of building permits (i) it has acquainted itself with and has actual knowledge of the scope of the construction work, (ii) it has ascertained the codes which are applicable to the project and that Consultant's designs, documents, and services conform to such codes, (iii) it has visited the Property and existing conditions, , the location of adjacent structures and utilities, and access to the Property and is generally familiar with the condition of the Property as of the date of this Agreement.

8. <u>Approval not a Release</u>. Approval by the Owner shall not constitute nor be deemed a release of the responsibility and liability of Consultant or any of its subcontractors for the accuracy and competency of the Services, work product, Instruments of Service, deliverables or documents furnished or prepared under this Agreement by Consultant or any subcontractor (collectively, "Work Product"); nor shall such approval be deemed to be an assumption of such responsibility by the Owner for any defect, error or omission in the Work Product. Owner's approval or acceptance of any of Work Product will not release Consultant from any liability for such Work Product because Owner is, at all times, relying upon Consultant's professional skill and knowledge.

9. <u>Indemnification & Liability</u>.

- a. THE CONSULTANT SHALL INDEMNIFY AND HOLD OWNER AND THEIR RESPECTIVE MEMBERS, MANAGERS, OFFICERS. DIRECTORS. SHAREHOLDERS, AGENTS, REPRESENTATIVES, AND EMPLOYEES (EACH, AN "INDEMNIFIED PARTY" AND COLLECTIVELY, THE "INDEMNIFIED PARTIES") FREE AND HARMLESS FROM ANY AND ALL CLAIMS, LAWSUITS, SICKNESS, LOSSES, DAMAGES, INJURIES, INCLUDING REASONABLE ATTORNEYS FEES, TO THE EXTENT CAUSED BY THE NEGLIGENCE, GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF CONSULTANT (OR ANY SUBCONTRACTOR OF CONSULTANT OR OTHERS FOR WHOM CONSULTANT IS LEGALLY RESPONSIBLE), WHICH RESULT FROM OR DURING THE PROVIDING OF PROFESSIONAL SERVICES UNDER THIS AGREEMENT. NEITHER THE OWNER NOR THE CONSULTANT SHALL BEAR ANY LIABILITY TO THE OTHER FOR LOSS OF PRODUCTION, LOSS OF PROFITS, LOSS OF BUSINESS OR ANY OTHER INDIRECT, SPECIAL, PUNITIVE, EXEMPLARY OR CONSEQUENTIAL DAMAGES. NEITHER PARTY WAIVES ANY RIGHT TO MAKE ANY CLAIM AGAINST THE OTHER PARTY FOR ANY DIRECT DAMAGES ALLEGED TO HAVE BEEN CAUSED BY A BREACH OF ANY OF THE PROVISIONS OF THIS AGREEMENT. TO THE EXTENT THE INDEMNIFIED PARTIES INCUR ATTORNEYS' FEES IN DEFENSE OF ANY CLAIM ASSERTED AGAINST THE INDEMNIFIED PARTIES WHICH ARISES OR RESULTS FROM THE ALLEGED NEGLIGENT ACTS OR OMISSIONS OF THE CONSULTANT, CONSULTANT SHALL REIMBURSE THE INDEMNIFIED PARTIES THEIR REASONABLE ATTORNEY'S FEES IN PROPORTION TO THE CONSULTANT'S LIABILITY FOUND AFTER A FINAL ADJUDICATION OF LIABILITY.
- b. Notwithstanding anything to the contrary contained in this Agreement or in any exhibits attached hereto or in any documents executed or to be executed in connection herewith, it is expressly understood and agreed by and between the parties hereto that the total

aggregate liability of the Consultant under this Agreement shall be limited to an amount equal to \$3,000,000; provided, however, that this limitation of liability shall not apply to the extent the claims, losses, or damages are caused by the fraud, gross negligence or willful misconduct of the Consultant.

- c. This Section shall survive the termination of this Agreement.
- 10. Applicable Law. The Consultant agrees that the Services and any Additional Services provided under this Agreement will be provided in compliance with this Agreement and all applicable laws, orders, rules and regulations of governmental agencies having jurisdiction over such services. Such governmental agencies and regulations include but are not limited to the Environmental Protection Agency; Uniform Commercial Code as adopted by the state in which the services are provided; Occupational Safety and Health Administration regulations; Applicable environmental, health and safety laws and regulations pertaining to supplies, materials, tools and machinery used in providing services. This Agreement shall be governed by, and any disputes shall be settled pursuant to, the laws of the state in which the service is provided unless mutually agreed otherwise. Consultant shall not engage in any conduct or practice which discriminates against any employee or applicant for employment because of his or her race, color, gender, religion, national origin, marital status, physical handicap, sex, sexual preference or age in the performance of this Agreement or in any connection with the Property.
- 11. Dispute Resolution. Any claim, dispute or other matter in question arising out of or related to this Agreement shall be subject to mediation as a condition precedent to litigation. If such matter relates to or is the subject of a lien arising out of the Consultant's Services, the Consultant may proceed in accordance with applicable law to comply with the lien notice or filing deadlines prior to resolution of the matter by mediation or by litigation. The Owner and Consultant shall endeavor to resolve claims, disputes and other matters in question between them by mediation which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Mediation Procedures in effect on the date of the Agreement or other mutually agreed to qualified forum. A request for mediation shall be made in writing, delivered to the other party to the Agreement, and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of a petition or complaint but, in such event, mediation shall proceed in advance of litigation, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order. The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Property is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof. If the parties do not resolve a dispute through mediation, the dispute shall be resolved through litigation in a court of competent jurisdiction in the County in which the Property is located, which both parties agree has sole and exclusive jurisdiction to adjudicate all disputes arising between the parties in connection with this Agreement.
- 12. <u>Certifications</u>. All requests for Consultant to execute certificates, lender consents, or other third-party reliance letters must be submitted to Consultant seven (7) days prior to the requested date of execution. Consultant shall not be required to execute certificates, consents, or third-party reliance letters that are inaccurate, that relate to facts of which Consultant does not have actual knowledge, or that would cause Consultant to violate applicable rules of professional responsibility.

13. Termination of Services

a. This Agreement may be terminated with or without cause at any time prior to completion of Consultant's services by Owner, upon written notice to the Consultant at the address of record. Upon receipt of written notice from Owner to discontinue work, Consultant shall discontinue Services under this Agreement immediately. In the event Owner terminates

- the Agreement based on Owner's reasonable opinion that Consultant has failed or refused to prosecute the Services in accordance with the terms of this Agreement, Consultant shall have ten (10) days, from the receipt of written notification by Owner, to cure such failure to perform in accordance with the terms of this Agreement.
- b. If Owner terminates Consultant without cause, Owner shall pay Consultant for all contracted Services rendered and expenses incurred before termination, in addition to termination settlement costs the Consultant reasonably incurs relating to commitments which had become firm before such termination.
- c. If Owner terminates Consultant for cause, Owner shall have no obligation to pay for Consultant's termination costs, and shall retain the right to withhold any unpaid sums to the Consultant to offset Owner's damages arising from such termination.
- d. If Owner fails to comply with any covenant or obligation imposed by this Agreement, then Consultant may furnish written notice to Owner identifying the breach and applicable provisions of this Agreement violated. If Owner fails to cure the breach within thirty (30) days, Consultant may then terminate this Agreement without further written notice to Owner.
- 14. Opinions of Cost. Because Consultant does not control the cost of labor, materials, equipment or services furnished by others, methods of determining prices, or competitive bidding or market conditions, any opinions rendered as to costs, including but not limited to the costs of construction and materials, are made solely based on its judgment as a professional familiar with the industry. Consultant cannot and does not guarantee that proposals, bids or actual costs will not vary from its opinions of cost. If the Owner wishes greater assurance as to the amount of any cost, it shall employ an independent cost estimator. Consultant's services required to bring costs within any limitation established by the Owner will be paid for as Additional Services.
- 15. <u>Construction Costs</u>. Consultant shall have no liability for any costs arising out of the Owner's decision to proceed with construction before Consultant has issued final, fully approved plans and specifications.
- 16. <u>Hazardous Substances and Conditions</u>. Consultant shall not be a custodian, transporter, handler, arranger, contractor, or remediator with respect to hazardous substances and conditions. Consultant's services will be limited to analysis, recommendations, and reporting, including, when agreed to, plans and specifications for isolation, removal, or remediation. Consultant will notify the Owner in writing of unanticipated hazardous substances or conditions of which Consultant actually becomes aware within 24 hours of becoming aware of same. Consultant may stop affected portions of its services until the hazardous substance or condition is eliminated.
- 17. Construction Operations. Consultant shall have no responsibility for any contractor's means, methods, techniques, equipment choice and usage, equipment maintenance and inspection, sequence, schedule, safety programs, or safety practices, nor shall Consultant have any authority or responsibility to stop or direct the work of any contractor. Consultant's visits will be for the purpose of providing the Owner a greater degree of confidence that the completed work of its contractors will generally conform to the construction documents prepared by Consultant. Consultant neither guarantees the performance of contractors, nor assumes responsibility for any contractor's failure to perform its work in accordance with the contract documents. Consultant is not responsible for any duties assigned to it in the construction contract that are not expressly provided for in this Agreement.
- 18. <u>Independent Contractor</u>. The Consultant or any agent or employee of Consultant shall be deemed at all times to be an independent contractor and is wholly responsible for the manner in which it performs the services and work requested under this Agreement. The Consultant or any agent or employee of Consultant shall not have employee status with Owner, nor be entitled to participate in any plans, arrangements, or distributions by Owner pertaining to or in connection with any

retirement, health, or other benefits that Owner may offer their employees. The Consultant or any agent or employee of the Consultant, as applicable, is liable for the acts and omissions of itself, its employees and its agents. All matters pertaining to the selection, direction, employment, supervision, compensation, promotion and discharge of such personnel are the sole responsibility of Consultant, which shall be in all respects the employer of such personnel, and Consultant shall have total responsibility for and shall fully comply with all applicable laws and regulations having to do with worker's compensation, social security, unemployment insurance, hours of labor, wages, working conditions, and other employer-employee related subjects. Without limiting the foregoing, the Consultant shall be responsible for all obligations and payments, whether imposed by federal, state, or local law, including, but not limited to, Federal Insurance Contributions Act (FICA), income tax withholdings, unemployment compensation, insurance, and other similar responsibilities related to the Consultant's performing services and work, or any agent or employee of Consultant's providing same. Nothing in this Agreement shall be construed as creating an employment or joint venture relationship between Owner and the Consultant. Any terms in this Agreement referring to direction from Owner shall be construed as providing for direction as to policy and the result of Consultant's work only, and not as to the means by which such a result is obtained.

- 19. <u>Assignment</u>. This Agreement shall be binding on the successors of the parties hereto. This Agreement may be assigned by Owner to an affiliated or related entity including a public infrastructure district, or joint venture entity at its discretion with contemporaneous written notice to Consultant; or to any other assignee, with the prior written consent of Consultant, which shall not be unreasonably withheld, so long as the assignee is financially capable of paying for the Services or Owner shall remain responsible for the obligations under the Agreement. This Agreement shall not be assigned by Consultant without first obtaining the written consent of Owner.
- 20. <u>Confidentiality</u>. All drawings, specifications, technical documents of any nature, and copies thereof, prepared pursuant to this Agreement are the property of the Owner and are to be treated as confidential. They are not to be disclosed to others without the Owner's prior written approval (except to the extent necessary to comply with the direction of any applicable legal authority) and are to be delivered to the Owner on request and in all events upon completion of the Services and any Additional Services, or termination of this Agreement.
- 21. Notices. Any information or notices required to be given in writing under this Agreement shall be given personal delivery, by overnight courier service or by certified mail (return receipt requested, postage prepaid), to the address of the respective Party set forth below, or to such other address for either Party as that Party may designate by written notice. Delivery shall be deemed effective upon receipt or failure to accept receipt in the case of personal delivery or delivery by overnight courier and three days following deposit with the United States mail in the case of delivery by certified mail.

If to Owner:

CLW POINT PARTNERS, LLC, c/o Lincoln Property Company 8111 Douglas Avenue, Suite 600 Dallas, Texas 75225

With a copy to:

Lincoln Property Company 1211 SW Fifth Ave., Suite 700

Portland, OR 97204

Attention: Patrick Gilligan Email: pgilligan@lpc.com

If to Consultant:

Kimley-Horn and Associates, Inc. 111 East Broadway, Suite 600 Salt Lake City, UT 84111

Email: Leslie.Morton@kimley-horn.com

- 22. <u>Miscellaneous</u>. A waiver on the part of the Owner or Consultant of any term, provision or condition of this Agreement shall not constitute a precedent or bind either party to a waiver of any succeeding breach of the same or any other term, provision or condition of this Agreement. This Agreement, including any Exhibits and any addenda thereto, constitutes the entire Agreement between Consultant and Owner. It supersedes all prior or contemporaneous communications, representations or agreements, whether oral or written, relating to the Services set forth in this Agreement. This Agreement may be amended only by a written instrument signed by both parties. The captions in this Agreement are for the convenience of the parties in identification of the several provisions and shall not constitute a part of this Agreement nor be considered interpretative thereof. Every paragraph, part, term or provision of this Agreement is severable from others. If any paragraph, part, term or provision of this Agreement is construed or held to be void, invalid or unenforceable by order, decree or judgment of a court of competent jurisdiction, the remaining paragraphs, parts, terms and provisions of this Agreement shall not be affected thereby but shall remain in full force and effect.
- 23. <u>Applies To Florida Projects Only.</u> PURSUANT TO FS 558.0035, EMPLOYEES OF CONSULTANT MAY NOT BE HELD INDIVIDUALLY LIABLE FOR ECONOMIC DAMAGES RESULTING FROM NEGLIGENCE UNDER THIS AGREEMENT.

In Witness whereof, the parties hereto have acknowledged and agreed to terms and conditions contained hereinabove and executes the same by written acceptance below.

OWNER: CLW POINT PARTNERS, LLC

Signed by: Patrick Gilligan
-2010C29959F5437... By: Patrick Gilligan Name: EVP Title: 4/10/2025

Date:

CONSULTANT: Kimley-Horn and Associates, Inc.

Jachary O. Johnson
-4BE337C8D81E475... By: Zachary A. Johnson Name: Vice President Title: 3/27/2025 Date:

Exhibit A
The Property

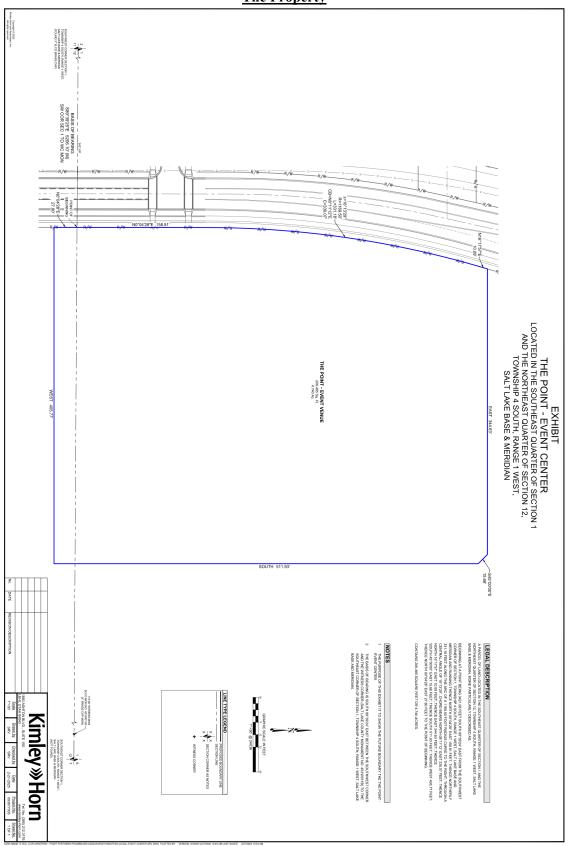


Exhibit B Consultant's Proposal

See Attached



February 13, 2025

Mr. Aric Yarberry
The Point Partners

Via email: ayarberry@lpc.com

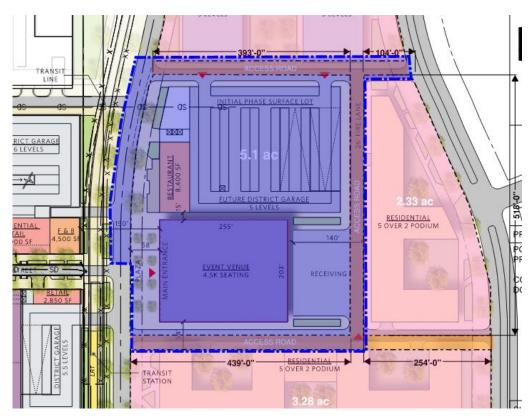
Re: Proposal for the Event Venue at The Point

Dear Aric,

Kimley-Horn and Associates, Inc. ("Kimley-Horn" or "Consultant") is pleased to submit this letter agreement (the "Agreement") to **The Point Partners** ("Client") for providing civil engineering consulting services for **the Event Venue at the Point** (the "Project") located in **Draper City** limits ("City"). Our Project Understanding, Scope of Services, Schedule and Fee are detailed herein.

PROJECT UNDERSTANDING

Kimley-Horn understands that The Point Partners plans to construct the approximately 50,000 sf Event Venue, 8,400 sf restaurant, surface parking lot and four access roads as shown highlighted in blue in the exhibit below. The event venue site is approximately 5.1 acres. The scope of work covered in this proposal includes civil engineering services as described below.





Given this understanding of the Project, we have assumed the following:

- The Client or Owner will retain the services of a Structural Engineer, Mechanical/Electrical/Plumbing (MEP) Engineer, Geotechnical Engineer, Environmental Engineer, Architect, Landscape Architect, and other professionals as may be required for the Project (the "Project Team").
- A topography survey has been complete as part of the DFCM Infrastructure project and Kimley-Horn has been provided the CAD file of this survey. This topography survey will be used as the existing grade for design.
- Utility capacity and supply is assumed to be available for all utilities to service the project.
- Based upon the anticipated site disturbance area, this Project will require a Storm Water Pollution Prevention Plan (SWPPP) from the State Division of Water Quality with review by the City. Kimley-Horn will prepare the initial Erosion Control Plan but the SWPPP document and permitting process is anticipated to be completed by the General Contractor.
- A geotechnical investigation report will be provided to Kimley-Horn by the Client or Owner
- The documents produced by Kimley-Horn will be reviewed by the Technical Review
 Committee (TRC) consisting of a representative of DFCM, a building official, a code review
 official, State Fire Marshall, Draper City representative, and additional members that the TRC
 Coordinator deems necessary to review the documents
- This proposal assumes that the standards and practices in effect at the City at the time of this
 proposal will remain in effect throughout the course of development.
- Water quality will be required on-site (Event center is located outside of Phase I)
- LRT roadway and Main St./Southfork Drive will be constructed as part of the Infrastructure 2B package.
- Legal descriptions will be part of a separate contract

SCOPE OF SERVICES

The following Scope of Services has been developed based on our current understanding of the Project and discussions with the Client:

Task 1 – Conceptual Design

Kimley-Horn will support the architect and developer team during the concept design phase by attending 2-hour weekly coordination calls for the duration of the 4-week concept phase. Kimley-Horn will provide the architect with project background materials for the existing phases of the Point of the Mountain project. Concept exhibits will be created for conceptual grading, conceptual utilities, truck turn movements, and fire truck access. High level traffic analysis will be complete to verify roadway capacities and turning movement conflicts. Kimley-Horn will assist with the placement of the event venue parcel boundary for the legal description.

