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ALAN SPRIGGS, SUMMIT COUNTY RECORDER
FEE 198.00 BY U S TITLE OF UTAH



Record only against the Parcels described
On Exhibit A-I.

**COST SHARING AGREEMENT
FOR
THE CANYONS LOWER VILLAGE BASIC INFRASTRUCTURE**

THIS COST SHARING AGREEMENT FOR THE CANYONS LOWER VILLAGE BASIC INFRASTRUCTURE ("Agreement") is made as of this 27th day of July, 2011, by and between The Canyons Resort Village Association, Inc., a Utah nonprofit corporation (the "Association"); Park City Fire Service District, a special service district organized under the laws of the State of Utah ("PCFSD"); IHC Health Services, Inc., a Utah nonprofit corporation ("Intermountain Healthcare"); White Pine Development Corp., a Utah corporation ("White Pine"); and Summit County, Utah, a political subdivision of the State of Utah (the "Summit County") in its capacity as an owner of certain land described below in this Agreement, only, and not in its governmental capacity. The Association, PCFSD, Intermountain Healthcare, White Pine and Summit County, acting only in its capacity as an owner of certain land described below in this Agreement, are hereinafter referred to as a "Party" in the singular and, together with all Joining Parties (as defined in Paragraph 2 below), as the "Parties" in the plural. Summit County, in its governmental capacity, is also executing the Acknowledgment, Approval and Limited Joinder of Summit County, which follows the signature pages of this Agreement.

A. Concurrently with the execution of this Agreement, the Parties are executing, and Lower Village Holdings, LLC, a Utah limited liability company ("LV Holdings") is joining in that certain Master Easement Agreement (Lower Village Development Area) of even date herewith (the "Lower Village Master Easement Agreement").

B. The Lower Village Master Easement Agreement pertains to certain lands located in The Canyons Lower Village Development Area (the "Lower Village Development Area") as defined and described pursuant to The Canyons Specially Planned Area Zone District ("The Canyons SPA"). The Canyons SPA was established pursuant to Summit County, Utah Ordinance No. 333A, as amended and approved on November 15, 1999 and the SPA Development Agreement (as defined in Paragraph 2).

C. A portion of the Lower Village Development Area is being subdivided into nine (9) separate Parcels (as defined in Paragraph 2) pursuant to a certain Lower Village Development Area Master Plat (the "Lower Village Master Plat") which will be recorded in the Official Records (as defined in Paragraph 2) immediately prior to the recordation of this Agreement and the Lower Village Master Easement Agreement. The lands which are subdivided pursuant to the Lower Village Master Plat are described on **Exhibit A-I** attached to this Agreement and

identified thereon as the "Newly Platted Lower Village Parcels". Certain of the Newly Platted Lower Village Parcels that will be used for a golf course and open space are owned by The Canyons Golf Holdings, LLC, a Utah limited liability company ("TCGH"), which is not a Party.

D. The Lower Village Development Area also includes certain land owned by PCFSD, which is depicted on the Lower Village Parcel 1 Plat (the "Parcel 1 Plat") previously recorded in the Official Records on June 7, 2004 as Entry No. 700482, in Book 1625, beginning at Page 1779, which contains one (1) Parcel (the "PCFSD Parcel 1") and which, together with the Newly Platted Lower Village Parcels and any subsequently platted Joining Parcels, are referred to collectively as the "Lower Village Platted Parcels" or individually as a "Lower Village Platted Parcel").

E. Certain lands located in the Lower Village Development Area ("Non-Participating Lands") are described on **Exhibit A-II** but are not, at the date of this Agreement, a Lower Village Platted Parcel because the owners of the Non-Participating Lands are not platting their lands as part of the Lower Village Master Plat or becoming Parties to this Agreement at this time; provided, however, that one of the Owners of Non-Participating Lands, LV Holdings, shall execute only a limited joinder to this Agreement in the form attached to this Agreement. The Non-Participating Lands and the owners thereof are described as follows:

(i) The North Parcel (as defined in Paragraph 2), part of which is presently owned by Wolf Mountain Resorts, L.C., a Utah limited liability company ("Wolf Mountain") and leased by ASC Utah LLC, a Delaware limited liability company, d/b/a The Canyons ("ASCU"), and part of which is presently owned by LV Holdings. The Employee Housing Reserved Parcel (as defined in Paragraph 2) may be subdivided from the North Parcel, in which event the North Parcel and the Employee Housing Reserved Parcel may be treated as separate Parcels of Non-Participating Lands for purposes of this Agreement.

(ii) The South Parcel (as defined in Paragraph 2), which is presently owned by Osguthorpe Properties, LLC, a Utah limited liability company ("Osguthorpe").

(iii) The West Parcel (as defined in Paragraph 2), part of which is presently owned by Wolf Mountain and leased by ASCU, and part of which is presently owned by LV Holdings.

(iv) If subdivided from the North Parcel as described in part (i) of this Recital E, the Employee Housing Reserved Parcel.

F. The Parties desire to specify the terms and conditions under which the Trail (as defined in Paragraph 2) and the Basic Infrastructure (as defined in Paragraph 2) shall be developed, constructed and paid for, in accordance with this Agreement and that certain Amended and Restated Development Agreement for The Canyons Specially Planned Area, dated as of November 15, 1999, as amended (the "SPA Development Agreement"), recorded on November 24, 1999, as Entry No. 553911, in Book 1297, beginning at Page 405, in the Official Records.

G. The Parties have determined that, except as may be otherwise specified in Paragraph 30, the Association, following receipt of a Requesting Party's Notice (as defined in Paragraph 2) and subject to full and complete satisfaction of the requirements and conditions set forth in this Agreement, shall become responsible for completion of the Work (as defined in Paragraph 2) to construct the Basic Infrastructure in accordance with the terms and conditions of this Agreement, except if and to the extent Summit County, acting in its governmental capacity, timely delivers to the Association a County Notice (as defined in Paragraph 2), in which case the Association's obligation to perform part or all of the Work may be modified in accordance with the terms of the County Notice.

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

1. Recitals/Exhibits; Status of Summit County; Other Reservations and Conditions. The recitals set forth above and the exhibits attached to this Agreement are hereby incorporated into and made a part of this Agreement by this reference. Summit County owns Parcel LV4 within the Lower Village Development Area and is also the governmental authority having jurisdiction over The Canyons SPA and the Lower Village Development Area which is the subject of this Agreement. Notwithstanding any other term or provision of this Agreement, to the extent previously reserved, and subject to any terms and limitations, in Paragraph 5.3 of the SPA Development Agreement, Summit County, acting in its capacity as a governmental authority and to the extent allowed by law, reserves all police and regulatory powers, and all governmental, legislative, administrative and enforcement authority with respect to zoning, subdivision, development, growth management, platting, environmental, open space, transportation and other land use plans, policies, ordinances and regulations. This Agreement refers to "Summit County, acting only as an Owner," when referring to Summit County solely as the Owner of Parcel LV4 or any other land within the Lower Village Development Area, and to "Summit County, acting in its governmental capacity," when referring to Summit County, acting in its capacity as a governmental authority, rather than as an Owner. Except as to the rights and obligations of the Parties with respect to Basic Infrastructure and Lower Village Roundabout Improvements, or except as otherwise specified in this Agreement, each Owner reserves any rights to which it may be entitled, and shall continue to be subject to obligations to which it may be bound, under the SPA Development Agreement or the Management Agreement. In the event and to the extent of any conflict between the terms and conditions of this Agreement, on the one hand, and the terms and conditions of the SPA Development Agreement or the Management Agreement, on the other hand, with respect to any rights and obligations of the Parties with respect to Basic Infrastructure and Lower Village Roundabout Improvements, or except as otherwise specified in this Agreement, the terms and conditions of this Agreement shall govern and control.