Task 2 – Schematic Design

Upon receiving direction to proceed from the Client, Kimley-Horn will prepare civil schematic design (SD) drawings. These plans will provide preliminary design based on the Client provided site plan.

The SD civil package is anticipated to include the following sheets:



- Overall Site Plan The overall site plan will apply applicable code and design requirements to the
 approved Project plan. This plan will be coordinated with the Project Team to develop the
 relationships between site spaces by establishing building, sidewalk, and hardscape and
 landscape areas. The plan will consider ADA parking and paths of travel requirements.
- Overall Grading and Drainage Plan This plan will provide an overall on-site grading and
 drainage plan showing existing and proposed contours at one-foot intervals and general drainage
 patterns. Preliminary storm drain layout and design will be shown together with preliminary
 detention sizing and potential underground and above ground locations on the site. Off-site
 detention analysis is not included. Inverts will be provided at key locations along the trunk line of
 the storm drain network to demonstrate feasibility. Initial coordination with the Project Team will
 identify preliminary roof drain connections to buildings.
- Overall Utility Plan Kimley-Horn will coordinate with the Project Team to identify water and sanitary sewer service connections to buildings. Inverts for the gravity sewer will be provided at key locations to demonstrate feasibility. Coordination with the Project Team will include preliminary locations for transformers, switch gear, equipment pedestals, electrical/communications manholes and duct banks to coordinate equipment site requirements.

Task 3 – Design Development

The design development (DD) phase of the Project is intended to further develop the preliminary design put forth in the SD phase of the Project. This task will provide a 60% design and assumes change to the site plan will be minimal. In addition to the further development of the sheets prepared in Task 2, the following sheets will be developed to provide more design detail as the Project progresses towards final construction documents:

Civil Cover Sheet

■ This sheet will consist of a project title, sheet index, basis of bearing and benchmark data, general site data, document references, Client and development team information, utility company contacts, and approval blocks.

General Notes Sheets

These sheets will provide the general notes for the Project and will include City specific notes. These sheets will also include a list of abbreviations used in the plans together with a general legend.

Existing Conditions Plan

This plan will show the existing site within the proposed Project limits based on site features identified by the site survey, site observations or improvements intended to be existing at the time of construction.

Civil Site Plan

The civil site plan will be advanced based on the Client's site plan and provide further detail such as pavement types, concrete paving, curb and gutter, ADA access details, truck turning movements, etc.



This plan will be coordinated with the Project Team to develop the relationships between site spaces by establishing building, sidewalk, and hardscape and landscape areas. The plan will consider ADA and paths of travel requirements.

Roadway Plans and Profiles

- Roadway plan, profiles, and typical sections will be developed for the proposed roadways. Detailed grading of intersections will be provided on the grading sheets
- Plan view design will be further detailed to show pavement types, curb and gutter, ADA access details, etc.
- This plan will be coordinated with the Project Team to develop the relationships between site spaces by establishing building, sidewalk and hardscape/landscape areas.

Overall Grading and Drainage Plan

- This plan will provide an overall grading and drainage plan showing existing and proposed contours at one-foot intervals and general drainage patterns. General ADA compliance will be demonstrated as necessary throughout the site. Spot elevations and slope arrows will be shown on the plans to identify building finished floor elevations, sidewalk, curb and gutter, stair, wall, or other site feature elevations to the extent that general grading intent can be understood at the design development level.
- Storm drain layout and design will be shown together with preliminary detention sizing and potential underground and above ground locations. Coordination with the Project Team will identify roof drain connections to buildings. Invert elevations, pipe material and slope information, and structure data will be shown on the plans. Preliminary storm drain profiles will be provided to demonstrate feasibility of the storm system design.

Utility Plans

- The overall utility plan will provide a horizontal layout of all proposed and existing utility systems, including water, sewer, storm drain, and information provided by other Project Team members such as electrical and communications systems. Coordination with the Project Team will identify service connections to buildings.
- Kimley-Horn will work with the site electrical and mechanical engineers to coordinate locations of electrical and telecommunications equipment as it relates to the locations of other onsite utilities such as sewer, water, and storm drain. It is assumed that the design of telephone, cable, fiber optic, electric, and high temperature water will be completed by others; Kimley-Horn will only identify the location of these utilities in the Utility Plans and provide conflict resolution coordination with other utilities.

Utility Plan and Profile

Sewer infrastructure including manholes, grease interceptors, and lines will be detailed and profiled as needed. Invert elevations, pipe material and slope information, and structure data will be shown on the plans. Preliminary sewer profiles will be provided to demonstrate feasibility of the sewer system design.



- Storm drain mainline infrastructure including manholes, catch basins and lines will be detailed and profiled as needed. Invert elevations, pipe material and slope information, and structure data will be shown on the plans. Preliminary storm drain profiles will be provided to demonstrate feasibility of the storm system design.
- Utility conflict identification and resolution activities will continue through the development of the DD package.

Erosion Control Plan

A preliminary erosion control plan will be provided to identify the best management practices (BMP's) to be implemented onsite by the contractor to mitigate storm water and sediment runoff from the active construction site.

Detail Sheets

A preliminary compilation of standard details will be developed to provide site, drainage, utility, and erosion control requirements specific to the Project.

Task 4 – Construction Documents

After approval of the DD plans, Kimley-Horn will prepare Civil Construction Documents (CD's) for the Project for review by the Owner and City. The CD's will be further detailed to the extent that the documents provide sufficient detail for the Client and/or the Contractor to obtain accurate cost estimates. It is assumed that the Civil Construction Documents will consist of the following sheets:

Cover Sheet

■ This sheet will consist of a project title, sheet index, basis of bearing and benchmark data, general site data, document references, Client and development team information, utility company contacts, and approval blocks.

General Notes Sheets

These sheets will provide the general notes for the Project and will include City specific notes. These sheets will also include a list of abbreviations used in the plans together with a general legend.

Existing Conditions Plan

 This plan will show the existing site and utility features in the adjacent roadways designed by the DFCM team. Limits showing preservation of existing site elements will be delineated.

Site Plan

■ This plan will be further detailed from the design development package in coordination with the Client and the Project Team and prepared for permit/design review submittal.

Roadway Plans and Profiles



The roadway plan and profile will be further detailed from the design development package in coordination with the Client and the Project Team and prepared for permit/design review submittal.

Grading and Drainage Plans

■ Final storm drain and grading design will be further detailed from the design development package in coordination with the Client and the Project Team and prepared for submittal.

Detailed Grading and Drainage Plans

The detailed grading and drainage plans will provide detailed, larger-scaled drawings (to depict more clearly the grading details), ADA accessibility requirements and storm drain laterals/inlets required to service the site.

Utility Plan and Profile

- These plans will be further detailed from the design development package in coordination with the Client and the Project Team and prepared for submittal.
- Final service connections to the building plumbing design will be coordinated and shown in these plans.
- Utility relocation design and confirmation of separation requirements.
- Final dry utility coordination with the Project Team.

Erosion Control Plans

These plans will be finalized based on the final site, grading, and storm drain design. These plans may be utilized by the contractor as supplemental documentation for the SWPPP permit application

Detail Sheets

■ These sheets will be supplemented with site-specific details as deemed necessary by Kimley-Horn.

The CD's will be prepared based on the architectural plan sheet size. Technical specifications related to the civil design will also be completed as part of this task. PDF copies of the final Construction Documents will be provided to the Client for bidding and implementation.

Task 5 – Storm Drain Design and Technical Drainage Study

Per Draper City requirements, Kimley-Horn will model the storm water system for the Event Venue Site and access roads. Kimley-Horn will design an underground detention system for the site and prepare drainage calculations, spread calculations, and water quality calculations for the site.

Kimley-Horn will prepare a technical drainage study for the Project, as required by Draper City. The study will outline the drainage requirements and compliance for the proposed site. The report will provide a summary of the Project, assumptions, design methodology, calculations, and supporting exhibits required by the City. This task includes meetings and coordination with City Staff, the Project Team, and Client. This task assumes four rounds of comments and resubmittals will be required by Draper City.



Task 6 - Permitting

The construction documents will be submitted to the Point Technical Review Committee for project permitting along with Draper City engineering and utilities staff, and the Jordan Basin Improvement District. Kimley-Horn will respond to comments received during the review processes and produce the plans for final permit. This task assumes two revisions and resubmittals to the review agencies. This plan set will be the final construction plan set for the project.

Task 7 – Meetings and Project Coordination

Kimley-Horn will assist the Client, as needed, with coordination efforts related to the Project. Kimley-Horn will also participate in weekly project meetings or conference calls with the Client and Project Team, attend meetings with jurisdictional staff, public hearings, permitting and provide other coordination to support the Project. This task is intended to capture the effort for these meetings, conference calls, and design coordination for this Project. Meetings, whether in person or via telephone, will include preparation and travel time.

Due to the unknown extent of our involvement in these meetings at this time, Kimley-Horn will provide these services on an hourly basis. It is estimated that a total of 155 hours; 35 hours from a senior design professional, 80 hours from a design professional, and 40 hours from a design analyst will be required to fulfill the meeting and coordination efforts. Additional time requested beyond the estimated hours above can be provided as an additional service.

Task 8 – Limited Construction Phase Services

Kimley-Horn will provide up to 160 hours of limited construction phase services for this project. Of the 160 hours, 15 hours are assumed from a senior design professional, 90 hours from a design professional, and 55 hours from a design analyst. Construction phase support may include the following services, as requested by the Client:

- Meetings. Consultant will be available to attend a pre-construction meeting, regularly scheduled site construction meetings with the Client and Contractor, and other site meetings as requested. It is assumed that Kimley-Horn will attend 50 hours of meetings during the 26month construction period.
- Site Visits. Consultant will be available to make visits to the site at the request of the Client to
 observe the progress of the work or assist the Client or Contractor in interpreting Contract
 Documents. Travel time to and from Salt Lake City will be invoiced. Visits to the site are
 limited to 3 times.
- Clarifications and Interpretations. Consultant will be available to respond to reasonable and appropriate Contractor requests for information and issue necessary clarifications and interpretations of the Contract Documents to Client as appropriate to the orderly completion of Contractor's work. Any orders authorizing variations from the Contract Documents will be made by Client.
- Shop Drawings and Samples. Consultant will be available to review and approve or take
 other appropriate action in respect to Shop Drawings and Samples and other data which
 Contractor is required to submit, but only for conformance with the information given in the
 Contract Documents. Such review and approvals or other action will not extend to means,
 methods, techniques, equipment choice and usage, sequences, schedules, or procedures of
 construction or to related safety precautions and programs.



- Substitutes and "or-equal." Consultant will be available to evaluate and determine the
 acceptability of substitute or "or-equal" materials and equipment proposed by Contractor in
 accordance with the Contract Documents, but subject to the provisions of applicable
 standards of state or local government entities.
- Substantial Completion. Consultant, will conduct one (1) site visit with Client, and Contractor
 to determine if the Work is substantially complete. Work will be considered substantially
 complete following satisfactory completion of all items with the exception of those identified
 on a final punch list. If after considering any objections of Client, Consultant considers the
 Work substantially complete, Consultant will notify Client and Contractor.
- Final Notice of Acceptability of the Work. Consultant will conduct a final site visit to determine if the completed Work of Contractor is generally in accordance with the Contract Documents and the final punch list so that Consultant may recommend, in writing, final payment to Contractor. Accompanying the recommendation for final payment, Consultant shall also provide a notice that the Work is generally in accordance with the Contract Documents to the best of Consultant's knowledge, information, and belief based on the extent of its services and upon information provided to Consultant upon which it is entitled to rely.

Additional time requested beyond the estimated 160 hours can be provided as an additional service.

ADDITIVE ALTERNATE SCOPE OF SERVICES

The following additive alternate Scope of Services has been developed based on our current understanding of the Project and discussions with the Client:

Task 9 - Preliminary Opinion of Probable Construction Cost

Under direction from the client, Kimley-Horn will prepare an engineer's opinion of probable construction costs (OPC) for the Civil improvements for the Event Venue Project. The proposed fee is shown for information only until authorized to proceed, in which a change order will be executed.

Kimley-Horn has no control over the cost of labor, materials, equipment, or over the Contractor's methods of determining prices or over competitive bidding or market conditions. Opinions of probable costs provided herein are based on the information known to Consultant at this time and represent only the Consultant's judgment as a design professional familiar with the construction industry. Kimley-Horn cannot and does not guarantee that proposals, bids, or actual construction costs will not vary from its opinions of probable costs.

ADDITIONAL SERVICES

Kimley-Horn may, upon request and authorization from the Client, provide services in addition to those identified herein. Any items requested that are not specifically outlined in the Scope of Services will be considered additional services and may be provided based on a mutually agreed upon scope, fee and schedule as authorized by the Client. Unless requested by the Client for inclusion in this scope of work, it is assumed these items will be addressed by others. Additional services include, but are not limited to, the following:

- ALTA or Boundary Survey
- Structural Engineering (e.g., design for buildings, retaining walls, screen walls, site stairs, tunnels etc.)



- Landscape Architecture
- Site Lighting and Photometrics
- Traffic Impact Study
- Stormwater Pollution Prevention Plan Document (SWPPP)
- Multiple drawing bid packages
- Record drawings

This list is provided not only to clarify what is included/excluded from our Scope of Services, but also to make the Client aware of other project needs that may be met by Kimley-Horn, if requested.

SERVICES NOT INCLUDED

Any other services, including but not limited to the following, are not included in this Agreement:

- Geotechnical Engineering
- Construction Staking
- Subsurface Utility Exploration
- Environmental Assessments or Studies
- Mechanical, Electrical, or Plumbing Engineering or other Engineering service not specifically listed in the Scope of Services or Additional Services

FEE AND EXPENSES

Kimley-Horn will provide the services as set forth in the table below. All permitting, application, and similar project fees will be paid directly by the Client.

Task	Fee Estimate	
Civil Design Fee		
Task 1 – Conceptual Design	\$18,400	LS
Task 2 – Schematic Design	\$15,300	LS
Task 3 – Design Development	\$58,100	LS
Task 4 – Construction Documents	\$84,100	LS
Task 5 – Storm Drain Design and Technical Drainage Study	\$27,300	LS
Task 6 – Permitting	\$10,300	LS
Task 7 – Meetings and Project Coordination	\$39,900	HR
Task 8 – Limited Construction Phase Services	\$36,100	HR
Reimbursable Expenses	\$1,000	
Total Civil Fee	\$289,500	
Additive Alternate Fee		
Task 9 – Opinion of Probable Construction Cost	\$10,300	LS
Total Civil Fee + Add Alt	\$299,800	

LS = Lump Sum Fee - Services indicated by an 'LS' will be provided for the identified Lump Sum fee. Individual task amounts are informational only. All permitting, application, and similar project fees will be paid directly by the Client.



HR = Hourly Fee – Services indicated by 'HR' will be provided on an hourly basis according to our then-current rates. Kimley-Horn will not exceed the total maximum labor fee shown without authorization from the Client. Individual task amounts are provided for budgeting purposes only. Kimley-Horn reserves the right to reallocate amounts among tasks as necessary.

Reimbursable Expenses - As to these tasks, direct reimbursable expenses such as express delivery services, fees, air travel, and other direct expenses will be billed at 1.15 times cost. A percentage of labor fee will be added to each invoice to cover certain other expenses as to these tasks such as inhouse reproduction, postage, supplies, and local mileage. Administrative time related to the project may be billed hourly. All permitting, application, and similar project fees will be paid directly by the Client. Should the Client request Kimley-Horn to advance any such project fees on the Client's behalf, a separate invoice for such fees, with a fifteen percent (15%) markup, will be immediately issued to and paid by the Client.

Lump sum fees will be invoiced monthly based upon the overall percentage of services performed. Payment will be due within 25 days of your receipt of the invoice and should include the invoice number and Kimley-Horn project number.

SCHEDULE

Kimley-Horn will provide our services as expeditiously as practicable to meet a schedule to be mutually agreed upon after receipt of this executed agreement and notice to proceed. Additional services will be completed in a timely manner upon authorization of such services.

CLOSURE

In addition to the matters set forth herein, our Agreement shall include and be subject to the attached Standard Provisions, which are incorporated by reference. As used in the Standard Provisions, "Consultant" shall refer to **Kimley-Horn and Associates, Inc.**, and "Client" shall refer to **The Point Partners.**

In an effort to expedite invoices and reduce paper waste, Kimley-Horn submits invoices via email in a PDF. We can also provide a paper copy via regular mail if requested. Please include the invoice number and Kimley-Horn project number with all payments. Please provide the following information:

Please email all invoices to	
Please copy	

If the Client wants Kimley-Horn to proceed with the services, please have an authorized person sign this Agreement below and return to us. We will commence services only after we have received a fully-executed agreement. Fees and times stated in this Agreement are valid for sixty (60) days after the date of this letter.

To ensure proper set up of this project so that Kimley-Horn can get started, please complete and return with the signed copy of this Agreement the attached Request for Information. Failure to supply this information could result in delay in starting work on the project.



We appreciate the opportunity to provide these services. Please contact me if you have any questions.

Sincerely,

KIMLEY-HORN AND ASSOCIATES, INC.

By: Celeste Perrin, P.E.

The Point Partners	
SIGNED:	-
PRINTED NAME:	-
TITLE:	
Client's Federal Tax ID:	
Attachment – Request for Information	

Attachment - Standard Provisions

ASSIGNMENT AND ASSUMPTION OF LANDSCAPE ARCHITECTURAL PROFESSIONAL SERVICES AGREEMENT

This ASSIGNMENT AND ASSUMPTION OF LANDSCAPE ARCHITECTURAL PROFESSIONAL SERVICES AGREEMENT (the "Agreement" or "Assignment") is made and entered into as of the 29th day of July, 2025, by and among CLW POINT PARTNERS, a Delaware limited liability company ("Assignor"), and POINT PHASE 1 PUBLIC INFRASTRUCTURE DISTRICT NO. 1, a quasi-municipal corporation and political subdivision of the State of Utah, ("Assignee"). The Assignor and the Assignee are referred to herein individually as a "Party" and collectively as the "Parties."

RECITALS

WHEREAS, Assignor is a party to that certain Professional Services Agreement Between Owner and Consultant, dated May 24, 2024 (the "Landscape Architectural Professional Services Agreement"), by and between Assignor (as Owner) and Rios, Inc., (the "Consultant"), relating to the design and construction of the project known as "The Promenade at the Point of the Mountain" (the "Promenade Project"), attached hereto as <u>Exhibit A</u>; and

WHEREAS, those capitalized terms used herein and not otherwise defined shall have the meanings assigned to them in the Landscape Architectural Professional Services Agreement; and

WHEREAS, Assignee is a duly formed and acting public infrastructure district that will own and finance public improvements related to the Promenade Project; and

WHEREAS, Assignor desires to assign to Assignee, and Assignee desires to assume from Assignor, all of Assignor's rights and obligations under the Landscape Architectural Professional Services Agreement, that relate to design and construction of public improvements that are within the scope of the Assignee's statutory purposes; and

WHEREAS, Section 10 of the Landscape Architectural Professional Services Agreement provides, "[t]his Agreement may be assigned by Owner at its discretion with prior written notice to Consultant. This Agreement shall not be assigned by Consultant without first obtaining the written consent of Owner."; and

WHEREAS, the Assignee is ready and capable of performing the Assignor's obligations under the Agreement.

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

COVENANTS AND AGREEMENTS

1. <u>Recitals are Incorporated</u>. The recitals to this Agreement are incorporated as if fully set forth herein.

- 2. <u>Assignment of Rights</u>: Effective as of the date set forth above, Assignor hereby assigns, transfers, and conveys to Assignee all of its right, title, and interest in and to the Landscape Architectural Professional Services Agreement, including all obligations and duties thereunder, to the extent relating to the design, permitting, and construction of public improvements described in or contemplated by the Landscape Architectural Professional Services Agreement.
- 3. <u>Assumption of Obligations and Duties</u>: Assignee hereby accepts the foregoing assignment and assumes and agrees to perform all of Assignor's obligations under the Event Venue Professional Services Agreement as of the effective date of this Assignment, as such obligations relate to the design and construction of public improvements to be owned or financed by the Assignee.
- 4. Consent of Consultant: Consultant shall evidence its consent to this Agreement by signing below, and upon such execution, shall recognize Assignee as the "Owner" under the Landscape Architectural Professional Services Agreement for all purposes. Consultant shall continue performance under the Landscape Architectural Professional Services Agreement without interruption, and acknowledges that this Assignment does not constitute a material change under the Landscape Architectural Professional Services Agreement. Consultant acknowledges that all invoicing and payment for services rendered on or after the Effective Date shall be directed to Assignee.
- 5. <u>Notices</u>: All notices under the Landscape Architectural Professional Services Agreement shall be delivered to Assignee at the address designated by the District unless otherwise directed in writing.
- 6. <u>Prior Provisions Effective</u>. Except as specifically provided herein, all the terms and provisions of the Landscape Architectural Professional Services Agreement shall remain in full force and effect.
- 7. Entire Agreement; Modifications. This Agreement contains the entire understanding of the Parties and supersedes all other agreements or understandings between them with respect to the subject matter of the Agreement. This Agreement may not be changed orally, but only by an agreement in writing, signed by the party against whom enforcement of any waiver, change, modification, extension, or discharge is sought.
- 8. <u>Governing Law</u>. This Agreement is governed by and construed in accordance with the laws of the State of Utah, without giving effect to any choice or conflicts of laws principles.
- 9. <u>Interpretation</u>. Any caption that identifies a paragraph or section heading is for convenience only and the content of the paragraph controls the relationship between the Parties not the language of the heading. Singular includes the plural and plural includes singular. Reference to a paragraph also references all paragraphs. This Agreement shall be considered to have been drafted by the Parties and there will be no construction of ambiguities against any Party.
- 10. <u>Counterparts</u>. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.

11. Waiver; Partial Invalidity. No term or condition of this Agreement shall be deemed waived unless such waiver is expressed in writing and is signed by the Parties. Failure or delay on the part of any Party to exercise any right, power, or privilege under this Agreement shall not be deemed a waiver thereof. In the event that an arbitrator or judge determines that any provision of this Agreement is invalid or unenforceable, the remainder of the Agreement shall remain enforceable deleting therefrom the invalid or unenforceable provision and all other provisions remaining valid and enforceable to the fullest extent permitted by law.

[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.

ASSIGNOR:
CLW POINT PARTNERS, a Delaware limited liability company
Printed Name
Title
ASSIGNEE:
POINT PHASE 1 PUBLIC INFRASTRUCTURE DISTRICT NO. 1 a quasi-municipal corporation and political subdivision of the State of Utah By:
Authorized Board Member
CONSULTANT:
RIOS, INC., a California corporation
Printed Name
Title

Exhibit A

Professional Services Agreement, dated May 24, 2024 ("Landscape Architectural Professional Services Agreement")

PROFESSIONAL SERVICES AGREEMENT

This Agreement (the "Agreement") is made and entered into on May 24, 2024, by and between RIOS, Inc. with addresses at 3101 West Exposition Place, Los Angeles, CA 90018 (the "Consultant") and CLW POINT PARTNERS, LLC (the "Owner").

Whereas, Owner has rights to develop that certain real property commonly known as The Point of the Mountain (the "Property"), more particularly described on <u>Exhibit A-1</u> and <u>Exhibit A-2</u>.

Now, therefore, in consideration of covenants, agreements and stipulations contained herein, the Consultant and Owner hereby covenant, promise and agree to the following:

- 1. <u>Services</u>. The Consultant agrees to furnish all supervision, labor, materials, supplies, and equipment as may be necessary to complete and provide the services at the Property as set forth in the Consultant's "Proposal" attached hereto as <u>Exhibit B</u> and hereby included as part of this Agreement (the "Services"). The Consultant shall perform its services consistent with the professional skill and care ordinarily provided by professionals providing similar services in the same locality under similar circumstances. The terms and conditions of this Agreement shall prevail over any conflicts with the Consultant's Proposal.
- 2. <u>Term.</u> The term of this Agreement shall commence on March 7, 2024, and terminate automatically upon the completion of the Services. Either party may terminate this Agreement without cause upon thirty (30) days written notice to the other party.
- 3. Additional Services. It is understood that, from time to time during the term of this Agreement, Owner may request Consultant to perform services or provide materials which are not set forth in Exhibit B but are related to the services encompassed within the Services (herein "Additional Services"). Consultant hereby agrees to perform such Additional Services so long as prior to the performance of such Additional Services, Owner shall authorize in writing the scope of such Additional Services and compensation payable to Consultant for the full performance of said Additional Services. In the event Consultant shall fail to secure such a writing relating to such Additional Services, any such work thereafter performed shall be deemed a part of the Services and Consultant shall not be entitled to any additional compensation therefore.
- 4. Compensation. Owner agrees to pay Consultant as set forth in Exhibit B. Payment shall be issued to the Consultant by Owner within forty-five (45) calendar days of receipt of invoice. Consultant shall itemize applicable charges and taxes on invoice. Consultant shall be required to submit final lien waivers, in a form that shall be acceptable to Owner, for all invoices exceeding \$5,000.00, or as may be required by law, prior to release of payment. Final payment shall not be due until Consultant has delivered to Owner (1) written confirmation that the Services and any Additional Services hereunder have been fully and satisfactorily performed and (2) a complete release of all liens arising out of the Services and any Additional Services or receipts in full covering all labor, materials and equipment for which a lien could be filed, or a bond satisfactory to Owner indemnifying it against any lien. If any lien remains unsatisfied after all payments are made, Consultant shall pay on demand or refund to Owner all moneys that the latter may be compelled to pay in discharging such lien, including all costs and reasonable attorneys' fees.
- 5. <u>Insurance</u>. Throughout the term of this Agreement, the Consultant and its subcontractors, if any, shall secure and maintain, at its own expense, the following insurance requirements with companies reasonably satisfactory and acceptable to Owner. Consultant and its subcontractors, if any, shall furnish Owner certificates evidencing such insurance prior to commencement of work under this Agreement.

- a. Worker's Compensation and Employer's Liability Insurance which shall fully comply with the statutory requirements of all state laws as well as federal laws which may be applicable. Employer's Liability limit shall be \$1,000,000.00 per accident for Bodily Injury and \$1,000,000.00 per employee/aggregate for disease.
- b. Commercial General Liability insurance (naming Owner, and their respective subsidiaries, affiliates, partners and their respective successors and assigns, as additional insureds) with a minimum combined single limit of liability of \$1,000,000.00 per occurrence and \$2,000,000.00 in the aggregate per location and \$5,000,000.00 policy aggregate for injury and/or death and/or property damage (such insurance shall include contractual liability, explosion / collapse / underground hazards coverage, personal injury protection, products liability, and completed operations coverage), which coverage shall be "non-contributory."
- c. Excess liability (umbrella) insurance on the above with limits of \$5,000,000.00 naming Owner as additional insured, in addition to evidence of other general and excess liability to be approved by Owner.
- d. Business Automobile Liability Insurance covering all owned, hired, and non-owned vehicles and equipment used by the Consultant with a minimum combined single limit of liability of \$1,000,000.00 for injury (including bodily injury and property damage) and/or death and/or property damage.
- e. Professional Liability Insurance (errors and omissions) with the following limits of liability: \$3,000,000.00 in the aggregate.
- f. To the extent Owner's agent does not accompany Consultant at all times while on site, Crime coverage, with limits in an amount of not less than \$1,000,000.00, required.

All Consultant (and subcontractor) insurance coverage as outlined above shall be primary and non-contributory with any insurance Owner may have in place and shall name Owner, and upon written request by Owner to Consultant, shall include as additional insureds, the Owner's *named* subsidiaries, affiliates, partners and their respective successors and assigns, if any, on Consultant's Commercial General Liability, Excess Liability, and Business Automobile Liability insurance policies, and require all insurers to waive its rights of recovery under subrogation or otherwise against Owner. In addition, all applicable property damage and worker's compensation policies of Consultant (and any subcontractor) shall contain appropriate clauses pursuant to which the respective insurance carriers shall waive all rights of subrogation with respect to losses payable under such policies; and to the extent Consultant is determined to be liable by a trier of fact, Consultant (and all subcontractors) waive any claims against Owner, their partners, directors, officers, agents and employees, which would normally be covered by such insurance, including any deductibles, co-insurance or self-insurance retentions.

- 6. <u>Representations</u>. Consultant hereby represents and certifies to Owner, with the intention that Owner rely thereon in entering into this Agreement, that:
 - a. Consultant is an experienced transportation engineering consultant and has the expertise necessary to perform the Services and any Additional Services. Consultant acknowledges that its representatives have visited the Property and are familiar with all site conditions which may affect the Services and any Additional Services.
 - b. Consultant has the capability, experience, registrations, licenses, permits, and governmental approvals required to perform the Services and any Additional Services. Upon Owner's request, Consultant shall submit copies of any required registrations,

licenses, permits or governmental approvals required to perform such services to Owner r, as applicable, prior to the commencement of the Services and any Additional Services.

7. <u>Indemnification & Liability</u>. With respect to professional services, Consultant shall indemnify and hold harmless the Owner, their identified affiliates, and each of its and their respective members, managers, officers, directors, shareholders, and employees (each, an "Indemnified Party") against damages, including reimbursement of reasonable attorneys' fees, to the extent caused by the Consultant's negligent performance of professional services under this Agreement and that of its subconsultants or anyone for whom the Consultant is legally liable.

With respect to liability other than that arising out of professional services, the Consultant shall indemnify, defend and hold Owner,, their affiliates, and each of its and their respective members, managers, officers, directors, shareholders, agents, and employees (each, an "Indemnified Party") free and harmless from any and all claims, lawsuits, liabilities, damages, losses or expenses, including reasonable attorney's fees, arising from injuries or death of persons and damage to property which arise from, or are connected with, or caused by the Consultant's breach of this Agreement, negligence or willful misconduct of Consultant (or any subcontractor of Consultant or others for whom Consultant is legally responsible), which result from or during the providing of service under this Agreement. Notwithstanding anything to the contrary, in no event shall Owner or Consultant be liable under this Agreement for special, indirect, consequential (including but not limited to lost profits), punitive or exemplary damages. This Section shall survive the termination or earlier expiration of this Agreement.

8. Applicable Law. The Consultant agrees that the Services and any Additional Services provided under this Agreement will be provided in compliance with this Agreement and all applicable laws, orders, rules and regulations of governmental agencies having jurisdiction over such services. Such governmental agencies and regulations include but are not limited to the Environmental Protection Agency; Uniform Commercial Code as adopted by the state in which the services are provided; Occupational Safety and Health Administration regulations; applicable environmental, health and safety laws and regulations pertaining to supplies, materials, tools and machinery used in providing services. This Agreement shall be governed by, and any disputes shall be settled pursuant to, the laws of the state in which the service is provided unless mutually agreed otherwise. Consultant shall not engage in any conduct or practice which discriminates against any employee or applicant for employment because of his or her race, color, gender, religion, national origin, marital status, physical handicap, sex, sexual preference or age in the performance of this Agreement or in any connection with the Property.

Consultant warrants and represents that the Consultant is not, and shall not become, a person or entity with whom Owner are restricted from doing business with under regulations of the Office of Foreign Asset Control ("OFAC") of the Department of the Treasury (including, but not limited to, those named on OFAC's Specially Designated and Blocked Persons list) or under any statute, executive order (including, but not limited to, the September 24, 2001, Executive Order Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism), or other governmental action and is not and shall not engage in any dealings or transactions or be otherwise associated with such persons or entities. Consultant shall perform criminal background checks of any and all employees assigned to the Property prior to assignment to the Property and, in addition to any applicable standards of professional conduct, are prohibited from assigning any employee who has been convicted of a crime of theft or violence within the past seven (7) years to the Property.

9. <u>Independent Contractor</u>. The Consultant or any agent or employee of Consultant shall be deemed at all times to be an independent contractor and is wholly responsible for the manner in which it performs the services and work requested under this Agreement. The Consultant or any agent or employee of Consultant shall not have employee status with Owner, nor be entitled to participate

in any plans, arrangements, or distributions by Owner pertaining to or in connection with any retirement, health, or other benefits that Owner may offer their employees. The Consultant or any agent or employee of the Consultant, as applicable, is liable for the acts and omissions of itself, its employees and its agents. All matters pertaining to the selection, direction, employment, supervision, compensation (subject to any applicable approved staffing plan or budget approved by Owner pursuant to this Agreement as set forth in the Proposal), promotion and discharge of such personnel are the sole responsibility of Consultant, which shall be in all respects the employer of such personnel, except that Consultant shall have total responsibility for and shall fully comply with all applicable laws and regulations having to do with worker's compensation, social security, unemployment insurance, hours of labor, wages, working conditions, and other employeremployee related subjects. Without limiting the foregoing, the Consultant shall be responsible for all obligations and payments, whether imposed by federal, state, or local law, including, but not limited to, Federal Insurance Contributions Act (FICA), income tax withholdings, unemployment compensation, insurance, and other similar responsibilities related to the Consultant's performing services and work, or any agent or employee of Consultant's providing same. Nothing in this Agreement shall be construed as creating an employment or joint venture relationship between Owner and the Consultant. Any terms in this Agreement referring to direction from Owner shall be construed as providing for direction as to policy and the result of Consultant's work only, and not as to the means by which such a result is obtained.

- 10. <u>Assignment; Subcontractors</u>. This Agreement shall be binding on the successors of the parties hereto. This Agreement may be assigned by Owner at its discretion with prior written notice to Consultant. This Agreement shall not be assigned by Consultant without first obtaining the written consent of Owner. The use of any subcontractor by Consultant for the consulting Services provided herein is subject to Owner's prior written approval, which approval may be revoked upon thirty (30) days' notice describing the basis for removal; provided that notwithstanding any approval, Consultant remains solely responsible for all Services and obligations under this Agreement.
- 11. <u>Confidentiality</u>. All drawings, specifications, technical documents of any nature, and copies thereof, prepared pursuant to this Agreement are the property of the Owner and are to be treated as confidential. They are not to be disclosed to others without the Owner's prior written approval (except to the extent necessary to comply with the direction of any applicable legal authority) and are to be delivered to the Owner on request and in all events upon completion of the Services and any Additional Services, or termination of this Agreement.
- 12. Notices. Any information or notices required or permitted to be given or made under this Agreement shall be in writing and shall be deemed given or made when delivered in person (at the time delivered), when sent by United States registered or certified mail (upon receipt), when received by courier (e.g. FedEx) (one business day after sending), or by email (upon sending if (i) sent on a business day prior to 5 P.M. in the time zone where the Property sits (otherwise, on the next succeeding business day), (ii) no failure of delivery is received by the sender, and (iii) unless receipt is confirmed via email, the sender concurrently sends such notice by one of the other listed methods listed in this paragraph) at the addresses specified below:

If to Owner:

CLW POINT PARTNERS, LLC, c/o Lincoln Property Company 8111 Douglas Avenue, Suite 600 Dallas, Texas 75225

With a copy to:

Lincoln Property Company 1211 SW Fifth Ave., Suite 700 Portland, OR 97204 Attention: Patrick Gilligan Email: pgilligan@lpc.com

If to Consultant: RIOS Inc.

3101 West Exposition Place Los Angeles, CA 90018 Attention: Mark Motonaga mmotonaga@rios.com

Any party to this Agreement may change its addresses for notice in the manner provided above.

13. Miscellaneous. A waiver on the part of the Owner or Consultant of any term, provision or condition of this Agreement shall not constitute a precedent or bind either party to a waiver of any succeeding breach of the same or any other term, provision or condition of this Agreement. This Agreement, including any Exhibits and any addenda thereto, constitutes the entire Agreement between Consultant and Owner. It supersedes all prior or contemporaneous communications, representations or agreements, whether oral or written, relating to the Services set forth in this Agreement. This Agreement may be amended only by a written instrument signed by both parties. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument. The parties acknowledge and agree that signed counterparts of this Agreement may be delivered via email, DocuSign, or other electronic means, and the same shall have the same force and effect as copies hereof executed and delivered with original wet signatures. No provision of this Agreement shall be construed against or interpreted to the disadvantage of any party by any court or other governmental or judicial authority by reason of such party having or being deemed to have structured or drafted such provision. The captions in this Agreement are for the convenience of the parties in identification of the several provisions and shall not constitute a part of this Agreement nor be considered interpretative thereof. Every paragraph, part, term or provision of this Agreement is severable from others. If any paragraph, part, term or provision of this Agreement is construed or held to be void, invalid or unenforceable by order, decree or judgment of a court of competent jurisdiction, the remaining paragraphs, parts, terms and provisions of this Agreement shall not be affected thereby but shall remain in full force and effect.

[Remainder of this page intentionally blank]

In witness whereof, the parties hereto have acknowledged and agreed to terms and conditions contained hereinabove and executes the same by written acceptance below.

OWNER:

CLW POINT PARTNERS, LLC, a Delaware limited liability company

By:
Name: Patrick GTPPTYATION
Title: Authorized Signatory

CONSULTANT:

RIOS, INC.

DocuSigned by:

By: Mark Motomaga
Name: Mark Motomaga^{7C6F41A...}

Title: <u>Creative Director</u>, <u>Par</u>tner

Exhibit A-1 Legal Description of the Overall Project

POM Phase 1 8-23-2023 SRV

State of Utah Department of Adm Serv Div Fac Const & Mgmnt Parcel No. 33-01-300-007

A part of the South Half of Section 1 and the North Half of Section 12, Township 4 South, Range 1 West, Salt Lake Base and Meridian.