2. Definitions. When used in this Agreement, capitalized terms, except where otherwise defined, shall have the following meanings. Capitalized terms defined in this Paragraph 2 are not cross referenced to other capitalized terms defined in this Paragraph 2.

"Accounting" is defined in Paragraph 6.h.

“Actual LV6 Density” is defined in Paragraph 4.a.(ii).

“Additional Payments” is defined in Paragraph 4.a.(ii).

“Additional Share of Costs” is defined in Paragraph 6.d.

“Allocated Share of Plan Preparation Costs” is defined in Paragraph 6.b.(i).

“Allocated Share of Construction Costs” is defined in Paragraph 4.a.(iii).

“Allocated Share of Trail Construction Costs” is defined in Paragraph 6.b.(iii).

“Allocation Schedule” is defined in Paragraph 4.a.(i).B.

“Amount For Related Costs” is defined in Paragraph 4.b.

“Approved LV6 Density” is defined in Paragraph 4.a.(ii).

“Approving Representative” is defined in Paragraph 33 of this Agreement.

“ASCU” is defined in Recital E.(i).

“ASCU Engineer” is defined in Paragraph 3.c.

“ASCU Engineer’s Fees” is the amount owing by ASCU to the ASCU Engineer for the services performed in designing the Lower Village Roundabout Improvements prior to the date of this Agreement in accordance with Paragraph 4.h.(ii).(B).

“ASCU/Association Roundabout Agreement” is defined in Paragraph 31.a.(i).

“ASCU Reimbursement” is defined in Paragraph 4.h.(ii).(B).

“ASCU Roundabout Notice” is defined in Paragraph 31.a.

“ASCU Roundabout Engineering Work” is defined in Paragraph 3.c.

“Assessment” is defined in Paragraph 12.d.

“Assessment Area Act” is defined in Paragraph 30.a.(iv).

“Assessment Lien” is defined in Paragraph 12.d.(ii).

“Assigned Percentages” is defined in Paragraph 4.a.(i)(B).

“Association’s Engineer” is defined in Paragraph 3.c.

"Association's Lower Village Roundabout Engineer's Fees" means the fees incurred by the Association to the Association's Engineer in connection with the design of the Lower Village Roundabout Improvements from and after the date of this Agreement.

"Association's Request for Payment" is defined in Paragraph 6.b.(ii).

"Basic Infrastructure" means the infrastructure improvements necessary or appropriate to accommodate the development, operation and maintenance requirements and needs of the Parcels and Non-Participating Lands in the Lower Village Development Area as and to the extent contemplated by this Agreement (including, without limitation, Paragraph 3.a. of this Agreement) and the SPA Development Agreement; provided, however, that except as specifically provided below, such "Basic Infrastructure" shall be constructed primarily within the PCFSD Easement Parcel, Parcel LV11 and Parcel LV13 of the Lower Village Development Area. Without limiting what otherwise may be included in Basic Infrastructure pursuant to this Agreement, "Basic Infrastructure" specifically includes the following:

- (i) Lower Village Road and LV11 Surface Improvements.
- (ii) To the extent not completed as of the date of this Agreement, the Lower Village Roundabout Improvements within the Lower Village Roundabout Area.
- (iii) All Utility Infrastructure Improvements, Loop Lines and, except to the extent excluded by the definition of Excepted Trunk Line Utilities, relocation of Existing Trunk-Line Utilities.
- (iv) Rough and finish grading, topsoil and seeding where the existing grade has been disturbed during the process of installing Basic Infrastructure, or as may otherwise be agreed in writing by the Electing Participants and the Association, and reasonably necessary or appropriate in connection with or related to other portions of the Basic Infrastructure set forth in this definition.
- (v) The Trail.
- (vi) Any surface or subsurface improvements appropriate or required to facilitate future connections from the Utility Infrastructure Improvements located in Parcel LV11 to adjoining Parcels (including, without limitation, Parcel LV13), the North Parcel and the West Parcel, which cannot otherwise be located within Parcel LV11 due to engineering and safety requirements and which are necessary or appropriate to avoid future impairment to or interruption of the use of the Lower Village Road or the Trail in Parcel LV11, or interruption to other Basic Infrastructure located in Parcel LV11; provided, all such improvements to facilitate future connections and access shall be provided on a uniform basis to

each of the Parcels, the North Parcel and the West Parcel but only as and to the extent necessary to provide service to any adjoining Parcel on which the connection is located and not to provide service to any other Parcels or to parcels or tracts outside of the Lower Village Development Area.

(vii) Landscape Infrastructure, but only to the extent shown in the Basic Infrastructure Construction Plans.

(viii) Any incidental, non-obtrusive and nominal surface or subsurface improvements which are required to facilitate the construction and use of the Basic Infrastructure within Parcel LV11 but which must be located outside of Parcel LV11 due to safety and engineering requirements, which may, on any Parcel, include one small, three sided shelter for bus passengers, subject, however, to the Association procuring an easement for such improvements on the terms, conditions and limitations set forth in Paragraph 2.13 of the Lower Village Master Easement Agreement.

(ix) The improvements described in Paragraph 3.b.

(x) The improvements required with respect to a Development Area Park for the Lower Village Development Area if, but only if, such a Development Area Park is required by Summit County, acting in its governmental capacity in accordance with the SPA Development Agreement.

“Basic Infrastructure Construction Plans” means the plans, specifications, cost estimates and other documents governing the Work, approved in accordance with the procedures set forth in this Agreement including, without limitation, Paragraph 3.d., for the performance of the Work to construct the Basic Infrastructure.

“Bid” is defined in Paragraph 3.e.(ii).

“Bid Amount” is defined in Paragraph 3.e.(ii).

“Bid Documents” is defined in Paragraph 3.e.(i).

“Boundary Line Adjustment Agreement” is defined in Paragraph 30.b.

“Closing Agreement” is defined in Paragraph 30.b.

“Completion Date” is defined in Paragraph 5.b.

“Construction Costs” means the aggregate of: (i) the Bid Amount, including the cost separately identified therein for constructing the Trail within Parcel LV11 and, if located therein, Parcel LV13; (ii) Amount For Related Costs; (iii) the amount of the ASCU Reimbursement; and (iv) a contingency reserve equal to not

less than ten percent (10%) of the Bid Amount or, if the Lower Village Road and some or all of the Basic Infrastructure or Trail are constructed by Summit County, acting in its governmental capacity pursuant to Paragraph 30, such other amounts or percentages as may be required by this Agreement and any applicable ordinances, policies or procedures of Summit County, acting in its governmental capacity.

“Contract Documents” is defined in Paragraph 3.f.

“Contractor” is defined in Paragraph 3.f.