Beginning at a point being 1252.68 feet North 89°31'19" West and 921.15 feet North from the center of Section 12, Township 4 South, Range 1 West, Salt Lake Base and Meridian and running thence North 02°29'26" East 258.45 feet; thence northerly 463.40 feet along the arc of a 1584.00 foot radius curve to the left, through a central angle of 16°45'42", chord bears North 05°53'25" West 461.75 feet; thence North 14°16'16" West 433.70 feet; thence northerly 505.28 feet along the arc of a 916.00 foot radius curve to the right, through a central angle of 31°36'19", chord bears North 01°31'54" East 498.90 feet; thence North 17°20'03" East 255.93 feet; thence North 62°20'41" East 12.73 feet; thence North 17°19'54" East 78.98 feet; thence North 27°39'57" West 12.73 feet; thence North 17°20'03" East 281.52 feet; thence North 62°20'03" East 12.73 feet; thence North 16°53'49" East 65.50 feet; thence North 27°39'57" West 12.02 feet; thence North 17°20'03" East 108.05 feet; thence North 40°00'00" East 77.38 feet; thence East 279.77 feet; thence South 45°00'00" East 9.19 feet; thence East 70.00 feet; thence North 45°00'00" East 9.19 feet; thence East 458.00 feet; thence South 45°00'00" East 12.73 feet; thence East 63.00 feet; thence North 45°00'00" East 12.73 feet; thence East 277.00 feet; thence South 45°00'00" East 12.73 feet; thence East 63.00 feet; thence North 45°00'00" East 12.73 feet; thence East 493.99 feet; thence southerly 28.58 feet along the arc of a 91.50 foot non-tangent radius curve to the right, through a central angle of 17°53'36", chord bears South 08°52'21" East 28.46 feet; thence South 00°04'27" West 1194.45 feet to a point on a spiral curve; thence southerly 90.54 feet along the arc of said spiral curve, chord bears South 01°09'25" East 90.52 feet; thence southeasterly 337.23 feet along the arc of a 708.50 foot radius curve to the left, through a central angle of 27°16'17", chord bears South 17°14'39" East 334.05 feet; thence southwesterly 100.78 feet along the arc of a 639.50 foot non-tangent radius curve to the right, through a central angle of 9°01'45", chord bears South 74°14'37" West 100.67 feet; thence South 78°45'29" West 199.31 feet; thence southwesterly 156.92 feet along the arc of a 660.50 foot radius curve to the left, through a central angle of 13°36'43", chord bears South 71°57'07" West 156.55 feet; thence North 72°31'59"West 8.08 feet; thence South 62°15'28" West 65.08 feet; thence South 13°53'07" West 8.43 feet; thence southwesterly 99.68 feet along the arc of a 660.50 foot non-tangent radius curve to the left, through a central angle of 8°38'49", chord bears South 54°11'39" West 99.59 feet; thence South 49°52'14" West 533.97 feet; thence South 45°22'41" West 140.43 feet; thence South 49°52'14" West 135.52 feet; thence southwesterly 406.07 feet along the arc of a 550.50 foot radius curve to the right, through a central angle of 42°15'51", chord bears South 71°00'10" West 396.93 feet; thence North 87°51'55" West 447.26 feet to the Point of Beginning.

Contains 4,290,939 Square Feet or 98.506 Acres.

Basis of Bearing is North 89°31'19" West between the Center and the East Quarter corner of Section 12, Township 4 South, Range 1 West, Salt Lake Base and Meridian.

Exhibit A-2
Depiction of the Overall Project

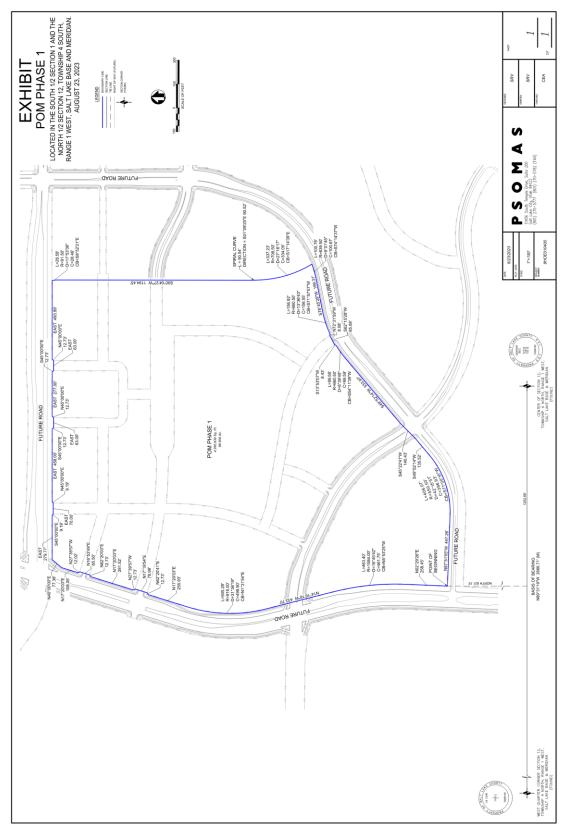


Exhibit A-2

Exhibit B **Consultant's Proposal**

March 22, 2024

Aric Yarberry Director, Development The Point Partners c/o Lincoln Property Company 4041 MacArthur Blvd., Suite 500 Newport Beach, CA 92660

Sent via email: AYarberry@LPC.com

Notice to Proceed // RIOS Project No. 24029 Re:

Dear Aric,

RIOS is requesting authorization to proceed with Landscape Architecture Concept Design Services prior to issuing and approving a full design proposal(s) to The Point Partners to expedite services for The Point in Draper, UT. RIOS is requesting a notice to proceed with the proposed work for Landscape Concept Design and programming for the promenade. An executed copy of this letter shall serve as limited authorization to proceed.

Under this limited authorization, RIOS shall furnish thirty (30) days of labor for Concept Design Services scope at hourly rates (Hourly Rate chart attached as Exhibit A) with a fee not to exceed \$60,000.00 for work through 4/7/24. RIOS shall perform and complete all work in accordance with the terms and conditions (Attached as Exhibit B).

At your earliest convenience, return an executed version of this letter to authorize RIOS to begin/continue working. We look forward to working with you and your team on this project!

Sincerely.

Mark Motonaga

Creative Director; Partner

RIOS

CLIENT:

Accepted by

Title

RIOS.com

Los Angeles 3101 West Exposition Place, Los Angeles, CA 90018 , US London 68-80 Hanbury Street, London E1 5JL, UK 1711 E. Cesar Chavez Street, Suite B, Austin, TX 78702, US Singapore 1 Keong Saik Road, The Working Capitol, Singapore 089109, SG Austin

1980 8th Street, Boulder, CO 80302, US

Shanghai ANKEN Avenue, B-3G, 300 Jiang Chang West Road, Shanghai, CN

RIOS

EXHIBIT A

RIOS, INC. HOURLY RATE CHART

As of March 7, 2024:

RIOS Role	Fee Per Hour
Creative Director	\$ 395.00
Studio Director	\$ 275.00
Technical Director	\$ 275.00
Design Director	\$ 250.00
Senior Project Director and Senior Project Designer	\$ 225.00
Project Director and Project Designer	\$ 195.00
Designer II	\$ 165.00
Designer I	\$145.00
Intern	\$ 110.00

Professional fees for hourly services will be billed at current hourly rates, reflected above. Hourly rates are subject to change and Client will be notified 30 days in advance of any change.

RIOS.com

1711 E. Cesar Chavez Street, Suite B, Austin, TX 78702, US Singapore 1 Keong Saik Road, The Working Capitol, Singapore 089109, SG

1980 8th Street, Boulder, CO 80302, US

Los Angeles 3101 West Exposition Place, Los Angeles, CA 90018 , US London 68-80 Hanbury Street, London E1 5JL, UK

Shanghai ANKEN Avenue, B-3G, 300 Jiang Chang West Road, Shanghai, CN



May 6, 2024

Aric Yarberry Lincoln Property Company 4041 MacArthur Blvd. | Suite 500 Newport Beach, CA 92660

Sent via email to: Aric Yarberry (ayarberry@lpc.com)

Landscape Architecture and Architecture - SD/DD The Point Promenade

Dear Aricand team,

We are pleased to provide you with this proposal for landscape architecture and architecture design services through design development for the proposed project to be located at The Point in Draper, Utah. This proposal will define the agreement between LPC (Client) and Rios, Inc. (RIOS).

SCOPE OF WORK



Landscape Architecture scope will include the sidewalks, streetscapes, and open space from building face to building facewithin the red outline above.

Architecture scope will include approximately four (4) retail kiosks and three (3) public amenity pavilions.



SCOPE OF SERVICES_LANDSCAPE ARCHITECTURE

Schematic Design

Upon notice to proceed, RIOS will undertake Schematic Design, including:

- 1. Manage project and coordinate with Client and consultant team
- 2. Participate in weekly team meetings (online)
- 3. Review updated retail architecture and concept design feedback
- 4. Review code requirements and summarize applicable design criteria
- 5. Visit site and regional reference projects and places
- 6. Prepare Schematic Design package (one 100% package due to accelerated schedule):
 - a. Overall illustrative site plan
 - b. Illustrative site plan enlargements showing hardscape treatments and planting areas
 - c. Landscape character reference images
 - d. Preliminary hardscape and planting palettes
 - e. Six (6) perspective renders (surrounding model views from retail architect; additional views available on a T&M basis)
- 7. Present 100% Schematic Design package to Client
- 8. Coordinate with client's cost estimator or contractor re: budget

Design Development

Upon notice to proceed, RIOS will undertake Design Development, including:

- 1. Manage project and coordinate with Client and consultant team
- 2. Participate in weekly team meetings (online)
- 3. Incorporate Client feedback on SD package and initial costing
- 4. Prepare Design Development package (50% coordination set and 100% final set):
 - a. Overall landscape site plan
 - b. Hardscape materials plans
 - c. Planting plans
 - d. Hardscape materials schedule
 - e. Planting material schedule
 - f. Planting and hardscape keysections and preliminary details
 - Six (6) updated perspective renders at 100% DD (surrounding model views from retail architect, additional views available on a T&M basis)
 - Technical specifications table of contents at 100% DD
- 5. Present to Client at 50% and 100% DD
- 6. Coordinate with client's cost estimator or contractor re: budget

Boulder

SCOPE OF SERVICES_ARCHITECTURE

Schematic Design

Upon notice to proceed, RIOS will undertake Schematic Design, including:

- 1. Manage project and coordinate with Client and consultant team
- 2. Participate in weekly team meetings (online)
- 3. Review updated retail architecture and concept design feedback
- 4. Review code requirements and summarize applicable design criteria
- 5. Visit site and regional reference projects and places
- 6. Prepare Schematic Design package (one 100% package due to accelerated schedule):
 - a. Building/structure plans
 - b. Typical building sections
 - c. Major building elevations
 - d. Six (6) perspective illustrations (surrounding model views from retail architect; additional views available on a T&M basis)
- 7. Present 100% Schematic Design package to Client
- 8. Coordinate with client's cost estimator or contractor re: budget

Design Development

Upon notice to proceed, RIOS will undertake Design Development, including:

- 1. Manage project and coordinate with Client and consultant team
- 2. Participate in weekly team meetings (online)
- 3. Incorporate Client feedback on SD package and initial costing
- 4. Prepare Design Development package (50% coordination set and 100% final set):

 - b. Building plans
 - c. Roof plans
 - d. Keybuilding sections
 - e. Building elevations
 - f. Reflected ceiling plans
 - g. Interior elevations
 - h. Door and window schedules
 - Material schedules
 - Typical building details
 - k. Six (6) updated perspective illustrations at 100% DD (surrounding model views from retail architect; additional views available on a T&M basis)
 - Technical specifications table of contents at 100% DD
- 5. Present to Client at 50% and 100% DD
- Coordinate with client's cost estimator or contractor re: budget

SCHEDULE

Schematic DesignM	1ay-June 2024
Design Development	July-Oct 2024



FEE SUMMARY

Landscape Architecture

Schematic Design\$300,000
Design Development\$600,000
Total

Architecture

Schematic Design\$100,000)
Design Development \$200,000)
Total)

Other consultants as required during the course of work (i.e. signage and wayfinding, structural, mechanical, lighting, irrigation, electrical or civil engineers, food service, waterproofing, lighting designer, audio visual, arborist, pool designer, water features, etc.) will be contracted by the Client separately and are not included in these fees.

TERMS & CONDITIONS

RIOS' standard Terms & Conditions, attached, are incorporated into this document as an integral part of RIOS' agreement with the Client to provide services.

Please call if you have any questions regarding this proposal. To authorize us to proceed with this work, please sign and return this proposal.

Sincerely, RIOS

Mark Motonaga

Creative Director, Partner

Nate Cormier, ASLA, PLA, LEED AP

Managing Studio Director, Landscape Architecture

EXHIBIT B

RIOS' Terms & Conditions

- This agreement is based on the AIA Document B101, "Standard Form of Agreement between Owner and Architect," 2017 Edition. All terms and conditions of Document B101 are incorporated into this agreement as though fully set forth. In the event of any inconsistency or conflict between the B101 and RIOS' Terms & Conditions set forth by this proposal, RIOS' Terms & Conditions shall govern and control.
- 2. This proposal is valid for thirty (30) days only.
- The stated fee maximum will not be exceeded without Client's prior approval.
- RIOS shall not be responsible for Client's directive or substitution, or for the Client's acceptance of nonconforming Work, made or given without RIOS' written approval.
- 5. Client shall contract separately for the design services not listed herein, or specifically excluded by RIOS, Unless otherwise indicated, those services shall be performed by licensed professional consultants, who shall affix their seals on the appropriate documents prepared by them. The contracts between Client and Client's consultants shall require the consultants to coordinate their drawings and other instruments of service with those of RIOS and to advise RIOS of any potential conflict. RIOS shall have no responsibility for the components of the Project designed by Client's consultants. Review by RIOS of the consultants' drawings and other instruments of service is solely for consistency with RIOS's design concept for the Project. RIOS shall be entitled to rely upon the technical sufficiency and timely delivery of documents and services furnished by Client's consultants, as well as on the computations performed by those consultants in connection with such documents and services. RIOS shall not be required to review or verify those computations or designs for compliance with applicable laws, statutes, ordinances, building codes, and rules and regulations, or certify completion or payment for the Work designed by Client's consultant. Client shall indemnify and hold harmless RIOS, RIOS' consultants, and agents and employees of any of them from and against claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of the services performed by the other consultants of Client.
- 6. This proposal does not include fees for any other consultant services other than those explicitly

- enumerated above. Consultants shall be billed to Client at 1.1 times direct cost for RIOS' consultant contract administration and coordination of services.
- Additional services, when requested by Client, will be invoiced monthly at our current hourly rates.
- This proposal does not include any reviews with any regulatory agencies other than those explicitly enumerated.
- 9. Coordination and submittal to regulatory agencies beyond those included in this scope of work (such as building code modifications or zoning administrator appeals) will not be produced without additional compensation.
- 10. Billing shall be monthly, as work is completed, based on actual time and material expenses at the rates stated here. Fees are due and payable within 30 days upon presentation of invoice. Invoices that are not paid within this period will accrue late charges at the rate of 1% per month. RIOS reserves the right to stop work on any project for which the invoice collection period exceeds 60 days. In the event of a suspension of services due to nonpayment, RIOS shall have no liability to Client for delay or damage caused to the Client because of such suspension of services. Before resuming services, the Client shall pay RIOS all sums due prior to suspension and any expenses incurred in the interruption and resumption of RIOS' services. RIOS' fees for the remaining services and the time schedules shall be equitably adjusted. Invoices for projects will be emailed as a PDF file to Client's billing or accounts receivable manager, or to Client's representative. Original copies are available upon request.
- 11. Professional fees for hourly services will be billed at current hourly rates. As of March 22, 2024, Creative Director time is billed at \$395.00. Studio Director time is billed at \$275.00. Technical Director time is billed at \$275.00, Design Director time is billed at \$250.00, Senior Project Director time is billed at \$225.00, Senior Project Designer time is billed at \$225.00, Project Director time is billed at \$195.00, Project Designer time is billed at \$195.00, Designer time is billed between \$145.00 - \$165.00, and Intern time is billed at \$110.00. Hourly rates are subject to change and Client will be notified 30 days in advance of any change.

Los Angeles 3101 West Exposition Place, Los Angeles, CA 90018, US London 68-80 Hanbury Street, London E1 5JL, UK

1711 E. Cesar Chavez Street, Suite B, Austin, TX 78702, US Singapore 1 Keong Saik Road, The Working Capitol, Singapore 089109, SG Shanghai ANKEN Avenue, B-3G, 300 Jiang Chang West Road, Shanghai, CN



EXHIBIT B

- 12. Reimbursables shall be billed at 1.2 times direct cost. 17. Client agrees to limit RIOS' liability to Client and to all Such expenditures may include but are not limited to the following: messenger and delivery charges; mileage; reproduction and blueprinting expenses; plotting, photography; graphic resources; fax and long-distance telephone expenses; and travel expenses, including airfare, hotel expenses, transportation, parking fees, lodging and meals. Vehicle mileage will be billed at the current IRS mileage rate for specific job-related trips (i.e., product and material research and selection, and long-distance job meetings).
- 13. Client shall provide all necessary information and documents in the form of survey, reports, and drawings required for the design services to proceed.
- 14. Client shall render all approvals and decisions as expeditiously as necessary for the orderly progress of RIOS' services and the work of the contractors and consultants.
- 15. Client shall obtain and maintain during the project insurance against loss and damage to materials, furniture, furnishings and equipment to be specified for the project and stored at the project premises or at a specified storage location.
- 16. RIOS will maintain the following minimum insurance coverages and amounts:
 - 16.1. Workers Compensation insurance as required by Law, with waiver of subrogation;
 - 16.2. Employer's Liability insurance with coverage of \$1,000,000 each accident/employee;
 - 16.3. Commercial General Liability insurance with coverage of \$2,000,000 per occurrence/aggregate;
 - 16.4. Automobile Liability insurance with coverage of \$1,000,000 combined single limit; and
 - 16.5. Professional Liability insurance with coverage of \$2,000,000 per claim/aggregate, which coverage shall be continued, and evidence provided to Client, for two years following the termination or expiration of this agreement or tail coverage provided for such period in the event of cancellation or non-renewal.

RIOS shall provide to Client satisfactory evidence of such insurance coverage upon request from time to time in a form reasonably acceptable to Client.

- construction contractors and subcontractors due to the non willful acts, errors, or omissions of RIOS. such that the total aggregate liability of RIOS to all those named shall not exceed the total fees paid to RIOS by Client for services, or \$500,000, whichever amount is lesser.
- 18. To the fullest extent permitted by law, RIOS and Client waive against each other, and the other's employees, officers, directors, agents, insurers, partners, and consultants, any and all claims for or entitlement to special, incidental, indirect, or consequential damages arising out of, resulting from, or in any way related to the Project.
- 19. In the event of any dispute between the parties, the parties agree to make a good faith effort to settle or mediate the dispute prior to entering arbitration or any other binding legal process.
- 20. If Client finds it necessary to abandon the project, RIOS shall be compensated for all work completed under the Scope of Services according to the schedule of payments designated under the Fee
- 21. Once work has begun on the work described under Scope of Design Services, any changes or additions requested by Client that constitute a substantial change to the work already completed are not included in this fee. This additional time will be invoiced monthly at our current hourly rates.
- 22. If the project is suspended through no act or fault of RIOS, RIOS reserves the right to equitably adjust the time schedule and fees for the remaining services In the event of a suspension of work, RIOS shall be compensated for services performed prior to notice of such suspension. When the project is resumed, RIOS shall be entitled to compensation for expenses incurred by the interruption and resumption of RIOS' services. RIOS shall not be liable or responsible to the Client nor be deemed to have defaulted under or breached this Agreement, for any failure or delay in fulfilling or performing any term of this Agreement (except for any obligations to make previously owed payments to the Clienthereunder) when and to the extent such failure or delay is caused by or results from acts beyond RIOS' reasonable control, including, without limitation, the following force majeure events ("Force Majeure Event(s)") that frustrates the purpose of this Agreement: (a) acts of God; (b) flood, fire, earthquake or explosion; (c) war, invasion, hostilities (whether war is declared or not),

EXHIBIT B

terrorist threats or acts, riot or other civil unrest; (d) government order or law; (e) actions, embargoes or blockades in effect on or after the date of this Agreement; (f) action by any governmental authority; (g) national or regional emergency; (h) strikes, labor stoppages or slowdowns or other industrial disturbances; (i) epidemic, pandemic or similar influenza or bacterial infection (which is defined by the United States Center for Disease Control as virulent human influenza or infection that may cause global outbreak, or pandemic, or serious illness); (j) emergency state; (k) shortage of adequate medical supplies and equipment; (I) shortage of power or transportation facilities; and (m) other similar events beyond the reasonable control of RIOS.

- 23. This agreement may be terminated by RIOS upon written notice to the Client with or without cause. If this agreement is terminated for any reason, RIOS shall be compensated for all work completed to date and shall be released from any future financial or design liability resulting from subsequent design efforts made by the Client or any party working under the Client's direction.
- 24. In the event that RIOS purchases, recommends and/or installs any furnishings, artwork or fixtures at the project, Client recognizes that RIOS makes no representation or warranty as to any defects in the furnishings, artwork or fixtures and shall hold RIOS harmless.
- 25. RIOS shall assist Client in coordinating schedules for delivery and installation of the Work, but shall not be responsible for malfeasance, neglect or failure of a contractor, subcontractor, or material supplier to meet their schedules for completion or to perform their respective duties and responsibilities.
- 26. Notwithstanding any language to the contrary, RIOS procurement markup does not include warehousing or insurance costs. These costs are outside the scope of this Agreement and can be provided to Client as additional services.
- 27. All documents furnished by RIOS under this proposal are instruments of service. They are not intended or represented to be suitable for reuse by Client or others on extensions of the project or on any other project. Any reuse without specific written verification and adaptation by RIOS for the specific purposes intended will be at the user's sole risk and without creating liability or legal exposure to RIOS.

- 28. RIOS retains all copyright interests and rights in all such instruments of service. Client may, at its expense, obtain reproducible copies of drawings and copies of other documents, in consideration of which there will be mutual agreement that Client will use them solely in connection with the specific Project for which they were prepared.
- 29. RIOS retains ownership of any developed graphic patterns / products / furniture and reserves all rights to their reuse.
- 30. RIOS retains the right to take photographs and/or arrange for photography of the project; and the right to use those photographs for marketing purposes and/or to present the project in publications. Client reserves the right to withhold their name and any sensitive data from publication. In addition to providing professional credit to RIOS in its promotional materials, Client shall endeavor to provide professional credit to RIOS in all media and other publications related to the Project.

ASSIGNMENT AND ASSUMPTION OF CONTRACT

(Rios Inc. - Professional Services Agreement and First Additional Services Addendum)

This ASSIGNMENT AND ASSUMPTION OF CONTRACT (the "Agreement" or "Assignment") is made and entered into as of the 29th day of July, 2025, by and among CLW POINT PARTNERS, a Delaware limited liability company ("Assignor"), and POINT PHASE 1 PUBLIC INFRASTRUCTURE DISTRICT NO. 1, a quasi-municipal corporation and political subdivision of the State of Utah, ("Assignee"). The Assignor and the Assignee are referred to herein individually as a "Party" and collectively as the "Parties."

RECITALS

WHEREAS, Assignor is a party to that certain Professional Services Agreement Between Owner and Consultant, dated May, 24, 2024 (the "**Original Agreement**"), by and between Assignor (as Owner) and Rios, Inc., a California corporation (the "**Consultant**"), relating to the design and construction of the project known as "The Promenade at the Point of the Mountain Project" (the "**Promenade Project**"), attached hereto as **Exhibit A**; and

WHEREAS, Assignor and Consultant further entered into that certain **First Additional Services Addendum** dated **July 29, 2024** (the "**Addendum**"), under Article 3 of the Original Agreement, for additional services related to water feature and lighting design for the Project. Attached hereto as **Exhibit B**. The Original Agreement and the Addendum are referred to herein collectively as the "**Promenade Contract**."

WHEREAS, those capitalized terms used herein and not otherwise defined shall have the meanings assigned to them in the Promenade Contract; and

WHEREAS, Assignee is a duly formed and acting public infrastructure district that will own and finance public improvements related to the Promenade Project; and

WHEREAS, Assignor desires to assign to Assignee, and Assignee desires to assume from Assignor, all of Assignor's rights and obligations under the Promenade Contract, that relate to design and construction of public improvements that are within the scope of the Assignee's statutory purposes; and

WHEREAS, Section 10 of the Original Agreement permits assignment with prior written notice to Consultant, and Consultant has agreed to this Assignment as evidenced by its signature below; and

WHEREAS, the Assignee is ready and capable of performing the Assignor's obligations under the Agreement.

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

COVENANTS AND AGREEMENTS

- 1. <u>Recitals are Incorporated</u>. The recitals to this Agreement are incorporated as if fully set forth herein.
- 2. <u>Assignment of Rights</u>: Effective as of the date set forth above, Assignor hereby assigns, transfers, and conveys to Assignee all of its right, title, and interest in and to the Promenade Contract, including all obligations and duties thereunder, to the extent relating to the design, permitting, and construction of public improvements described in or contemplated by the Promenade Contract.
- 3. <u>Assumption of Obligations and Duties</u>: Assignee hereby accepts the foregoing assignment and assumes and agrees to perform all of Assignor's obligations under the Promenade Contract as of the effective date of this Assignment, as such obligations relate to the design and construction of public improvements to be owned or financed by the Assignee.
- 4. <u>Consent of Consultant</u>: Consultant shall evidence its consent to this Agreement by signing below, and upon such execution, shall recognize Assignee as the "Owner" under the Promenade Contract for all purposes. Consultant shall continue performance under the Promenade Contract without interruption, and acknowledges that this Assignment does not constitute a material change under the Promenade Contract. Consultant acknowledges that all invoicing and payment for services rendered on or after the Effective Date shall be directed to Assignee.
- 5. <u>Notices</u>: All notices under the Event Venue Professional Services Agreement shall be delivered to Assignee at the address designated by the District unless otherwise directed in writing.
- 6. <u>Prior Provisions Effective</u>. Except as specifically provided herein, all the terms and provisions of the Event Venue Professional Services Agreement shall remain in full force and effect.
- 7. Entire Agreement; Modifications. This Agreement contains the entire understanding of the Parties and supersedes all other agreements or understandings between them with respect to the subject matter of the Agreement. This Agreement may not be changed orally, but only by an agreement in writing, signed by the party against whom enforcement of any waiver, change, modification, extension, or discharge is sought.
- 8. Governing Law. This Agreement is governed by and construed in accordance with the laws of the State of Utah, without giving effect to any choice or conflicts of laws principles.
- 9. <u>Interpretation</u>. Any caption that identifies a paragraph or section heading is for convenience only and the content of the paragraph controls the relationship between the Parties not the language of the heading. Singular includes the plural and plural includes singular. Reference to a paragraph also references all paragraphs. This Agreement shall be considered to have been drafted by the Parties and there will be no construction of ambiguities against any Party.
- 10. <u>Counterparts</u>. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.

11. Waiver; Partial Invalidity. No term or condition of this Agreement shall be deemed waived unless such waiver is expressed in writing and is signed by the Parties. Failure or delay on the part of any Party to exercise any right, power, or privilege under this Agreement shall not be deemed a waiver thereof. In the event that an arbitrator or judge determines that any provision of this Agreement is invalid or unenforceable, the remainder of the Agreement shall remain enforceable deleting therefrom the invalid or unenforceable provision and all other provisions remaining valid and enforceable to the fullest extent permitted by law.

[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.

ASSIGNOR:	
CLW POINT PARTNERS, a Delaware limite liability company	d
Printed Name	
Title	
ASSIGNEE:	
POINT PHASE 1 PUBLIC INFRASTRUCTURE DISTRICT NO. 1 a quasi-municipal corporation and political subdivision of the State of Utah	
By: Authorized Board Member	
CONSULTANT:	
RIOS, INC., a California corporation	
Printed Name	
Title	

Exhibit A

Professional Services Agreement, dated May, 24, 2024 ("Original Agreement")

PROFESSIONAL SERVICES AGREEMENT

This Agreement (the "Agreement") is made and entered into on May 24, 2024, by and between RIOS, Inc. with addresses at 3101 West Exposition Place, Los Angeles, CA 90018 (the "Consultant") and CLW POINT PARTNERS, LLC (the "Owner").

Whereas, Owner has rights to develop that certain real property commonly known as The Point of the Mountain (the "Property"), more particularly described on <u>Exhibit A-1</u> and <u>Exhibit A-2</u>.

Now, therefore, in consideration of covenants, agreements and stipulations contained herein, the Consultant and Owner hereby covenant, promise and agree to the following:

- 1. <u>Services</u>. The Consultant agrees to furnish all supervision, labor, materials, supplies, and equipment as may be necessary to complete and provide the services at the Property as set forth in the Consultant's "Proposal" attached hereto as <u>Exhibit B</u> and hereby included as part of this Agreement (the "Services"). The Consultant shall perform its services consistent with the professional skill and care ordinarily provided by professionals providing similar services in the same locality under similar circumstances. The terms and conditions of this Agreement shall prevail over any conflicts with the Consultant's Proposal.
- 2. <u>Term.</u> The term of this Agreement shall commence on March 7, 2024, and terminate automatically upon the completion of the Services. Either party may terminate this Agreement without cause upon thirty (30) days written notice to the other party.
- 3. Additional Services. It is understood that, from time to time during the term of this Agreement, Owner may request Consultant to perform services or provide materials which are not set forth in Exhibit B but are related to the services encompassed within the Services (herein "Additional Services"). Consultant hereby agrees to perform such Additional Services so long as prior to the performance of such Additional Services, Owner shall authorize in writing the scope of such Additional Services and compensation payable to Consultant for the full performance of said Additional Services. In the event Consultant shall fail to secure such a writing relating to such Additional Services, any such work thereafter performed shall be deemed a part of the Services and Consultant shall not be entitled to any additional compensation therefore.
- 4. Compensation. Owner agrees to pay Consultant as set forth in Exhibit B. Payment shall be issued to the Consultant by Owner within forty-five (45) calendar days of receipt of invoice. Consultant shall itemize applicable charges and taxes on invoice. Consultant shall be required to submit final lien waivers, in a form that shall be acceptable to Owner, for all invoices exceeding \$5,000.00, or as may be required by law, prior to release of payment. Final payment shall not be due until Consultant has delivered to Owner (1) written confirmation that the Services and any Additional Services hereunder have been fully and satisfactorily performed and (2) a complete release of all liens arising out of the Services and any Additional Services or receipts in full covering all labor, materials and equipment for which a lien could be filed, or a bond satisfactory to Owner indemnifying it against any lien. If any lien remains unsatisfied after all payments are made, Consultant shall pay on demand or refund to Owner all moneys that the latter may be compelled to pay in discharging such lien, including all costs and reasonable attorneys' fees.
- 5. <u>Insurance</u>. Throughout the term of this Agreement, the Consultant and its subcontractors, if any, shall secure and maintain, at its own expense, the following insurance requirements with companies reasonably satisfactory and acceptable to Owner. Consultant and its subcontractors, if any, shall furnish Owner certificates evidencing such insurance prior to commencement of work under this Agreement.

- a. Worker's Compensation and Employer's Liability Insurance which shall fully comply with the statutory requirements of all state laws as well as federal laws which may be applicable. Employer's Liability limit shall be \$1,000,000.00 per accident for Bodily Injury and \$1,000,000.00 per employee/aggregate for disease.
- b. Commercial General Liability insurance (naming Owner, and their respective subsidiaries, affiliates, partners and their respective successors and assigns, as additional insureds) with a minimum combined single limit of liability of \$1,000,000.00 per occurrence and \$2,000,000.00 in the aggregate per location and \$5,000,000.00 policy aggregate for injury and/or death and/or property damage (such insurance shall include contractual liability, explosion / collapse / underground hazards coverage, personal injury protection, products liability, and completed operations coverage), which coverage shall be "non-contributory."
- c. Excess liability (umbrella) insurance on the above with limits of \$5,000,000.00 naming Owner as additional insured, in addition to evidence of other general and excess liability to be approved by Owner.
- d. Business Automobile Liability Insurance covering all owned, hired, and non-owned vehicles and equipment used by the Consultant with a minimum combined single limit of liability of \$1,000,000.00 for injury (including bodily injury and property damage) and/or death and/or property damage.
- e. Professional Liability Insurance (errors and omissions) with the following limits of liability: \$3,000,000.00 in the aggregate.
- f. To the extent Owner's agent does not accompany Consultant at all times while on site, Crime coverage, with limits in an amount of not less than \$1,000,000.00, required.

All Consultant (and subcontractor) insurance coverage as outlined above shall be primary and non-contributory with any insurance Owner may have in place and shall name Owner, and upon written request by Owner to Consultant, shall include as additional insureds, the Owner's *named* subsidiaries, affiliates, partners and their respective successors and assigns, if any, on Consultant's Commercial General Liability, Excess Liability, and Business Automobile Liability insurance policies, and require all insurers to waive its rights of recovery under subrogation or otherwise against Owner. In addition, all applicable property damage and worker's compensation policies of Consultant (and any subcontractor) shall contain appropriate clauses pursuant to which the respective insurance carriers shall waive all rights of subrogation with respect to losses payable under such policies; and to the extent Consultant is determined to be liable by a trier of fact, Consultant (and all subcontractors) waive any claims against Owner, their partners, directors, officers, agents and employees, which would normally be covered by such insurance, including any deductibles, co-insurance or self-insurance retentions.

- 6. <u>Representations</u>. Consultant hereby represents and certifies to Owner, with the intention that Owner rely thereon in entering into this Agreement, that:
 - a. Consultant is an experienced transportation engineering consultant and has the expertise necessary to perform the Services and any Additional Services. Consultant acknowledges that its representatives have visited the Property and are familiar with all site conditions which may affect the Services and any Additional Services.
 - b. Consultant has the capability, experience, registrations, licenses, permits, and governmental approvals required to perform the Services and any Additional Services. Upon Owner's request, Consultant shall submit copies of any required registrations,

licenses, permits or governmental approvals required to perform such services to Owner r, as applicable, prior to the commencement of the Services and any Additional Services.

7. <u>Indemnification & Liability</u>. With respect to professional services, Consultant shall indemnify and hold harmless the Owner, their identified affiliates, and each of its and their respective members, managers, officers, directors, shareholders, and employees (each, an "Indemnified Party") against damages, including reimbursement of reasonable attorneys' fees, to the extent caused by the Consultant's negligent performance of professional services under this Agreement and that of its subconsultants or anyone for whom the Consultant is legally liable.

With respect to liability other than that arising out of professional services, the Consultant shall indemnify, defend and hold Owner,, their affiliates, and each of its and their respective members, managers, officers, directors, shareholders, agents, and employees (each, an "Indemnified Party") free and harmless from any and all claims, lawsuits, liabilities, damages, losses or expenses, including reasonable attorney's fees, arising from injuries or death of persons and damage to property which arise from, or are connected with, or caused by the Consultant's breach of this Agreement, negligence or willful misconduct of Consultant (or any subcontractor of Consultant or others for whom Consultant is legally responsible), which result from or during the providing of service under this Agreement. Notwithstanding anything to the contrary, in no event shall Owner or Consultant be liable under this Agreement for special, indirect, consequential (including but not limited to lost profits), punitive or exemplary damages. This Section shall survive the termination or earlier expiration of this Agreement.

8. Applicable Law. The Consultant agrees that the Services and any Additional Services provided under this Agreement will be provided in compliance with this Agreement and all applicable laws, orders, rules and regulations of governmental agencies having jurisdiction over such services. Such governmental agencies and regulations include but are not limited to the Environmental Protection Agency; Uniform Commercial Code as adopted by the state in which the services are provided; Occupational Safety and Health Administration regulations; applicable environmental, health and safety laws and regulations pertaining to supplies, materials, tools and machinery used in providing services. This Agreement shall be governed by, and any disputes shall be settled pursuant to, the laws of the state in which the service is provided unless mutually agreed otherwise. Consultant shall not engage in any conduct or practice which discriminates against any employee or applicant for employment because of his or her race, color, gender, religion, national origin, marital status, physical handicap, sex, sexual preference or age in the performance of this Agreement or in any connection with the Property.

Consultant warrants and represents that the Consultant is not, and shall not become, a person or entity with whom Owner are restricted from doing business with under regulations of the Office of Foreign Asset Control ("OFAC") of the Department of the Treasury (including, but not limited to, those named on OFAC's Specially Designated and Blocked Persons list) or under any statute, executive order (including, but not limited to, the September 24, 2001, Executive Order Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism), or other governmental action and is not and shall not engage in any dealings or transactions or be otherwise associated with such persons or entities. Consultant shall perform criminal background checks of any and all employees assigned to the Property prior to assignment to the Property and, in addition to any applicable standards of professional conduct, are prohibited from assigning any employee who has been convicted of a crime of theft or violence within the past seven (7) years to the Property.