“County Adjusted Assigned Percentage” is defined in Paragraph 4.a.(i)(B).

“County Construction Costs” is defined in Paragraph 30.a.(ii).

“County Notice” is defined in Paragraph 30.a.

“County Notice Outside Date” means the date the Snyderville Basin Special Recreation District, to the extent required by the Trails Agreement, and Summit County, acting in its governmental capacity, approves the Basic Infrastructure Construction Plans pursuant to Paragraph 3.d.(v)(D).

“County Payment Notice” is defined in Paragraph 30.a.(ii).

“Dedicate” or “Dedication” shall have the meaning as defined in the Lower Village Master Easement Agreement.

“Default Interest Rate” means five percent (5%) over the Prime Interest Rate.

“Defaulting Party” is defined in Paragraph 12.a.

“Delayed Participation Fee” means a payment of Twenty Thousand Dollars (\$20,000) to be paid by a Later Electing Participant that becomes an Electing Participant in accordance with Paragraph 6.e. more than three (3) months after the Participation Date, and by any Person that becomes a Limited Participant pursuant to Paragraph 7 more than three (3) months after the Participation Date.

“Design Guidelines” is defined in Exhibit D to the SPA Development Agreement, as such guidelines may be amended from time-to-time.

“Development Area Park” means a neighborhood park or amenity for the Lower Village Development Area as contemplated by Section 3.8.2.4 of the SPA Development Agreement, which shall not be located on Parcels LV4, LV6 or LV10 or on any of the Non-Participating Lands except with the prior written consent of the Owner or Non-Platting Owner.

“Development Purposes” is defined in Plat Note 6.

“DRC” means the Association’s Design Review Committee.

“Electing Participant” means: (i) a Participant and, if applicable, the Master Developer, which has elected to become an Electing Participant pursuant to Paragraph 3.d.(ii); and (ii) each Later Electing Participant that becomes an Electing Participant pursuant to Paragraph 6.e.

“Electing Participant Notice” means the notice pursuant to which a Participant or the Master Developer elects to become an Electing Participant pursuant to Paragraph 3.d.(ii).

“Eminent Domain Proceeds” means the proceeds of or award in any eminent domain or condemnation action with respect to any portion of Parcel LV11 or the Basic Infrastructure that is taken by a governmental authority other than as permitted or required pursuant to this Agreement and where such proceeds are otherwise due and payable.

“Employee Housing Reserved Parcel” means a portion of the North Parcel, if any, subdivided into a separate legal lot or parcel from the remainder of the North Parcel and which has allocated to it 128,700 square feet of Maximum Gross Building Area pursuant to the so-called “Land Use and Zoning Chart” (Exhibit B-1 to the SPA Development Agreement).

“Escrow Agent” is defined in Paragraph 4.c.

“Estimate” is defined in Paragraph 3.d.(i).

“Estimated LV6 Density” is defined in Paragraph 4.a.(ii).

“Excepted Percentage” is defined in Paragraph 4.a.(i)(B).

“Excepted Trunk-Line Utilities” means Existing Trunk-Line Utilities that are to be, or may be, moved or relocated in whole or in part from any of the Parcels or Non-Participating Lands; provided, however, as or to the extent any such Existing Trunk-Line Utilities are to be moved and relocated and constructed or reconstructed within Parcel LV11 between approximately the current locations at which such Existing Trunk-Line Utilities enter in Parcel LV11 and the area of Parcel LV11 that is adjacent to Parcel LV13, but not otherwise, the cost of moving, relocating, reconstructing or constructing such Existing Trunk-Line Utilities within Parcel LV11 shall not constitute “Excepted Trunk-Line Utilities” and shall be deemed a part of the Basic Infrastructure, shall be paid by, and shall be allocated among and paid by the Participants in accordance with this Agreement.

"Existing Trunk-Line Utilities" means Trunk-Line Utilities existing within the Lower Village Platted Parcels or the Non-Participating Lands as of the date of this Agreement.

"Excluded Parcel" means any one of the Excluded Parcels.

"Excluded Parcels" means: (a) the tract of land platted and subdivided by the Parcel 1 Plat as previously recorded in the Official Records on June 7, 2004 as Entry No. 700482, in Book 1625, beginning at Page 1779; (b) that tract of land which is labeled "7-11 Parcel" on the Lower Village Master Plat; and (c) all land within the Lower Village Development Area located north of Canyons Resort Drive which is within the Lower Village Development Area.

"Force Majeure" is defined in Paragraph 29.

"Frostwood Agreement" means that certain Agreement between PWA and the Association dated December 12, 2006 and recorded December 22, 2006 in the Official Records as Entry No. 799967, in Book 1837, beginning at Page 1389.

"Funds" means those amounts of money received, held and applied by the Association toward payment or repayment of Construction Costs.

"Interest Rate" means one percent (1%) over the Prime Interest Rate.

"Interim Design Work" is defined in Paragraph 30.a.(i)(A).

"Intermountain Healthcare Adjusted Assigned Percentage" is defined in Paragraph 4.a.(i)(B).

"Intermountain Healthcare Base Percentage" is defined in Paragraph 4.a.(i)(B).

"Joinder Date" is defined in Paragraph 9.d.

"Joinder Documents" is defined in Paragraph 9.b.

"Joinder Notice" is defined in Paragraph 9.a.

"Joining Parcel" means any parcel or tract of the Non-Participating Lands owned by a Joining Party which is platted by an amendment or addendum to the Lower Village Master Plat.

"Joining Party" means each of the following Persons after it joins as a Party to this Agreement in accordance with the provisions of Paragraph 7: (i) a Non-Platting Owner of, or the holder of a Long-Term Leasehold Interest in, one or more parcels of Non-Participating Lands, in either event determined by the Association at the time of the execution of a Joinder Notice by such Person; or (ii) the Master Developer.

"Landscape Infrastructure" means grasses, shrubs, flowering plants, trees, street furniture, water and rock features, pathways, and any other improvements required by the Design Guidelines, DRC, Summit County, acting in its governmental capacity, or any of them, to be constructed on the Parcels whether in connection with Basic Infrastructure or otherwise, the responsibility for and cost of which improvements, unless and to the extent included as a part of Basic Infrastructure in the Basic Infrastructure Construction Plans, shall belong to the Owners of the Parcels on which such Landscaping Infrastructure is to be constructed and shall not constitute Construction Costs or Related Costs for Work to construct the Basic Infrastructure.

"Later Electing Participant" means a Non-Electing Participant or Master Developer who provides notice of its election to become an Electing Participant pursuant to Paragraph 6.e.

"Later Electing Participation Date" is defined in Paragraph 6.e.(i).

"Later Participation Payment" is defined in Paragraph 6.e.

"Later Participating Parcels" means, effective as of the Joinder Date, any Non-Participating Lands owned by a Non-Platting Owner or leased by the holder of a Long-Term Leasehold Interest which, in either case, becomes a Joining Party.

"Liabilities" is defined in Paragraph 5.f.

"Lien" is defined in Paragraph 5.e.

"Limited Participant" is defined in Paragraph 7.

"Limited Participation" is defined in Paragraph 7.