9. <u>Independent Contractor</u>. The Consultant or any agent or employee of Consultant shall be deemed at all times to be an independent contractor and is wholly responsible for the manner in which it performs the services and work requested under this Agreement. The Consultant or any agent or employee of Consultant shall not have employee status with Owner, nor be entitled to participate

in any plans, arrangements, or distributions by Owner pertaining to or in connection with any retirement, health, or other benefits that Owner may offer their employees. The Consultant or any agent or employee of the Consultant, as applicable, is liable for the acts and omissions of itself, its employees and its agents. All matters pertaining to the selection, direction, employment, supervision, compensation (subject to any applicable approved staffing plan or budget approved by Owner pursuant to this Agreement as set forth in the Proposal), promotion and discharge of such personnel are the sole responsibility of Consultant, which shall be in all respects the employer of such personnel, except that Consultant shall have total responsibility for and shall fully comply with all applicable laws and regulations having to do with worker's compensation, social security, unemployment insurance, hours of labor, wages, working conditions, and other employeremployee related subjects. Without limiting the foregoing, the Consultant shall be responsible for all obligations and payments, whether imposed by federal, state, or local law, including, but not limited to, Federal Insurance Contributions Act (FICA), income tax withholdings, unemployment compensation, insurance, and other similar responsibilities related to the Consultant's performing services and work, or any agent or employee of Consultant's providing same. Nothing in this Agreement shall be construed as creating an employment or joint venture relationship between Owner and the Consultant. Any terms in this Agreement referring to direction from Owner shall be construed as providing for direction as to policy and the result of Consultant's work only, and not as to the means by which such a result is obtained.

- 10. <u>Assignment; Subcontractors</u>. This Agreement shall be binding on the successors of the parties hereto. This Agreement may be assigned by Owner at its discretion with prior written notice to Consultant. This Agreement shall not be assigned by Consultant without first obtaining the written consent of Owner. The use of any subcontractor by Consultant for the consulting Services provided herein is subject to Owner's prior written approval, which approval may be revoked upon thirty (30) days' notice describing the basis for removal; provided that notwithstanding any approval, Consultant remains solely responsible for all Services and obligations under this Agreement.
- 11. <u>Confidentiality</u>. All drawings, specifications, technical documents of any nature, and copies thereof, prepared pursuant to this Agreement are the property of the Owner and are to be treated as confidential. They are not to be disclosed to others without the Owner's prior written approval (except to the extent necessary to comply with the direction of any applicable legal authority) and are to be delivered to the Owner on request and in all events upon completion of the Services and any Additional Services, or termination of this Agreement.
- 12. Notices. Any information or notices required or permitted to be given or made under this Agreement shall be in writing and shall be deemed given or made when delivered in person (at the time delivered), when sent by United States registered or certified mail (upon receipt), when received by courier (e.g. FedEx) (one business day after sending), or by email (upon sending if (i) sent on a business day prior to 5 P.M. in the time zone where the Property sits (otherwise, on the next succeeding business day), (ii) no failure of delivery is received by the sender, and (iii) unless receipt is confirmed via email, the sender concurrently sends such notice by one of the other listed methods listed in this paragraph) at the addresses specified below:

If to Owner:

CLW POINT PARTNERS, LLC, c/o Lincoln Property Company 8111 Douglas Avenue, Suite 600 Dallas, Texas 75225

With a copy to:

Lincoln Property Company 1211 SW Fifth Ave., Suite 700 Portland, OR 97204 Attention: Patrick Gilligan Email: pgilligan@lpc.com

If to Consultant: RIOS Inc.

3101 West Exposition Place Los Angeles, CA 90018 Attention: Mark Motonaga mmotonaga@rios.com

Any party to this Agreement may change its addresses for notice in the manner provided above.

13. Miscellaneous. A waiver on the part of the Owner or Consultant of any term, provision or condition of this Agreement shall not constitute a precedent or bind either party to a waiver of any succeeding breach of the same or any other term, provision or condition of this Agreement. This Agreement, including any Exhibits and any addenda thereto, constitutes the entire Agreement between Consultant and Owner. It supersedes all prior or contemporaneous communications, representations or agreements, whether oral or written, relating to the Services set forth in this Agreement. This Agreement may be amended only by a written instrument signed by both parties. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument. The parties acknowledge and agree that signed counterparts of this Agreement may be delivered via email, DocuSign, or other electronic means, and the same shall have the same force and effect as copies hereof executed and delivered with original wet signatures. No provision of this Agreement shall be construed against or interpreted to the disadvantage of any party by any court or other governmental or judicial authority by reason of such party having or being deemed to have structured or drafted such provision. The captions in this Agreement are for the convenience of the parties in identification of the several provisions and shall not constitute a part of this Agreement nor be considered interpretative thereof. Every paragraph, part, term or provision of this Agreement is severable from others. If any paragraph, part, term or provision of this Agreement is construed or held to be void, invalid or unenforceable by order, decree or judgment of a court of competent jurisdiction, the remaining paragraphs, parts, terms and provisions of this Agreement shall not be affected thereby but shall remain in full force and effect.

[Remainder of this page intentionally blank]

In witness whereof, the parties hereto have acknowledged and agreed to terms and conditions contained hereinabove and executes the same by written acceptance below.

OWNER:

CLW POINT PARTNERS, LLC, a Delaware limited liability company

CONSULTANT:

RIOS, INC.

DocuSigned by:

By: Mark Motomaga
Name: Mark Motomaga^{7C6F41A...}

Title: <u>Creative Director</u>, <u>Par</u>tner

Exhibit A-1 Legal Description of the Overall Project

POM Phase 1 8-23-2023 SRV

State of Utah Department of Adm Serv Div Fac Const & Mgmnt Parcel No. 33-01-300-007

A part of the South Half of Section 1 and the North Half of Section 12, Township 4 South, Range 1 West, Salt Lake Base and Meridian.

Beginning at a point being 1252.68 feet North 89°31'19" West and 921.15 feet North from the center of Section 12, Township 4 South, Range 1 West, Salt Lake Base and Meridian and running thence North 02°29'26" East 258.45 feet; thence northerly 463.40 feet along the arc of a 1584.00 foot radius curve to the left, through a central angle of 16°45'42", chord bears North 05°53'25" West 461.75 feet; thence North 14°16'16" West 433.70 feet; thence northerly 505.28 feet along the arc of a 916.00 foot radius curve to the right, through a central angle of 31°36'19", chord bears North 01°31'54" East 498.90 feet; thence North 17°20'03" East 255.93 feet; thence North 62°20'41" East 12.73 feet; thence North 17°19'54" East 78.98 feet; thence North 27°39'57" West 12.73 feet; thence North 17°20'03" East 281.52 feet; thence North 62°20'03" East 12.73 feet; thence North 16°53'49" East 65.50 feet; thence North 27°39'57" West 12.02 feet; thence North 17°20'03" East 108.05 feet; thence North 40°00'00" East 77.38 feet; thence East 279.77 feet; thence South 45°00'00" East 9.19 feet; thence East 70.00 feet; thence North 45°00'00" East 9.19 feet; thence East 458.00 feet; thence South 45°00'00" East 12.73 feet; thence East 63.00 feet; thence North 45°00'00" East 12.73 feet; thence East 277.00 feet; thence South 45°00'00" East 12.73 feet; thence East 63.00 feet; thence North 45°00'00" East 12.73 feet; thence East 493.99 feet; thence southerly 28.58 feet along the arc of a 91.50 foot non-tangent radius curve to the right, through a central angle of 17°53'36", chord bears South 08°52'21" East 28.46 feet; thence South 00°04'27" West 1194.45 feet to a point on a spiral curve; thence southerly 90.54 feet along the arc of said spiral curve, chord bears South 01°09'25" East 90.52 feet; thence southeasterly 337.23 feet along the arc of a 708.50 foot radius curve to the left, through a central angle of 27°16'17", chord bears South 17°14'39" East 334.05 feet; thence southwesterly 100.78 feet along the arc of a 639.50 foot non-tangent radius curve to the right, through a central angle of 9°01'45", chord bears South 74°14'37" West 100.67 feet; thence South 78°45'29" West 199.31 feet; thence southwesterly 156.92 feet along the arc of a 660.50 foot radius curve to the left, through a central angle of 13°36'43", chord bears South 71°57'07" West 156.55 feet; thence North 72°31'59"West 8.08 feet; thence South 62°15'28" West 65.08 feet; thence South 13°53'07" West 8.43 feet; thence southwesterly 99.68 feet along the arc of a 660.50 foot non-tangent radius curve to the left, through a central angle of 8°38'49", chord bears South 54°11'39" West 99.59 feet; thence South 49°52'14" West 533.97 feet; thence South 45°22'41" West 140.43 feet; thence South 49°52'14" West 135.52 feet; thence southwesterly 406.07 feet along the arc of a 550.50 foot radius curve to the right, through a central angle of 42°15'51", chord bears South 71°00'10" West 396.93 feet; thence North 87°51'55" West 447.26 feet to the Point of Beginning.

Contains 4,290,939 Square Feet or 98.506 Acres.

Basis of Bearing is North 89°31'19" West between the Center and the East Quarter corner of Section 12, Township 4 South, Range 1 West, Salt Lake Base and Meridian.

Exhibit A-2
Depiction of the Overall Project

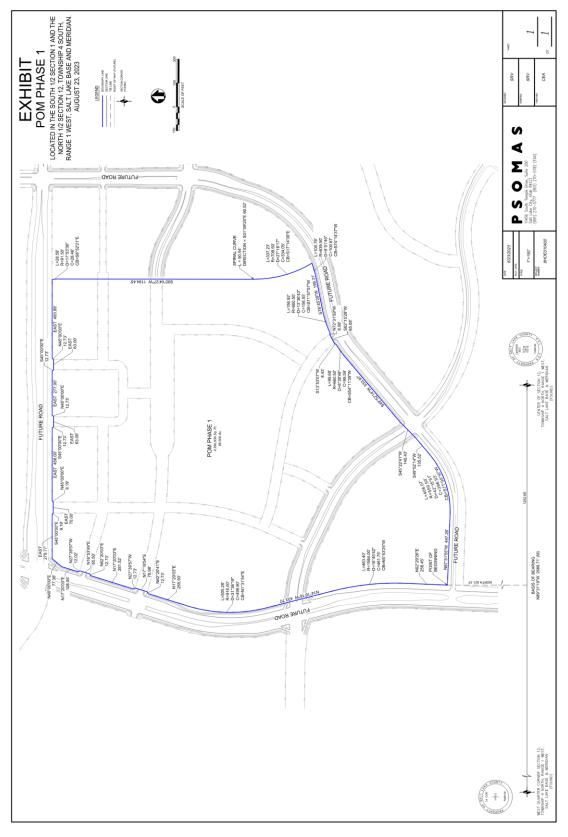


Exhibit A-2

Exhibit B **Consultant's Proposal**

March 22, 2024

Aric Yarberry Director, Development The Point Partners c/o Lincoln Property Company 4041 MacArthur Blvd., Suite 500 Newport Beach, CA 92660

Sent via email: AYarberry@LPC.com

Notice to Proceed // RIOS Project No. 24029 Re:

Dear Aric,

RIOS is requesting authorization to proceed with Landscape Architecture Concept Design Services prior to issuing and approving a full design proposal(s) to The Point Partners to expedite services for The Point in Draper, UT. RIOS is requesting a notice to proceed with the proposed work for Landscape Concept Design and programming for the promenade. An executed copy of this letter shall serve as limited authorization to proceed.

Under this limited authorization, RIOS shall furnish thirty (30) days of labor for Concept Design Services scope at hourly rates (Hourly Rate chart attached as Exhibit A) with a fee not to exceed \$60,000.00 for work through 4/7/24. RIOS shall perform and complete all work in accordance with the terms and conditions (Attached as Exhibit B).

At your earliest convenience, return an executed version of this letter to authorize RIOS to begin/continue working. We look forward to working with you and your team on this project!

Sincerely,

Mark Motonaga

Creative Director; Partner

RIOS

CLIENT:

Accepted by

Title

RIOS.com

Los Angeles 3101 West Exposition Place, Los Angeles, CA 90018 , US London 68-80 Hanbury Street, London E1 5JL, UK 1711 E. Cesar Chavez Street, Suite B, Austin, TX 78702, US Singapore 1 Keong Saik Road, The Working Capitol, Singapore 089109, SG Austin

1980 8th Street, Boulder, CO 80302, US

Shanghai ANKEN Avenue, B-3G, 300 Jiang Chang West Road, Shanghai, CN

RIOS

EXHIBIT A

RIOS, INC. HOURLY RATE CHART

As of March 7, 2024:

RIOS Role	Fee Per Hour	
Creative Director	\$ 395.00	
Studio Director	\$ 275.00	
Technical Director	\$ 275.00	
Design Director	\$ 250.00	
Senior Project Director and Senior Project Designer	\$ 225.00	
Project Director and Project Designer	\$ 195.00	
Designer II	\$ 165.00	
Designer I	\$145.00	
Intern	\$ 110.00	

Professional fees for hourly services will be billed at current hourly rates, reflected above. Hourly rates are subject to change and Client will be notified 30 days in advance of any change.

RIOS.com

Los Angeles 3101 West Exposition Place, Los Angeles, CA 90018 , US London 68-80 Hanbury Street, London E1 5JL, UK 1711 E. Cesar Chavez Street, Suite B, Austin, TX 78702, US Singapore 1 Keong Saik Road, The Working Capitol, Singapore 089109, SG

1980 8th Street, Boulder, CO 80302, US

Shanghai ANKEN Avenue, B-3G, 300 Jiang Chang West Road, Shanghai, CN

RIOS

May 6, 2024

Aric Yarberry Lincoln Property Company 4041 MacArthur Blvd. | Suite 500 Newport Beach, CA 92660

Sent via email to: Aric Yarberry (ayarberry@lpc.com)

Landscape Architecture and Architecture - SD/DD The Point Promenade

Dear Aricand team,

We are pleased to provide you with this proposal for landscape architecture and architecture design services through design development for the proposed project to be located at The Point in Draper, Utah. This proposal will define the agreement between LPC (Client) and Rios, Inc. (RIOS).

SCOPE OF WORK



Landscape Architecture scope will include the sidewalks, streetscapes, and open space from building face to building facewithin the red outline above.

Architecture scope will include approximately four (4) retail kiosks and three (3) public amenity pavilions.

Boulder



SCOPE OF SERVICES_LANDSCAPE ARCHITECTURE

Schematic Design

Upon notice to proceed, RIOS will undertake Schematic Design, including:

- 1. Manage project and coordinate with Client and consultant team
- 2. Participate in weekly team meetings (online)
- 3. Review updated retail architecture and concept design feedback
- 4. Review code requirements and summarize applicable design criteria
- 5. Visit site and regional reference projects and places
- 6. Prepare Schematic Design package (one 100% package due to accelerated schedule):
 - a. Overall illustrative site plan
 - b. Illustrative site plan enlargements showing hardscape treatments and planting areas
 - c. Landscape character reference images
 - d. Preliminary hardscape and planting palettes
 - e. Six (6) perspective renders (surrounding model views from retail architect; additional views available on a T&M basis)
- 7. Present 100% Schematic Design package to Client
- 8. Coordinate with client's cost estimator or contractor re: budget

Design Development

Upon notice to proceed, RIOS will undertake Design Development, including:

- 1. Manage project and coordinate with Client and consultant team
- 2. Participate in weekly team meetings (online)
- 3. Incorporate Client feedback on SD package and initial costing
- 4. Prepare Design Development package (50% coordination set and 100% final set):
 - a. Overall landscape site plan
 - b. Hardscape materials plans
 - c. Planting plans
 - d. Hardscape materials schedule
 - e. Planting material schedule
 - f. Planting and hardscape keysections and preliminary details
 - Six (6) updated perspective renders at 100% DD (surrounding model views from retail architect, additional views available on a T&M basis)
 - Technical specifications table of contents at 100% DD
- 5. Present to Client at 50% and 100% DD
- 6. Coordinate with client's cost estimator or contractor re: budget

Boulder

SCOPE OF SERVICES_ARCHITECTURE

Schematic Design

Upon notice to proceed, RIOS will undertake Schematic Design, including:

- 1. Manage project and coordinate with Client and consultant team
- 2. Participate in weekly team meetings (online)
- 3. Review updated retail architecture and concept design feedback
- 4. Review code requirements and summarize applicable design criteria
- 5. Visit site and regional reference projects and places
- 6. Prepare Schematic Design package (one 100% package due to accelerated schedule):
 - a. Building/structure plans
 - b. Typical building sections
 - c. Major building elevations
 - d. Six (6) perspective illustrations (surrounding model views from retail architect; additional views available on a T&M basis)
- 7. Present 100% Schematic Design package to Client
- 8. Coordinate with client's cost estimator or contractor re: budget

Design Development

Upon notice to proceed, RIOS will undertake Design Development, including:

- 1. Manage project and coordinate with Client and consultant team
- 2. Participate in weekly team meetings (online)
- 3. Incorporate Client feedback on SD package and initial costing
- 4. Prepare Design Development package (50% coordination set and 100% final set):

 - b. Building plans
 - c. Roof plans
 - d. Keybuilding sections
 - e. Building elevations
 - f. Reflected ceiling plans
 - g. Interior elevations
 - h. Door and window schedules
 - Material schedules
 - Typical building details
 - Six (6) updated perspective illustrations at 100% DD (surrounding model views from retail architect; additional views available on a T&M basis)
 - Technical specifications table of contents at 100% DD
- 5. Present to Client at 50% and 100% DD
- Coordinate with client's cost estimator or contractor re: budget

SCHEDULE

Schematic DesignM	1ay-June 2024
Design Development	July-Oct 2024



FEE SUMMARY

Landscape Architecture

Schematic Design	300,000
Design Development\$6	300,000
Total \$9	900,000

Architecture

Schematic Design\$100,000)
Design Development\$200,000)
Total\$300,000)

Other consultants as required during the course of work (i.e. signage and wayfinding, structural, mechanical, lighting, irrigation, electrical or civil engineers, food service, waterproofing, lighting designer, audio visual, arborist, pool designer, water features, etc.) will be contracted by the Client separately and are not included in these fees.

TERMS & CONDITIONS

RIOS' standard Terms & Conditions, attached, are incorporated into this document as an integral part of RIOS' agreement with the Client to provide services.

Please call if you have any questions regarding this proposal. To authorize us to proceed with this work, please sign and return this proposal.