"Limited Participation Date" means the date a Limited Participant satisfies all of the obligations set forth in Paragraph 7, which date, except with respect to an Owner, shall be memorialized in and conclusively evidenced by the Master Easement Agreement Joinder which is executed by such Limited Participant.

"Limited Participation Documents" is defined in Paragraph 7.b.

"Limited Participation Notice" is defined in Paragraph 7.a.

"Limited Participation Parcel" means the Parcels or Non-Participating Lands owned by a Limited Participant.

"Limited Participation Payment" means the aggregate of: (i) the amount of the cost of the Lower Village Surface Improvements and Lower Village Roundabout Surface Improvements allocable to an Owner's Parcel or a Non-Platting Owner's parcels of Non-Participating Lands for which Limited Participation is approved

by the Association in accordance with the provisions of Paragraph 7.b. of this Agreement, together with interest that has and will accrue thereon at the Interest Rate from the Participation Date until the date paid; and (ii) the Delayed Participation Fee. For purposes of determining the Limited Participation Payment, if any, to be allocated to the Master Developer, the Master Developer shall be deemed to be the Non-Platting Owner of the North Parcel for purposes of calculating the Master Developer's Allocated Share of Construction Costs, and the Non-Platting Owner of the North Parcel shall not be required to pay such Allocated Share of Construction Costs to the extent the same are actually paid by the Master Developer.

"Long-Term Lease" means a written lease having an initial term of twenty-five (25) years or more for premises comprising any portion of the Lower Village Platted Parcels or the Non-Participating Lands.

"Long-Term Leasehold Interest" means a leasehold interest under a Long-Term Lease.

"Loop Lines" means existing or future Utility Facilities within the Lower Village Development Area that connect with Utility Facilities within areas outside of The Canyons SPA or areas of The Canyons SPA that are outside of the Lower Village Development Area, but which are not looped or connected to Utility Infrastructure Improvements primarily to provide or facilitate additional basic day-to-day capacity for areas outside of the Lower Village Development Area and within The Canyons SPA, but, rather, to provide safety, redundancy, excess demand or emergency services for such areas outside of the Lower Village Development Area and within the Lower Village Development Area, as may be necessary for such purposes and to the extent required by Summit County, acting in its governmental capacity or, with the approval of Summit County, acting in its governmental capacity, by a third Person utility provider.

"Lower Village Development Area" is defined in Recital B.

"Lower Village Master Easement Agreement" is defined in Recital A.

"Lower Village Master Plat" is defined in Recital C.

"Lower Village Platted Parcels" is defined in Recital D.

"Lower Village Road" means the road and related improvements to be constructed pursuant to this Agreement within Parcel LV11 but outside of the Lower Village Roundabout Area.

"Lower Village Roundabout" means a roundabout intersection for traffic, pedestrian and Trail use to be constructed in the Lower Village Roundabout Area.

“Lower Village Roundabout Area” means the area in which the Lower Village Roundabout will be located at the intersection of Lower Village Road, Canyons Resort Drive and Frostwood Drive, only part of which is located in the Lower Village Development Area (i.e., within Parcel LV11 and the PCFSD Easement Area). The Lower Village Roundabout Area is generally depicted on **Exhibit E** attached to this Agreement which also depicts separately the portions of the Lower Village Roundabout Area located within Parcel LV11 and the PCFSD Easement Area.

“Lower Village Roundabout Improvements” means the aggregate of the Lower Village Roundabout Surface Improvements and the Lower Village Roundabout Utilities.

“Lower Village Roundabout Related Costs” means the aggregate of: (i) the cost of the Lower Village Roundabout Surface Improvements; (ii) the cost of the Lower Village Roundabout Utilities; (iii) the costs to relocate Utility Facilities within the Lower Village Roundabout Area (but without “double counting” for any Lower Village Roundabout Utilities that are included in subparagraph (ii) of this definition), as and to the extent that any such Utility Facilities: (A) are currently located within the Lower Village Roundabout Area; (B) do not constitute Trunk-Line Utilities; and (C) are required to be relocated (1) in order to facilitate the construction, maintenance and use of the Lower Village Roundabout Surface Improvements or the Lower Village Roundabout Utilities, or (2) as a result of the construction, maintenance and use of the Lower Village Roundabout or the Lower Village Roundabout Utilities to connect to the Basic Infrastructure within Parcel LV11 or the PCFSD Easement Area Parcel; and (iv) the amount of the ASCU Engineer’s Fees.

“Lower Village Roundabout Surface Improvements” means the paved areas and road and related surface improvements within the Lower Village Roundabout Area reasonably necessary for the Lower Village Roundabout including, without limitation, storm drainage gutters, curbs, and detention and similar storm water facilities located on the surface of the Lower Village Roundabout Area, which Lower Village Roundabout Surface Improvements do not include underground storm water drainage facilities.

“Lower Village Roundabout Utilities” means, and is limited to, the Utility Facilities to be located in the Lower Village Roundabout Area, which are reasonably necessary for the construction, maintenance and use of the Lower Village Roundabout, but specifically excluding, without limitation, from “Lower Village Roundabout Utilities” both of the following: (i) Trunk-Line Utilities, and (ii) other Utility Facilities which do not provide utility services to the Lower Village Development Area.

“LV6 Density” is defined in Paragraph 4.a.(ii).

“LV11 Sub-Surface Improvements” means the sub-surface improvements that comprise a portion of the Basic Infrastructure located in Parcel LV11.

“LV11 Sub-Surface Improvements Costs” means the portion of the Bid Amount comprising the LV11 Sub-Surface Improvements allocated by the Association in consultation with the Contractor.

“LV11 Surface Improvements” means the surface improvements to Parcel LV11 for the Lower Village Road and Trail as required by the Bid Documents including, by way of example but not by way of limitation, grading, surfacing, retention and infrastructure for storm water drainage on the surface of Parcel LV11.

“LV11 Surface Improvements Costs” means the portion of the Bid Amount comprising the LV11 Surface Improvements allocated by the Association in consultation with the Contractor.

“LV13 Road” means the road and related surface improvements to be constructed within Parcel LV13 within the Lower Village Development Area pursuant to the LV13 Road Cost Sharing Agreement.

“LV13 Road Cost Sharing Agreement” means that certain Cost Sharing Agreement for the Canyons Lower Basic Infrastructure (LV13 Road), executed concurrently herewith, by and between Intermountain Healthcare and the Association.

“LV Holdings” is defined in Recital A.

“Master Developer” means the Person designated as such at any specified time and from time to time under the SPA Development Agreement. As of the date of this Agreement, the only Master Developer is ASCU.

“Master Easement Agreement Joinder” is defined in Paragraph 7.b.(i).

“Master Infrastructure Planning” is defined in Paragraph 3.a.

“Maximum Gross Building Area” is defined in Plat Note 6.

“Mortgage” means any instrument creating a lien with respect to any Parcel or Non-Participating Lands in the Lower Village Development Area, including a mortgage, a deed of trust or any similar security agreement.

“Mortgagee” means any mortgagee under a Mortgage, or trustee or beneficiary under a deed of trust or the grantee of any security interest constituting a lien on all or any portion of any of the Parcels or any leasehold interest in the Parcels. The interest held by any Mortgagee in any Parcel shall be subordinate to this Agreement.

"Newly Platted Lower Village Parcels" is defined in Recital C.

"Non-Electing Participant" is defined in Paragraph 3.d.(ii).

"Non-Participating Lands" is defined in Recital E.

"Non-Platting Owner" means the owner of any parcel of Non-Participating Lands; provided that any such owner of a parcel of the Non-Participating Lands may designate in writing that the holder of a Long-Term Leasehold Interest in such parcel shall be treated as the "Non-Platting Owner" in its stead as to such parcel. Notwithstanding any applicable theory or law relating to a Mortgage, the term "Non-Platting Owner" does not mean or include a Mortgage unless or until such a Mortgagee has acquired fee title to specific Non-Participating Lands pursuant to a foreclosure or trustee's sale.

"North Parcel" means the aggregate of all tracts or parcels of land located north of Parcel LV13, south of Canyons Resort Drive, east of Parcel LV11, and west of Parcel LV2A and any other lands within the Lower Village Development Area of which ASCU is the Non-Platting Owner or the holder of a Long-Term Leasehold Interest, but excludes the Excluded Parcel of land labeled as "7-11 Parcel" on the Lower Village Master Plat which is not a part of The Canyons SPA, and also excludes, but only if legally subdivided, the Employee Housing Reserved Parcel. All of the North Parcel shall be treated as one (1) Parcel for purposes of all calculations required by this Agreement even though it may currently or hereafter consist of more than one legally subdivided lot or parcel; provided, that any portion of the North Parcel which becomes the Employee Housing Reserved Parcel shall be excluded from the North Parcel for purposes of all calculations required by this Agreement and shall constitute a separate Parcel for all purposes under this Agreement. The North Parcel is depicted and labeled on **Exhibit F** attached hereto and by reference made a part hereof.

"Notice of Determination" is defined in Paragraph 11.d.

"Objection Notice" is defined in Paragraph 11.b.

"Offending Owner" is defined in Paragraph 12.d.

"Official Records" means the official records of the Summit County, Utah Recorder.

"Osguthorpe" is defined in Recital E.(ii).

"Other Density" is defined in Plat Note 6.

"Owner" or "Owners" means: (i) the Person or Persons which, as of the date of this Agreement, is or are the legal owners of record in the Official Records of all or part of the fee interest in any Parcel; and (ii) a Joining Party or Joining Parties

(other than the Master Developer), if any, from and after its or their Joinder Date. Notwithstanding the foregoing, the holder of a Long-Term Leasehold Interest in any Parcel shall be deemed to be the "Owner" of the Parcel for all purposes under this Agreement only if the fee owner or owners of the Parcel as reflected in the Official Records confirm in writing to the reasonable satisfaction of the Association that such holder of a Long-Term Leasehold Interest shall constitute the "Owner" in its or their stead. Notwithstanding any applicable theory or law relating to a Mortgage, the term "Owner" does not mean or include a Mortgagee unless and until such Mortgagee has acquired fee title to a specific Parcel pursuant to foreclosure, trustee's sale or otherwise.

"Parcel" or "Parcels" means collectively: (i) the Lower Village Platted Parcels; and (ii) the Later Participating Parcels, if any. Parcels may be referred to herein by the number by which they are designated on the Lower Village Master Plat.

"Parcel 1 Plat" is defined in Recital D.

"Parcel LV4" means Parcel LV4, as the same is set forth and described on the Lower Village Master Plat. All of Parcel LV4 shall be treated as one (1) parcel for purposes of all calculations required by this Agreement even though it may hereafter consist of more than one legally subdivided lot or parcel.

"Parcel LV6" means Parcel LV6, as the same is set forth and described on the Lower Village Master Plat. All of Parcel LV6 shall be treated as one (1) Parcel for purposes of all calculations required by this Agreement even though it may hereafter consist of more than one legally subdivided lot or parcel.

"Parcel LV10" means Parcel LV10, as the same is set forth and described on the Lower Village Master Plat. All of Parcel LV10 shall be treated as one (1) Parcel for purposes of all calculations required by this Agreement even though it may hereafter consist of more than one legally subdivided lot or parcel.

"Participant" or "Participants" means the Owners, but not including the Association and TCGH with respect to Parcels LV2A, LV2B, LV3, LV7, LV11 and LV13.

"Party" or "Parties" shall include (i) each Person identified as such in the preamble of this Agreement; and (ii) each Joining Party.

"Participation Date" is defined in Paragraph 6.b.(ii)

"PCFSD Contribution" is defined in Paragraph 4.a.(i)(A).

"PCFSD Easement Area" means the area within the PCFSD Parcel 1 that is to be subjected to Easement No. 94 as identified on Sheet 3 of 3 on the Lower Village Master Plat.

"PCFSD Parcel 1" is defined in Recital D.

"Person" means any natural individual person, trust, estate, partnership, association, limited liability company, corporation or other legally recognized entity.

"Plan Preparation Costs" is defined in Paragraph 6.b.(i).

"Plat Notes" means the Plat Notes on Sheet 2 of 3 of the Lower Village Master Plat and "Plat Note" with a reference to a number refers to the correspondingly labeled paragraph in the Plat Notes.

"Prime Interest Rate" means the prime interest rate as set from time to time by Wells Fargo Bank, N.A., or, if Wells Fargo Bank, N.A. ceases to do business in Utah, the prime interest rate at any other national bank selected by the Association which has an office in Salt Lake County, Utah and which publishes a comparable rate.

"Proposed Construction Plans" is defined in Paragraph 3.d.(i).

"Proposed Lands" means all of the portion or portions of any Non-Participating Lands which any Person proposes to use for any Development Purpose, but "Proposed Lands" does not include any portion of any Excluded Parcel.

"Protected Party" is defined in Paragraph 5.f.

"PWA" means Park West Associates, L.L.C., a Utah limited liability company, and its successors and assigns with respect to the Frostwood Agreement.

"Reimbursement Assessment" is defined in Paragraph 12.d.(i).

"Related Costs" is defined in Paragraph 4.b.

"Requesting Party" means a Participant or the Master Developer that delivers a Requesting Party's Notice pursuant to Paragraph 5.a.

"Requesting Party's Notice" is defined in Paragraph 5.a.

"Requesting Party's Payment" is defined in Paragraph 5.a.

"Resort Property" is defined in Paragraph 12.d.

"South Parcel" means the aggregate of all tracts or parcels of land located north of White Pine Road, south of Parcels LV2A and LV13, southeast of Parcel LV2B

and west of U-224 but not including any portion thereof that was not to be platted pursuant to the Lower Village Master Plat for the Lower Village Development Agreement approved by the Summit County Manager on April 23, 2009. All of the South Parcel shall be treated as one (1) Parcel for purposes of all calculations required by this Agreement even though it may currently or hereafter consist of more than one legally subdivided lot or parcel. The South Parcel is depicted and labeled on **Exhibit F** attached hereto and by reference made a part hereof.

"SPA Development Agreement" is defined in Recital F.

"Substantially Completed" or "Substantial Completion" (or other variations of those terms) means, with respect to specified improvements, that such improvements are completed in all material respects, except minor punch-list items that do not materially and adversely affect the use of the improvements, and, as applicable, all required certificates of occupancy and similar permits have been issued by Summit County, acting in its governmental capacity.

"TCGH" is defined in Recital C.