Sincerely, RIOS

Mark Motonaga

Creative Director, Partner

Nate Cormier, ASLA, PLA, LEED AP

Managing Studio Director, Landscape Architecture

EXHIBIT B

RIOS' Terms & Conditions

- This agreement is based on the AIA Document B101, "Standard Form of Agreement between Owner and Architect," 2017 Edition. All terms and conditions of Document B101 are incorporated into this agreement as though fully set forth. In the event of any inconsistency or conflict between the B101 and RIOS' Terms & Conditions set forth by this proposal, RIOS' Terms & Conditions shall govern and control.
- 2. This proposal is valid for thirty (30) days only.
- 3. The stated fee maximum will not be exceeded without Client's prior approval.
- RIOS shall not be responsible for Client's directive or substitution, or for the Client's acceptance of nonconforming Work, made or given without RIOS' written approval.
- 5. Client shall contract separately for the design services not listed herein, or specifically excluded by RIOS, Unless otherwise indicated, those services shall be performed by licensed professional consultants, who shall affix their seals on the appropriate documents prepared by them. The contracts between Client and Client's consultants shall require the consultants to coordinate their drawings and other instruments of service with those of RIOS and to advise RIOS of any potential conflict. RIOS shall have no responsibility for the components of the Project designed by Client's consultants. Review by RIOS of the consultants' drawings and other instruments of service is solely for consistency with RIOS's design concept for the Project. RIOS shall be entitled to rely upon the technical sufficiency and timely delivery of documents and services furnished by Client's consultants, as well as on the computations performed by those consultants in connection with such documents and services. RIOS shall not be required to review or verify those computations or designs for compliance with applicable laws, statutes, ordinances, building codes, and rules and regulations, or certify completion or payment for the Work designed by Client's consultant. Client shall indemnify and hold harmless RIOS, RIOS' consultants, and agents and employees of any of them from and against claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of the services performed by the other consultants of Client.
- 6. This proposal does not include fees for any other consultant services other than those explicitly

- enumerated above. Consultants shall be billed to Client at 1.1 times direct cost for RIOS' consultant contract administration and coordination of services.
- Additional services, when requested by Client, will be invoiced monthly at our current hourly rates.
- This proposal does not include any reviews with any regulatory agencies other than those explicitly enumerated.
- 9. Coordination and submittal to regulatory agencies beyond those included in this scope of work (such as building code modifications or zoning administrator appeals) will not be produced without additional compensation.
- 10. Billing shall be monthly, as work is completed, based on actual time and material expenses at the rates stated here. Fees are due and payable within 30 days upon presentation of invoice. Invoices that are not paid within this period will accrue late charges at the rate of 1% per month. RIOS reserves the right to stop work on any project for which the invoice collection period exceeds 60 days. In the event of a suspension of services due to nonpayment, RIOS shall have no liability to Client for delay or damage caused to the Client because of such suspension of services. Before resuming services, the Client shall pay RIOS all sums due prior to suspension and any expenses incurred in the interruption and resumption of RIOS' services. RIOS' fees for the remaining services and the time schedules shall be equitably adjusted. Invoices for projects will be emailed as a PDF file to Client's billing or accounts receivable manager, or to Client's representative. Original copies are available upon request.
- 11. Professional fees for hourly services will be billed at current hourly rates. As of March 22, 2024, Creative Director time is billed at \$395.00. Studio Director time is billed at \$275.00. Technical Director time is billed at \$275.00, Design Director time is billed at \$250.00, Senior Project Director time is billed at \$225.00, Senior Project Designer time is billed at \$225.00, Project Director time is billed at \$195.00, Project Designer time is billed at \$195.00, Designer time is billed between \$145.00 - \$165.00, and Intern time is billed at \$110.00. Hourly rates are subject to change and Client will be notified 30 days in advance of any change.

1711 E. Cesar Chavez Street, Suite B, Austin, TX 78702, US Singapore 1 Keong Saik Road, The Working Capitol, Singapore 089109, SG Shanghai ANKEN Avenue, B-3G, 300 Jiang Chang West Road, Shanghai, CN



EXHIBIT B

- 12. Reimbursables shall be billed at 1.2 times direct cost. 17. Client agrees to limit RIOS' liability to Client and to all Such expenditures may include but are not limited to the following: messenger and delivery charges; mileage; reproduction and blueprinting expenses; plotting, photography; graphic resources; fax and long-distance telephone expenses; and travel expenses, including airfare, hotel expenses, transportation, parking fees, lodging and meals. Vehicle mileage will be billed at the current IRS mileage rate for specific job-related trips (i.e., product and material research and selection, and long-distance job meetings).
- 13. Client shall provide all necessary information and documents in the form of survey, reports, and drawings required for the design services to proceed.
- 14. Client shall render all approvals and decisions as expeditiously as necessary for the orderly progress of RIOS' services and the work of the contractors and consultants.
- 15. Client shall obtain and maintain during the project insurance against loss and damage to materials, furniture, furnishings and equipment to be specified for the project and stored at the project premises or at a specified storage location.
- 16. RIOS will maintain the following minimum insurance coverages and amounts:
 - 16.1. Workers Compensation insurance as required by Law, with waiver of subrogation;
 - 16.2. Employer's Liability insurance with coverage of \$1,000,000 each accident/employee;
 - 16.3. Commercial General Liability insurance with coverage of \$2,000,000 per occurrence/aggregate;
 - 16.4. Automobile Liability insurance with coverage of \$1,000,000 combined single limit; and
 - 16.5. Professional Liability insurance with coverage of \$2,000,000 per claim/aggregate, which coverage shall be continued, and evidence provided to Client, for two years following the termination or expiration of this agreement or tail coverage provided for such period in the event of cancellation or non-renewal.

RIOS shall provide to Client satisfactory evidence of such insurance coverage upon request from time to time in a form reasonably acceptable to Client.

- construction contractors and subcontractors due to the non willful acts, errors, or omissions of RIOS. such that the total aggregate liability of RIOS to all those named shall not exceed the total fees paid to RIOS by Client for services, or \$500,000, whichever amount is lesser.
- 18. To the fullest extent permitted by law, RIOS and Client waive against each other, and the other's employees, officers, directors, agents, insurers, partners, and consultants, any and all claims for or entitlement to special, incidental, indirect, or consequential damages arising out of, resulting from, or in any way related to the Project.
- 19. In the event of any dispute between the parties, the parties agree to make a good faith effort to settle or mediate the dispute prior to entering arbitration or any other binding legal process.
- 20. If Client finds it necessary to abandon the project, RIOS shall be compensated for all work completed under the Scope of Services according to the schedule of payments designated under the Fee
- 21. Once work has begun on the work described under Scope of Design Services, any changes or additions requested by Client that constitute a substantial change to the work already completed are not included in this fee. This additional time will be invoiced monthly at our current hourly rates.
- 22. If the project is suspended through no act or fault of RIOS, RIOS reserves the right to equitably adjust the time schedule and fees for the remaining services In the event of a suspension of work, RIOS shall be compensated for services performed prior to notice of such suspension. When the project is resumed, RIOS shall be entitled to compensation for expenses incurred by the interruption and resumption of RIOS' services. RIOS shall not be liable or responsible to the Client nor be deemed to have defaulted under or breached this Agreement, for any failure or delay in fulfilling or performing any term of this Agreement (except for any obligations to make previously owed payments to the Clienthereunder) when and to the extent such failure or delay is caused by or results from acts beyond RIOS' reasonable control, including, without limitation, the following force majeure events ("Force Majeure Event(s)") that frustrates the purpose of this Agreement: (a) acts of God; (b) flood, fire, earthquake or explosion; (c) war, invasion, hostilities (whether war is declared or not),

EXHIBIT B

terrorist threats or acts, riot or other civil unrest; (d) government order or law; (e) actions, embargoes or blockades in effect on or after the date of this Agreement; (f) action by any governmental authority; (g) national or regional emergency; (h) strikes, labor stoppages or slowdowns or other industrial disturbances; (i) epidemic, pandemic or similar influenza or bacterial infection (which is defined by the United States Center for Disease Control as virulent human influenza or infection that may cause global outbreak, or pandemic, or serious illness); (j) emergency state; (k) shortage of adequate medical supplies and equipment; (I) shortage of power or transportation facilities; and (m) other similar events beyond the reasonable control of RIOS.

- 23. This agreement may be terminated by RIOS upon written notice to the Client with or without cause. If this agreement is terminated for any reason, RIOS shall be compensated for all work completed to date and shall be released from any future financial or design liability resulting from subsequent design efforts made by the Client or any party working under the Client's direction.
- 24. In the event that RIOS purchases, recommends and/or installs any furnishings, artwork or fixtures at the project, Client recognizes that RIOS makes no representation or warranty as to any defects in the furnishings, artwork or fixtures and shall hold RIOS harmless.
- 25. RIOS shall assist Client in coordinating schedules for delivery and installation of the Work, but shall not be responsible for malfeasance, neglect or failure of a contractor, subcontractor, or material supplier to meet their schedules for completion or to perform their respective duties and responsibilities.
- 26. Notwithstanding any language to the contrary, RIOS procurement markup does not include warehousing or insurance costs. These costs are outside the scope of this Agreement and can be provided to Client as additional services.
- 27. All documents furnished by RIOS under this proposal are instruments of service. They are not intended or represented to be suitable for reuse by Client or others on extensions of the project or on any other project. Any reuse without specific written verification and adaptation by RIOS for the specific purposes intended will be at the user's sole risk and without creating liability or legal exposure to RIOS.

- 28. RIOS retains all copyright interests and rights in all such instruments of service. Client may, at its expense, obtain reproducible copies of drawings and copies of other documents, in consideration of which there will be mutual agreement that Client will use them solely in connection with the specific Project for which they were prepared.
- 29. RIOS retains ownership of any developed graphic patterns / products / furniture and reserves all rights to their reuse.
- 30. RIOS retains the right to take photographs and/or arrange for photography of the project; and the right to use those photographs for marketing purposes and/or to present the project in publications. Client reserves the right to withhold their name and any sensitive data from publication. In addition to providing professional credit to RIOS in its promotional materials, Client shall endeavor to provide professional credit to RIOS in all media and other publications related to the Project.

Exhibit B

First Additional Services Addendum dated July 29, 2024 ("Addendum")

FIRST ADDITIONAL SERVICES ADDENDUM

THIS FIRST ADDITIONAL SERVICES ADDENDUM (this "<u>Addendum</u>") is entered into as of July 29, 2024 ("<u>Addendum Effective Date</u>"), by and between July 29, 2024 ("<u>Owner</u>"), and RIOS, Inc. ("<u>Consultant</u>"), with reference to the following recitals:

- A. WHEREAS, Owner and Consultant entered into that certain Professional Services Agreement dated as of May 24, 2024 (the "<u>Agreement</u>") relating to that certain real property commonly known as The Point of the Mountain (the "<u>Property</u>"). All initially capitalized terms not otherwise defined herein shall have the meanings set forth in the Agreement.
- B. WHEREAS, pursuant to Article 3 of the Agreement, Owner desires that Consultant provide certain additional services at the Property, and Consultant desires to provide such additional services.

NOW, THEREFORE, in consideration of the foregoing recitals and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree to amend the Agreement as follows:

- 1. <u>Term.</u> The term of this Addendum ("<u>Addendum Term</u>") shall commence upon the Addendum Effective Date and automatically expire upon the earlier of: (i) the completion of the Additional Services (as defined below), or (ii) the termination of either the Agreement or this Addendum by Owner. Owner may terminate this Addendum without cause, and at no additional cost, upon thirty (30) days prior written notice to Consultant.
- 2. <u>Additional Services</u>. Beginning on the Addendum Effective Date and continuing through the Addendum Term, Consultant agrees to provide the additional services as described in <u>Exhibit A</u> attached hereto ("<u>Additional Services</u>"). In consideration for the Additional Services, Owner agrees to pay Consultant the sum set forth in <u>Exhibit A</u>. The terms and conditions of this Addendum shall prevail over any conflicts with <u>Exhibit A</u>.
- 3. <u>Effect of this Addendum</u>. The parties acknowledge and agree that except to the extent specified above, the terms and conditions of the Agreement generally are intended to apply to the Additional Services and this Addendum. Except as amended and/or modified by this Addendum, the Agreement is hereby ratified and confirmed and all other terms of the Agreement shall remain in full force and effect, unaltered and unchanged by this Addendum.
- 4. <u>Counterparts</u>. This Addendum may be executed in any number of counterparts, each of which shall be deemed an original, but all of which when taken together shall constitute one and the same instrument. The signature page of any counterpart may be detached therefrom without impairing the legal effect of the signature(s) thereon provided such signature page is attached to any other counterpart identical thereto except having additional signature pages executed by other parties to this Addendum attached thereto.

[Signatures on following page]

IN WITNESS WHEREOF, Owner and Consultant have caused their duly authorized representatives to execute this Addendum as of the date first above written.

OWNER:

CLW POINT PARTNERS, LLC, a Delaware limited liability company

By: Patrick Gillian
Name: Patrick Gillian
Title: Authorized Signatory

CONSULTANT:

RIOS, Inc.

By: Mark Motomaga
Name: Creative Director, Partner

June 24, 2024

Aric Yarberry Lincoln Property Company 4041 MacArthurd Blvd. | Suite 500 Newport Beach, CA 92660

Sent via email: ayarberry@lpc.com

Additional Service Proposal #01 Consultant Fees - SD and DD The Point Promenade / RIOS Proj. No. 24029

Dear Aric and team,

We are pleased to provide you with this additional service proposal for consultant services for The Point Promenade project located in Draper, Utah.

SCOPE OF WORK

RIOS will be servicing the attached consultant proposals for the scope of services provided, covering Schematic Design and Design Development.

FEE SUMMARY

Consultant Fee for Water Feature Design by Fluidity (see Exhibit A, attached)	\$70,000.00
Reimbursables for Fluidity	\$ 800.00
Lighting Design by KGM (see Exhibit B, attached)	\$ 31,200.00
RIOS Administrative Fee (10% of consultant fee)	\$10,120.00
Total for Additional Services	\$ 112,120

TERMS & CONDITIONS

1. This proposal is conditioned by the existing PROFESSIONAL SERVICES AGREEMENT between Rios, Inc. (RIOS) and CLW POINT PARTNERS, LLC, dated May 24, 2024. The terms and conditions of that agreement are incorporated into this agreement by reference.

Please call if you have any questions regarding this proposal. To authorize us to proceed with this work, please return a signed copy of this proposal.

[Signature Page to Follow]



I look forward to continuing our work with you on this project!

Sincerely, RIOS

Mark Motonaga **Creative Director**

CLIENT: CLW POINT PARTNERS, LLC, c/o Lincoln Property Company

Accepted By:

Printed Name

Title:

Date:



Fluidity Design Consultants Proposal for Water Feature Design The Point Promenade 11 June 2024





Contractees

Client

Abby Stone Sr. Project Director RIOS 3101 W Exposition Place

Los Angeles Ca 90018 323 785 1800 abby@rios.com

Consultant

James A Garland AIA President

Fluidity
724 South Spring Street, Suite 1401
Los Angeles CA 90014
213 739 9291
jim.garland@fluidity-design.com

Overview

The Point Promenade is an open-air, mixed-use development in the City of Draper, near Salt Lake City, Utah. A section of the urban design and landscape architecture work is being performed by RIOS. Within this area is planned an interactive water feature, which is to be located near one of Main Street's more important intersections. Physical alternatives for winter displays will be explored in conjunction with the water design. This proposal addresses water feature design and engineering services through design development. Scope and fees for future phases are included as a reference, and may be contracted in the future via a separate agreement.

Fluidity will collaborate with RIOS and the project team in the development of the water feature.

Scope

Professional services outlined in this Agreement shall be performed under the following phases, defined in subsequent paragraphs as:

Schematic Design

Design Development

Optional Scope

Construction Documents

Construction Administration

Process

Schematic Design INCLUDING

- Review the existing design materials.
- Participate in an initial workshop in Los Angeles with RIOS to explore alternatives and clarify the approach.
- Develop concepts, liaising with RIOS; settle on final design direction alternatives. Prepare design drawings that document the design intent.
 The Preliminary Schematic Design set will include alternative illustrative water feature drawings, reference imagery and machine room locations.
- Receive directions regarding the selected scheme and receive comments on that scheme from the Developer and RIOS.
- Coordinate and address design concerns. Liaise with RIOS regarding design finalization.
- Release a completed set of Schematic Design drawings. The Schematic
 Design set will include illustrative water feature Plans, Elevations, Sections,
 3D Illustration(s), etc. to convey design intent. Also identify the back-of-house machine room's location, size and utility requirements.
- Prepare a ROM construction cost estimate and a related, operations cost estimate.
- Present the work with RIOS to the Developer in Salt Lake City. Answer questions asked. Provide digital copies of the material.

Design Development INCLUDING

- Advance the design in response to comments, as appropriate, while maintaining regular communication with RIOS and the project team.
- Coordinate the design with the project team.
- Develop back-of-house information, refining the machine room location, size, and utility connection requirements.
- Prepare a set of design and engineering drawings sufficient to convey intent at the DD level. The deliverables include General Notes, Site Plan, Finishes Plan, Basin Plan, Elevations, Sections, Details, Preliminary Equipment Schedules, Engineering System Technical Description and Preliminary Machine Room Plans. Drawing set to be produced in Revit.
- Update the Construction Cost Estimate and the Operations Cost Estimate.
- Provide digital copies of the work to RIOS at 50% and 100% stages of completion.

Construction Documents INCLUDING (OPTIONAL SCOPE)

- Advance the design in response to comments, as appropriate, while maintaining regular communication with the project team.
- Coordinate the work with the project team.
- Prepare a set of Water Feature Construction Documents. Deliverables will include: General Notes, Site Plan, Finishes Schedule, Finishes Plan, Basin Plan, Elevations, Sections, Details, Construction Specifications, Equipment Schedule, Engineering System Technical Description, Piping & Instrumentation Diagram (P&ID), Piping Plan, Conduit Plan, Machine Room Plan and Elevations, Single-Line Electrical Diagrams, Electrical Panel Schedule, Piping and Electrical Specifications. Drawing set to be produced in Revit.
- The Water Feature Construction Documents to be submitted for review and approval at 50% and 100% stages of completion.
- Make Agency-required corrections to the Construction Documents until achieving approval. (In-person Agency contact is by others.)

Scope of work excludes any releases beyond the 100% release. If an IFC set is requested, the extra release would be treated as Additional Services and billed by Time and Expenses.

Construction Administration INCLUDING (OPTIONAL SCOPE)

- Participate in a Pre-Construction Conference with the selected Contractor. Review procedures and communications protocols. Identify contact persons, and discuss the project in detail, reviewing general construction approach, the project schedule, potential problems, etc.
- Maintain regular communications with the Contractor and the project team.
- Review and comment on Shop Drawings, Submittals and Requests for Information (RFIs) in a timely manner.
- Visit the jobsite twice during construction to view the Contractor's work.
 Report findings in writing; distribute to the project team.
- Establish the start date for Fluidity's on-site Commissioning effort. Owner to verify and approve Fluidity on-site start date in writing.
- Create water choreographies for the water features in response to the programming needs of the space. Gain owner and landscape architect approval of the work.
- During on-site Commissioning, Fluidity's efforts will include: assisting the
 Contractor in troubleshooting technical problems upon startup, observe
 that the Maintenance Manuals and Warrantees are delivered by the
 Contractor, confirm that the Contractor has trained the maintenance staff,
 prepare and distribute copies of a Punch List, resolve final Punch List items
 and report the completion of the project.

Fees and Expenses

Fees for The Point Promenade's water feature are Seventy Thousand Dollars (\$70,000), exclusive of travel and expenses.

Total	\$70,000	
Construction Administration *	\$35,000	
Construction Documents	\$35,000	
Fees for Optional Scope		
Total	\$70,000	
Design Development	\$35,000	
Schematic Design	\$35,000	
PHASE	FEE*	

*Fees quoted above for Construction Administration services are based upon the necessary assumption that the Contractor awarded the project is reasonably experienced with water feature construction and qualified for this project. The fees do not represent the time required for Fluidity to help resolve basic construction methods. NOTE: If too much of Fluidity's time is being consumed regarding construction basics with the Contractor, Fluidity will inform the Client, and with written authorization to proceed further, perform the remainder of the CA phase under an Additional Services agreement, and be compensated for that extra work at our prevailing rates, identified in this agreement.