"The Canyons SPA" is defined in Recital B.

"Third Person Contributor" or "Third Person Contributors" is defined in Paragraph 4.h.(i).

"Third Person Contributor Funds" is defined in Paragraph 4.h.(i).

"Trail" means, for purposes of this Agreement, the portion of the Millennium Trail, as defined and described in the SPA Development Agreement and the Trails Agreement, and related improvements to be constructed over portions of Parcel LV11 and the Lower Village Roundabout Area as shown on the Lower Village Master Plat and which may also be located on Parcel LV13.

"Trails Agreement" means the Snyderville Basin Special Recreation District Regional Trails Agreement (originally Exhibit I.2.3 to the SPA Development Agreement), recorded May 20, 2010 as Entry No. 899057, in Book 2032, beginning at Page 1797 of the Official Records, as amended and supplemented from time to time.

"Trail Construction Costs" means the portion of Construction Costs allocated to the design and construction of the Trail, as adjusted (if at all) under the Contract Documents, plus the pro rata portion of the contingency reserve contained in the Construction Costs; provided, if Summit County, acting in its governmental capacity, delivers a County Notice but elects in the County Notice not to construct any portion of the Trail in Parcel LV13, "Trail Construction Costs" are limited to the Construction Costs related to such portion of the Trail not being constructed by Summit County, acting in its governmental capacity.

“Transferred LV6 Density” is defined in Paragraph 4.a.(ii).

“Transferred Percentage” is defined in Paragraph 4.a.(i)(B).

“Trunk-Line Utilities” means Utility Facilities, other than Loop Lines, which constitute what are commonly called “trunk lines” because such Utility Facilities are designed to provide, or actually are used to provide, utility services to development areas within The Canyons SPA outside of or in addition to the Lower Village Development Area.

“Utility Facilities” has the same meaning as set forth in the Lower Village Master Easement Agreement.

“Utility Infrastructure Improvements” means all utility lines, including wires, cables, conduits, pipes, mains, poles, guys, anchors, fixtures, supports and terminals, repeaters, and such other appurtenances of every nature and description including, without limitation, all such improvements required or appropriate for water, electricity, telecommunications, gas, sewage, septic, sanitary sewer, and storm drainage, and other public or private utilities or systems, which are designed and intended to be available to serve the Lower Village Development Area as a whole and not to service other development areas within The Canyons SPA.

“West Parcel” means the aggregate of all tracts or parcels of land located north Parcel LV4, south of the PCFSD Parcel 1, east of Parcel LV3 and west of Parcel LV11. All of the West Parcel shall be treated as one (1) Parcel for purposes of all calculations required by this Agreement even though it may currently consist of more than one legally subdivided lot or parcel. The West Parcel is depicted and labeled on **Exhibit F** attached hereto and by reference made a part hereof.

“Wolf Mountain” is defined in Recital E.(i).

“Work” means the work of undertaking and completing all of the design and construction activities and tasks necessary and required for the design and construction of the Basic Infrastructure in accordance with Basic Infrastructure Construction Plans, inclusive of preparing and approving construction drawings, securing bids, obtaining permits for the performance of such work, obtaining approvals of the Contract Documents, and administering such work; provided, if a County Notice is delivered pursuant to Paragraph 30, the “Work” shall specifically exclude the portion of the Basic Infrastructure or Trail to be constructed by Summit County, acting in its governmental capacity, pursuant to Paragraph 30 and shall be limited to the Basic Infrastructure or Trail not being constructed by Summit County, acting in its governmental capacity, pursuant to Paragraph 30.

“Work Escrow” is defined in Paragraph 4.c.

3. Design and Approval of Work.

a. *General Design Considerations for All Work.* The Parties agree that, to the extent commercially reasonable, the Work shall be designed, planned and performed to accommodate the development, operation and maintenance requirements and needs of the Parcels and Non-Participating Lands in the Lower Village Development Area in accordance with the Lower Village Master Plat, the Lower Village Master Easement Agreement, the SPA Development Agreement and this Agreement, and, subject to the foregoing, shall accommodate the design, location, engineering, development, construction and maintenance of the Lower Village Roundabout Improvements, the Trail, and the Utility Infrastructure Improvements in the Lower Village Development Area now or hereafter planned pursuant to this Agreement. The proposed elevations of the Lower Village Road and Trail, as well as the location of the Basic Infrastructure to be installed within Parcel LV11 during the construction of the Lower Village Road, shall be designed so as to accommodate the development, operation and maintenance requirements and needs of the Parcels and Non-Participating Lands in the Lower Village Development Area in a reasonable manner as anticipated by this Agreement, the LV13 Road Cost Sharing Agreement, the Lower Village Master Easement Agreement, the SPA Development Agreement and any and all applicable governmental, regulatory and administrative laws, rules and regulations, as any or all of the same may be amended from time to time, and taking into account the master utility infrastructure as the same is or may hereafter be planned, developed and constructed to serve The Canyons SPA (“Master Infrastructure Planning”). Notwithstanding the foregoing or any other provision of this Agreement, the Master Infrastructure Planning will not: (i) eliminate entirely or reduce the capacity of any Basic Infrastructure otherwise required above by this Paragraph 3.a. and the definition of “Basic Infrastructure”; (ii) materially increase the Construction Costs; or (iii) otherwise adversely affect the rights, obligations or benefits to the various Parties under this Agreement, the LV13 Cost Sharing Agreement, the Lower Village Master Easement Agreement and the SPA Development Agreement.

b. *Connections of Basic Infrastructure for Certain Parcels to Parcel LV11.* As part of the Basic Infrastructure, the North Parcel, the Employee Housing Reserved Parcel (if subdivided from the North Parcel), the West Parcel and each Lower Village Parcel shall be entitled to have constructed: (i) at least one (1) curb cut constructed for an entrance/exit to and from Parcel LV11 in order to direct access to Lower Village Road in accordance with the Lower Village Master Easement Agreement (including any access over the Trail located in Parcel LV11); and (ii) at least one (1) connection to each of the Utility Infrastructure Improvements located in Parcel LV11.

c. *Design Standards For the Work.* All of the Lower Village Road, the Trail and the other Basic Infrastructure shall be designed, engineered and constructed to provide adequate two-way vehicular and pedestrian traffic and circulation from each of the Parcels and Non-Participating Lands adjacent or contiguous to Parcel LV11 and from the LV13 Road. The Work shall be designed by a reputable engineering or design firm

selected and engaged by the Association (the "Association's Engineer"), on terms acceptable to the Association. The Work relating to the Lower Village Roundabout shall be designed and engineered by the Association so as to accommodate vehicular and pedestrian traffic and circulation from streets, sidewalks and trails intersecting the Lower Village Roundabout Area. The Association's written engagement of the Association's Engineer shall require that the Association's Engineer: (i) design the Work in compliance with applicable governmental laws, ordinances and regulations (including, without limitation, those setting forth standards and requirements for Dedication and governmental acceptance of Lower Village Road and the Lower Village Roundabout Area (including, without limitation, the PCFSD Easement Area)) and in compliance with good design and construction standards (including, without limitation, any design and with construction standards that may be established by the DRC or the Association); and (ii) prepare proposed plans and specifications of the Lower Village Road, the Trail and the Basic Infrastructure (including, without limitation, respectively, the Utility Infrastructure Improvements) within Parcel LV11, and any portion of the Trail within Parcel LV13, so as to serve the Lower Village Development Area in a reasonable manner and otherwise provide for location and construction in accordance with the Lower Village Master Easement Agreement and any and all applicable governmental, regulatory and administrative laws, rules and regulations. Pursuant to a separate written agreement between the Association and ASCU, ASCU previously engaged an engineering firm (the "ASCU Engineer") to perform a portion of the design and engineering of the Work comprising the Lower Village Roundabout Improvements, including the preparation of certain plans, specifications and other work product relating to the construction thereof ("ASCU Roundabout Engineering Work"), at the sole cost and expense of ASCU subject to partial reimbursement by the Association in accordance with the terms and conditions of Paragraph 4.h.(ii)(B). ASCU has delivered such ASCU Roundabout Engineering Work to the Association, and the ASCU Engineer, without payment or compensation from the Association, has consented to the use of the ASCU Roundabout Engineering Work by the Association and the Association's Engineer in connection with the design, engineering and construction of the Work contemplated by this Agreement.

d. *Preparation and Approval of Basic Infrastructure Construction Plans and Contract Documents.*

(i) *Preparation and Delivery of Documents.* After its receipt of the Requesting Party's Notice and the payment of the full amount of the estimated Construction Costs in accordance with Paragraph 6.b. (including, without limitation, Related Costs as reasonably estimated by the Association), but prior to commencement of any Work, the Association shall, unless and until it subsequently timely receives a County Notice pursuant to Paragraph 30, direct the Association's Engineer to prepare and, after such preparation, the Association shall deliver to the Participants and the Non-Platting Owners, the following documents: (a) plans and specifications signed by the Association's Engineer for the construction of the Work; (b) a detailed timetable or schedule of dates for the performance of the Work, including the dates on which the Work is expected to

be commenced and Substantially Completed; and (c) a detailed, written estimate (the "Estimate") that in the opinion of the Association's Engineer reasonably estimates the cost of performing the Work (including a reserve for contingencies in an amount not less than ten percent (10%) of the cost of the Work), taking into account the ASCU Engineer's Fees, if any, and the Related Costs (collectively, the "Proposed Construction Plans").

(ii) *Election by Participants.* Each Participant and the Master Developer shall have twenty (20) days from the date of its receipt of the Proposed Construction Plans to notify the Association in writing of the election of such Participant or Master Developer, as the case may be, to participate in the payment of the costs and use of the Basic Infrastructure (and thus to become an "Electing Participant"). If a Participant or the Master Developer does not timely elect to become an Electing Participant or if a Participant or the Master Developer timely and properly elects not to become an Electing Participant, it shall constitute a "Non-Electing Participant". If the Master Developer does not timely elect to become an Electing Participant, it may thereafter become an Electing Participant in its capacity as Master Developer only in accordance with Paragraph 6.e. Except as expressly provided in this Agreement to the contrary, a Participant shall not be entitled to make an election to participate or become an Electing Participant with respect to fewer than all of the Parcels which it owns, either directly or through any Person which it controls or in which it owns any equity interest or for less than all of the Maximum Gross Building Area for any such Parcels (or, in the case of Intermountain Healthcare, for less than, as applicable, the greater of the Actual LV6 Density or the Estimated LV6 Density determined at such time). If the Master Developer elects to become an Electing Participant, it shall execute a Joinder in the form attached as **Exhibit C** and shall become an Electing Participant as to all Parcels as to which it is the Owner or holder of a Long-Term Leasehold Interest and all Non-Participating Lands as to which it is a Non-Platting Owner or holder of a Long-Term Leasehold Interest. Promptly following the expiration of such twenty (20) day period, the Association shall promptly provide written notice (the "Electing Participant Notice") to each Participant stating whether the Master Developer has elected to become an Electing Participant and listing each of the Participants who have elected to become Electing Participants. Such Electing Participation Notice shall also include the Allocated Share of Construction Costs of each Electing Participant. Notwithstanding any other term or condition of this Agreement, any Non-Platting Owner or Master Developer that becomes a Joining Party on or after the date a Requesting Party Notice is delivered may only be an Electing Participant and may not be a Non-Electing Participant.

(iii) **[DELIBERATELY OMITTED]**

(iv) *Approval of Proposed Construction Plans.* As hereinafter set forth, each of the Electing Participants shall have the right to review and approve the Proposed Construction Plans (including the Estimate and the Amount For

Related Costs), and the Proposed Construction Plans shall also be subject to the final written approval of the Association, which approval shall not be unreasonably withheld, conditioned or delayed. Each of the Electing Participants agrees to reasonably cooperate with the Association and the other Electing Participants in connection with the review and approval of the Proposed Construction Plans. Each of the Electing Participants agrees to give notice to the Association and the other Electing Participants of any disapproval of the Proposed Construction Plans within thirty (30) days of the Electing Participant Notice. Any such notice shall specify the particular aspect(s) of the Proposed Construction Plans that are disapproved and shall set forth a detailed statement of the reasons for such disapproval, and any such notice that fails to substantially comply with these requirements shall be ineffective under this Agreement for purposes of communicating the disapproval by an Electing Participant of the Proposed Construction Plans. If any Electing Participant fails to give any such notice of disapproval within the thirty (30) day period as described above, or if an Electing Participant gives any notice of disapproval that fails to comply with the requirements of the preceding sentence, then such Electing Participant shall be deemed to have approved the Proposed Construction Plans; provided that any such approval, deemed or otherwise, shall not constitute or be deemed to make any such Electing Participant liable for any defects in the design, engineering or construction under any such Proposed Construction Plans. The Association shall promptly address and determine the validity of any notice of disapproval given by an Electing Participant and notify the Electing Participant of the Association's determination, which shall be final, conclusive and binding upon all of the Electing Participants (including any Electing Participant that is a Requesting Party), and the Association shall promptly revise the Proposed Construction Plans in accordance with the Association's determination. Each Electing Participant hereby irrevocably appoints the Association as its arbiter for the purposes of finally determining and resolving all objections, disapprovals and disputes regarding the Proposed Construction Plans submitted, and any objections thereto, by any Electing Participant pursuant to this Paragraph 3.d. Each Electing Participant agrees, and each Joining Party shall agree, to reasonably cooperate with the other Electing Participants, the Association and the Association's Engineer in addressing and resolving any disapproval of the Proposed Construction Plans.

(v) *Basic Infrastructure Construction Plans.* The Proposed Construction Plans shall constitute the Basic Infrastructure Construction Plans for the performance of the Work only when they have been:

(A) First, revised in accordance with the determination made by the Association pursuant to Paragraph 3.d.(iv).

(B) Second, thereafter signed by the DRC, the Association and the Association's Engineer.

(C) Third, approved in writing by the Snyderville Basin Special Recreation District to the extent required by the Trails Agreement.

(D) Fourth, finally approved by Summit County, acting in its governmental capacity.