Scope of work excludes any mockup design work. If mockups are recommended, the related scopes of designing, overseeing construction, testing and reporting would be treated as Additional Services and billed by Time and Expenses. Fluidity's work does not entail the physical construction of mock-ups, which is performed by others as a separate cost.

The stamping and sealing of the Architectural, Electrical and Piping drawings are covered in the fee proposal.

Travel expenses are not included in the fees listed above. Travel schedules will be determined upon mutual agreement between Fluidity and RIOS.

The following trip schedule is estimated:							
AIRPORT	PHASE/PARTICIPANT	AIRFARE	HOTEL	PER DIEM	DAYS	STAFF	TOTAL
SLC	SD Designer	400	200	200	1	1	800
SLC	CA Engineer	400	200	200	2	1	1,200
SLC	CA Engineer	400	200	200	2	1	1,200
SLC	Commissioning Engineer	400	200	200	3	1	1,600
SLC	Commissioning Designer	400	200	200	3	1	1,600

Estimated Reimbursable Travel Expenses

\$6,400

Schedule	The project's estimated timeline is outlined below:			
	PHASE	PROGAM		
	Schematic Design	7 Weeks (upon execution of the agreement)		
	100% Design Development	October 25, 2024		
Payment Schedule	-	oon percentage of completion. A mobilization invoice of Proceed. This amount will be deducted from the final re due in 30 days.		
Exclusions	The following services shall be excluded for	rom Fluidity's scope of work:		
	 Structural Engineering Civil Engineering of property utilities to Audio-visual engineering In-person approval Agency relations Signage Design (if required) 			
Additional Services	Professional services requested by the client outside the defined scope shall be performed on a time and expenses basis at Fluidity's then-current billing rates or by a negotiated fixed fee. Fluidity will obtain authorization prior to commencing any work beyond the scope of this document.			
	BILLING RATES PER HOUR			
	President	\$350		
	Principal	\$300		
	Associate Principal	\$225		
	BIM Manager	\$220		
	Senior Project/Technical Designer	\$180		
	Senior Designer	\$150		
	Project Designer	\$130		
	Designer	\$110		
	Design Intern	\$80		
	Engineering Director	\$300		
	Senior Project Engineer	\$225		
	Project Engineer \$180			
	Engineer	\$160		
	Junior Engineer	\$125		

Terms and Conditions

Expenses	Expenses incurred by Fluidity are not included in our fees. The following costs are considered
	reimbursable unless specifically noted: auto mileage (billed at a rate equal to the IRS
	allowance/mile), parking fees, airfare, ground transportation, lodging and meals, long distance
	telephone charges, express mail or messenger services, the required reproduction of drawings
	or photography, rental equipment, and the services of prior approved outside consultants. These
	items will be invoiced at Fluidity's cost, without markup.
Travel	Domestic travel is booked Economy Class. International travel is booked Business Class. Hotel
	stays are arranged at rates common to the vicinity of the work. Per Diem allowances for meals
	and ground transportation will comply with industry standards.
Timelines	Fluidity performs professional services consistent with sound professional practice and
	established standards. Concerns regarding feasible delivery of the work according to the Project
	Schedule will be reported in writing.
Regulations	Fluidity shall exercise customary professional care to research and comply with applicable
	Building Codes. Fluidity does not perform in-person, governmental agency relations, unless
	special arrangements are made to the contrary.
Mockups	Fluidity provides design and engineering services for mockups, in addition to mockup testing,
	discussions and report writing. Fluidity does not build the physical mockups. Mockup materials
	and labor costs are not covered by Fluidity's fees. Those costs are covered by a separate
	agreement with the selected mockup fabricator, either directly to the Owner or through Fluidity.
Estimates	Fluidity develops construction cost and operations costs estimates in the course of professional
	services based upon our design work, research and experience, for use by Fluidity and others.
	Fluidity is not a certified construction cost estimator and has no control over market fluctuations
	or construction contractor estimations. Fluidity can make no warranty regarding its construction
	cost estimates or operations cost estimates.
Commissioning	Fluidity will schedule commissioning trips upon receiving written authorization from the
	contractor and owner confirming readiness. If Fluidity is unable to perform commissioning due to
	unready construction—although previously stated as ready—or due to other factors outside of
	Fluidity's control, then Additional Services fees and reimbursable expenses to cover those fair
	amounts will be applied. The owner will be informed as such at the time by Fluidity.
	Aspects of Fluidity's commissioning services require support and communication with third party
	vendors. These vendors include construction contractors, equipment suppliers, and control

Aspects of Fluidity's commissioning services require support and communication with third party vendors. These vendors include construction contractors, equipment suppliers, and control board programmers. Upon request by Fluidity and with reasonable notice, the owner will ensure, either directly or through the construction contractor, that third party vendors will be available for on-site to support Fluidity's timely work. Fluidity cannot be held responsible for the actions or inactions of these participants, or if these participants provide less than necessary services, or late services, thereby requiring Fluidity to extend an on-site visit, or return to the site at a later date. At those times, Additional Services fees and reimbursable expenses to cover those fair amounts will be applied. The owner will be informed as such at the time by Fluidity.

Invoicing	Fluidity strives to meet its deadlines and requires timely payment processing. Invoices shall be issued per the payment schedule listed, or monthly as a percentage of completion.
Controls	In order to provide the Owner with market value construction costs through competitive selection, and to avoid the special costs of proprietary systems, it is Fluidity's practice to specify readily available market components. An exception applies to the Animation Control System, which is generally specified from a single source. This is to achieve an efficient and economical programming service resulting from computer language familiarity and the elimination of contractor-provided programmer personnel. Animation control hardware shall adhere to Fluidity's specifications, as programs are authored within specific software, and the hardware must support the software.
Copyrights	Documents prepared by Fluidity are instruments of service and shall remain the property of Fluidity, who shall retain all common law, statutory law and other rights, including copyrights. The Client agrees not to use the materials for any purpose or project other than that which is the subject of this Agreement. The Client agrees to indemnify and hold Fluidity harmless from any damage, liability or cost, including reasonable attorneys' fees and costs of defense, arising from any changes made by anyone other than Fluidity, or from any reuse of the documents without the prior written consent of Fluidity. The transfer of documents on electronic media for use by others is not deemed a sale by Fluidity.
Publicity	Fluidity reserves the right to publish evidence of its design work as a normal byproduct of its projects. Fluidity's drawings, photography, video and written comments may be used in books, periodicals, brochures, websites, conferences and communications with news media or other outlets. Publication of Fluidity's drawings, photography, video or written comments by others shall be credited to Fluidity Design Consultants.
Confidentiality	The Client agrees that the designs and technical methods used by Fluidity are confidential and shall not be made available to any third party without Fluidity's written consent. Similarly, Fluidity will respect the confidentiality of the participants of the project team, as per common practice.
Changed Conditions	The Client has relied on Fluidity's judgment in establishing the Scope of Work and Fees. Fluidity will use its best efforts to complete the work within those amounts. The Client recognizes that events may call for a significant change in scope and cost fees. These include noteworthy occurrences or discoveries, expansion or contraction in the project scope, unusual delays, work resulting from decisions by others, significant deviations during construction from the approved design requiring unplanned extra work by Fluidity.
Liability	Fluidity shall not be liable for consequential damages incurred due to actions by others. Consequential damages include loss of profit. To the maximum extent permitted by law, Fluidity's total liability for the Client's damages shall be limited to the amount of Fluidity's fee.
Attorney's Fees	In the event of any litigation related to the services provided under this Agreement, the prevailing party will be entitled to recovery of all reasonable costs incurred.

Termination	Either party may terminate this Agreement at any time with or without cause. The Client shall, within 60 calendar days of termination, pay Fluidity for services rendered and costs incurred up to the date of termination.
Disputes	Disputes arising out of this Agreement are subject to mediation prior to arbitration or legal proceedings. The parties shall endeavor to resolve claims or disputes in accordance with the Construction Industry Mediation Rules of the American Arbitration Association. Request for mediation shall be filed in writing with the other party. The parties shall share the mediator's fee and filing fees equally. Mediation shall be held in Los Angeles. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction.
Severability	Any provision of this Agreement later held to be unenforceable for any reason shall be deemed void. All remaining provisions shall continue in full force and effect.
	Authorization
Client	Ms. Abby Stone, Sr. Project Director RIOS Dat
Consultant	Mr. James A Garland AIA, President Fluidity Dat



KGM Architectural Lighting 270 Coral Circle El Segundo, CA 90245 P: 310.606.8762

E: mhammer@kgmlighting.com

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2024 June 13

RIOS

Attn: Nate Cormier 3101 W. Exposition Place Los Angeles, CA 90018

P: 323.785.1800 E: nate@rios.com

Proposal for Architectural Lighting Design Services

THE POINT - PROMENADE

Draper, Utah

KGM Project No. 24.0205.00

Dear Nate:

Thank you for your inquiry regarding lighting design services for **The Point – Promenade** project. We have carefully reviewed the RFP/scope documents and appreciate the opportunity to submit our proposal. Should our proposal not align with the anticipated fee-budget for the project, we welcome you to reach out to us.

ABOUT THE FIRM

Established in 1985, KGM Architectural Lighting provides lighting design services to a multitude of market sectors worldwide. We currently have offices in El Segundo, CA, New York, NY and Atlanta, GA.

Spaces are defined by light. This is accomplished by completely understanding the architectural concepts and complexities of any given project, evaluating various possible design solutions, and ultimately developing a lighting scheme that is fully integrated, cost effective and functional. Ongoing collaboration with the team during the design process enables lighting to become incorporated into the architecture. This adds a level of sophistication and strength to the overall design of the project, while focusing on professionalism and timeliness.

Lighting certified, licensed architects, interior designers, LEED accredited professionals and members of the AIA and IALD comprise the talented individuals of KGM Architectural Lighting. State-of-the-art equipment provides the tools necessary to perform photometric studies, produce lighting renderings, and develop documents utilizing the most current software. This technical backbone provides our design team the ability to work on local and international projects both creatively and efficiently.

Light is an emotionally stirring medium, capable of dynamically transforming a daytime environment into an evening icon. It is in this spirit that KGM pursues the goal of creating unique environments, atmospheres and excellence in light. Our diverse experience with many building types and broad geographical project locations has fostered a wealth of experiential knowledge we can apply to your project.

WHAT MAKES US DIFFERENT

The individuals of KGM define us. We are a **DIVERSE** team of people in three cities from all walks of life. We are architects, interior designers, builders, theatrical artists and lighting nerds. We bring our different skill-sets to the drawing board to solve unique problems as a team. We are **PASSIONATE** about our craft. We are driven. We tailor our solutions exactly to our client's needs. Most importantly, we **LISTEN**.

KGM's portfolio covers a broad spectrum from small projects with simple **SOLUTIONS** to large projects with complex solutions. Project size does not always dictate the complexity required for success. What remains constant is our attention to detail and listening to our clients' needs. We work collaboratively to make sure our design is an appropriate fit both aesthetically and financially, all in a smooth process.

We are grounded in our design-approach, but we will move mountains to create something **MAGICAL** if the moment is right. We have our head in the clouds and feet on the ground at the same time.

Considerable experience with lighting design of similar projects includes:

- The River | Rancho Mirage, California
- Shops at La Cantera | San Antonio, Texas
- Victoria Gardens | Rancho Cucamongo, California
- Roppongi Hills | Tokyo, Japan
- Hilltown Shopping District | Istanbul, Turkey
- Station Park Town Center | Farmington, Utah
- Stein Eriksen Residences | Park City, Utah
- Goldener Hirsch Inn | Park City, Utah
- Mountain View Village | Riverton, Utah
- The Paseo | St. George, Utah

SCOPE OF WORK

The following areas are included in the scope of work:

- Exterior Hardscape and Landscape
- Roadway and Pedestrian Walkways
- Water Features (review and coordination)

The following areas are not included in the scope of work:

- Pavillions
- Building Facades
- Emergency/Life Safety Lighting and Emergency Lighting Controls

SCOPE of BASIC SERVICES

The following services are included in the scope of work:

SCHEMATIC DESIGN PHASE

- 1. Attend web-based programming/kick off meeting, when applicable.
- 2. Review current architectural, interior design, and/or landscape information for all spaces in the scope of work.
- 3. Gather relevant code requirement information.
- 4. Gather client/ team goals and objectives for the lighting.
- 5. Attend web-based schematic design meetings as required.
- 6. Attend one (1) in-person schematic design meeting in the Los Angeles area, if requested.
- 7. Develop various options for lighting design schemes suitable for discussion and evaluation by the design team.
- 8. Provide imagery and diagrams depicting the lighting concepts.
- 9. Develop one (1) nighttime lighting rendering, using a background daytime rendering by others.
- 10. Revise nighttime rendering one (1) time based on feedback offered by the design team.
- 11. Once a lighting design direction is selected by the team, provide AutoCad or Revit-generated schematic lighting design plans for the areas indicated above. This information will indicate light fixtures general types and locations.
- 12. Once the team has reviewed and commented on the first iteration of the schematic lighting design, the lighting design will be revised up to two (2) times.
- 13. Provide an outline specification with projected lighting loads for use by the electrical engineer.

DESIGN DEVELOPMENT PHASE

- 1. Attend web-based design development meetings as required.
- 2. Attend one (1) in-person design development meeting in the Los Angeles area, if requested.
- 3. Provide AutoCad or Revit-generated lighting plans with fixture locations and designations. These drawings will indicate specific fixture designations and locations for each fixture.
- 4. Provide AGI32 lighting calculations for major typical areas, when applicable. These drawings will indicate footcandle levels for QUALITY OF LIGHT only. Egress calculations are the scope of the electrical engineer.
- 5. Provide a lighting fixture schedule indicating fixture designation, manufacturer name, model number, wattage, and description for each architectural lighting fixture.
- 6. Specify lighting control protocol for each fixture type (switched, phase dim, addressable, DMX, wireless etc)
- 7. Provide catalog cuts for each specified light fixture.
- 8. Provide control intent narrative.
- 9. Provide typical lighting profile details for use in documenting the project.
- 10. Provide fixture schedule to the design team for Electrical Engineer to use in developing coderequired emergency lighting.
- 11. Establish preliminary zoning information to further assist electrical engineering completing their design development set, when applicable.

- 12. Provide installation notes to the Contractor, for inclusion into the Contract Documents.
- 13. Coordinate lighting controls with the AV, Graphics or Landscape Consultant(s) where applicable.
- 14. Assist the Architect in selecting decorative light fixtures, if any. Customarily, the interior designer selects the decorative light fixtures, and we will assist them with lamp type, color characteristics, and wattage. (Decorative fixture specifications and cutsheets are provided by others).
- 15. Assist with value engineering recommendations for one (1) iteration for compliance with the projected budget, as defined by the Owner at the beginning of the project.

CONSTRUCTION DOCUMENT PHASE

- 1. Attend web-based construction document meetings as required.
- 2. Attend one (1) in-person construction document meeting in the Los Angeles area, if requested.
- 3. Provide criteria and zoning recommendations for control of the various lighting systems to the Electrical Engineer, when applicable.
- 4. Provide additional lighting profile details for use in developing associated architectural details.
- 5. Assist the Electrical Engineer in refining local energy compliance calculations. Actual calculations and submittal of documents are by Engineer of Record.
- 6. Perform one (1) review of architectural and electrical construction documents for issues pertaining to lighting.
- 7. Answer Contractors' and Suppliers' questions regarding the lighting.
- 8. Respond to value engineering questions, if any.
- 9. Provide addendum information for incorporation in Architect's addendum.
- 10. Review contractor bid pricing package to ensure client budget is maintained.

CONSTRUCTION ADMINISTRATION PHASE

- 1. Perform up to two (2) reviews of fixture submittals and shop drawings as provided by the Contractor for compliance with the lighting plan. This includes the primary submittal and one (1) re-submittal.
- 2. Perform one (1) review of lighting control system documentation as provided by Contractor.
- 3. Provide written response to RFI's, Contractor's and Supplier's questions regarding the lighting.
- 4. Visit the jobsite up to one (1) time during construction to review the installation.
- 5. Provide a field visit report for each jobsite visit.
- 6. Visit the jobsite up to one (1) time upon completion to direct the aiming and adjusting of fixtures and setting of the dimming scenes, when applicable.
- 7. Prepare a lighting punch list.

DESIGN FEE

See Appendix A.

INSURANCE

KGM carries the following insurance coverage (certificates will be provided once we are awarded the project)

Professional Liability \$5,000,000 each occurrence/\$5,000,000 aggregate

Professional Liability Deductible \$25,000 Worker's Compensation \$1,000,000

Commercial General Liability \$2,000,000 each occurrence/\$4,000,000 aggregate

Automobile Liability \$2,000,000 Umbrella Liability \$5,000,000

ADDITIONAL SERVICES

Additional services, which are provided only upon your written request, are calculated at the current hourly rates indicated below, which shall be adjusted annually.

Partner	\$295/hour	Senior Designer	\$180/hour
Principal	\$255/hour	Designer	\$170/hour
Associate Principal	\$235/hour		
Senior Associate	\$215/hour		
Associate	\$195/hour		

The following activities are examples of additional services:

- 1. Preparation for, and attendance at, meetings or hearings with Public Agencies.
- 2. Providing LEED analyses and calculations beyond baseline standard.
- 3. Extensive photometric analysis or photometrics for submission to local jurisdictions.
- 4. Providing conceptual drawings for custom fixtures.
- 5. Daylighting studies.
- 6. Procurement of fixtures and/or installation of lighting mock-ups.

TERMS AND CONDITIONS

Payments to KGM are due within thirty (30) days of our invoice date.

Each party reserves the right to terminate this agreement upon seven (7) days written notice. If either party terminates the agreement, KGM is entitled to all fees and reimbursable expenses accrued to date.

Kindly indicate your acceptance with a signature in the space below. Please return an executed copy along with any documentation you may require.

Thank you,
KGM ARCHITECTURAL LIGHTING

Moritz Hammer, LC | Partner

MH:

Approved by:		
Signature	Date	
Print Name		



APPENDIX A: FEE MATRIX

2024 June 13

THE POINT - PROMENADE

Draper, Utah

KGM Project No. 24.0205.00

Design Phase	Base Scope
Schematic Design	\$16,800
Design Development	\$14,400
Construction Documents	\$9,600
Construction Administration	\$7,200
Total Fee	\$48,000

REIMBURSABLES

Expenses associated with the Project, such as travel outside the Los Angeles area, printing, delivery, etc., are reimbursable at cost.

OUT-OF-TOWN MEETINGS

Out-of-town meetings and travel time beyond those indicated in our Scope of Services, will be billed at the following current daily rates:

Partner	\$2,360/day
Principal	\$2,040/day
Associate Principal	\$1,880/day
Senior Associate	\$1,720/day
Associate	\$1,560/day
Senior Designer	\$1,440/day
Designer	\$1,360/day

INVOICING

Invoices are based on percentage of completion and will be billed monthly.