The Association shall have no obligation to give its final approval of the Proposed Construction Plans (or any revised version thereof) until the completion of any determination by the Association required by Paragraph 3.d.(iv) and the satisfaction of each of the conditions of set forth in Paragraph 3.d.(v)(A) and (B).

e. *Bidding of Work.*

(i) *Bid Documents.* The Association shall obtain bids for the performance of the Work pursuant to bid documents prepared by the Association in conformity with the Basic Infrastructure Construction Plans and approved in accordance with Paragraph 3.d. (the "Bid Documents"). The Bid Documents shall expressly state the portion of the Bid Amount for the Work for:

(A) The LV11 Sub-Surface Improvement Costs;

(B) The LV11 Surface Improvement Costs;

(C) The Trail Construction Cost for the portion of the Trail within Parcel LV11;

(D) The Trail Construction Cost for the portion of the Trail within Parcel LV13;

(E) The Trail Construction Cost for the portion of the Trail within Parcel LV2A;

(F) The Lower Village Roundabout Engineering Costs;

(G) The portion of the Lower Village Roundabout Related Costs attributable to the Lower Village Roundabout Surface Improvements; and

(H) The portion of the Lower Village Roundabout Related Costs attributable to the Lower Village Roundabout Utilities.

(ii) *Bid Amount.* Without the prior approval of any Electing Participant, the Association may accept a bid for the Work or a portion thereof from a bidder that the Association determines to be a responsible, qualified bidder, that need not be the lowest bidder, provided that the amount of the bid does not exceed the Estimate (approved as a part of the Proposed Construction Plans pursuant to Paragraph 3.d.) by more than ten percent (10%). Before

accepting any bid that exceeds such Estimate by more than ten percent (10%), the Association shall obtain the prior written approval therefor from each of the Electing Participants, which approval shall not be unreasonably withheld, conditioned or delayed. The bid, as approved (if required by this Paragraph 3.e.(ii)) by the Electing Participants and as accepted by the Association, is hereinafter referred to as the "Bid"; the amount set forth in the Bid as the total cost of the Work to be performed by the Contractor pursuant to the Contract Documents is hereinafter referred to as the "Bid Amount." The Association shall make all documents relating to or constituting the Bid Documents, the Estimate, the Work, the Bid, and the Bid Amount available for review by all Electing Participants and their designated representatives.

f. *Contract Documents.* Based upon the Bid Documents and subject to the provisions of this Agreement, the Association shall use commercially reasonable efforts to enter into any reasonably necessary or appropriate contract documents (the "Contract Documents") with the contractor whose Bid is accepted by the Association for the performance of the Work (the "Contractor").

4. Allocation of Cost of Work Among Owners.

a. *Allocation of Construction Costs of the Work and Related Costs; Allocation Schedule.*

(i) *Allocation Schedule; Assigned Percentages.* In accordance with the requirements of Paragraph 3.e. the Lower Village Surface Improvements Costs, the Lower Village Sub-Surface Improvements Costs, the Lower Village Roundabout Surface Improvements Costs and the cost of Lower Village Roundabout Utilities shall be separately stated as a part of the Construction Costs. The Amount For Related Costs and contingency reserve shall be allocated between Lower Village Surface Improvements Costs and Lower Village Sub-Surface Improvements Costs proportionally based on the respective percentages of Lower Village Surface Improvements Costs and Lower Village Sub-Surface Improvements Costs to the Bid Amount. The Construction Costs shall be allocated among the Parcels of the Electing Participants as follows:

(A) The fixed sum of \$30,000 shall be allocated to the PCFSD Parcel 1 (the "PCFSD Contribution"). The PCFSD Contribution shall be deemed PCFSD's Allocated Share of Construction Costs for purposes of this Agreement. If some or all of the Basic Infrastructure are constructed by Summit County, acting in its governmental capacity, pursuant to Paragraph 30, the PCFSD Contribution shall, to the extent not fully expended, be paid by the Association to Summit County, acting in its governmental capacity, to partially pay the cost of the Basic Infrastructure being constructed by Summit County, acting in its governmental capacity.

(B) The Construction Costs, less the amount of PCFSD Contribution and the Third Person Contributor Funds received by the Association, shall be allocated among the Parcels of the Electing Participants (not including PCFSD Parcel 1 for which the allocation is fixed in accordance with Paragraph 4.a.(i)(A)) based on a percentage for each such Parcel, the numerator of which shall be the square footage of the Maximum Gross Building Area for each Parcel as determined in accordance with this Agreement, and the denominator of which shall be the aggregate square footage of Maximum Gross Building Area for all Parcels of the Electing Participants as determined in accordance with this Agreement (collectively, the "Assigned Percentages"). Notwithstanding the foregoing, if or to the extent the Owners, Non-Platting Owners or holders of a Long-Term Leasehold Interest in the North Parcel and, if subdivided from the North Parcel, the Employee Housing Reserved Parcel do not elect to participate in the use and cost of the Basic Infrastructure pursuant to Paragraph 3.d.(ii), then the Assigned Percentages of Intermountain Healthcare and Summit County, acting only as an Owner, shall be adjusted, between them only (and not with respect to any other Electing Participant or Limited Participant), as follows: (i) first, determine what the Assigned Percentage of Intermountain Healthcare would have been upon the assumption that all Owners and Non-Platting Owners are Electing Participants (such percentage is referred to as the "Intermountain Healthcare Base Percentage"); (ii) second, determine what the Assigned Percentage of Intermountain Healthcare would have been upon the assumption that all Owners and Non-Platting Owners are Electing Participants except for the Owner or Non-Platting Owner of the North Parcel and, if subdivided from the North Parcel, the Employee Housing Reserved Parcel, but only if and to the extent that the Owner, Non-Platting Owner or holder of a Long-Term Leasehold Interest in either such parcels is not an Electing Participant (such percentage is referred to as the "Excepted Percentage"); third, subtract the Intermountain Healthcare Base Percentage from the Excepted Percentage for Intermountain Healthcare (the result being referred to as the "Transferred Percentage"); fourth, decrease the Intermountain Healthcare Assigned Percentage, as finally determined, by the Transferred Percentage (the result being referred to as the "Intermountain Healthcare Adjusted Assigned Percentage"); and fifth, increase the County Excepted Percentage, as finally determined, by the Transferred Percentage (the result being referred to as the "County Adjusted Assigned Percentage"). If the Non-Participating Owner or holder of a Long-Term Leasehold Interest in the North Parcel is a Limited Participant, the foregoing calculation shall be performed separately with respect to: (A) the LV11 Surface Improvement Costs and the cost of the Lower Village Roundabout Surface Improvements; and (B) the LV11 Sub-Surface Improvement Costs and the cost of the Lower Village Roundabout Utilities.

Attached to this Agreement as **Exhibit B** are several schedules which are subject to adjustment, as herein provided (collectively, the "Allocation Schedules" or individually, an "Allocation Schedule"), and which list, as of the date of this Agreement, the current Maximum Gross Building Area for each of the Newly Platted Lower Village Parcels and each parcel of the Non-Participating Lands; provided, that with respect to Parcel LV6, the Allocation Schedules set forth the Estimated LV6 Density (determined as of the date of this Agreement) rather than Maximum Gross Building Area for Parcel LV6. The Allocation Schedules also set forth the respective Assigned Percentages, determined for illustrative purposes in accordance with and as of the date of this Agreement, for all Participants and Non-Platting Owners based on: (a) the assumption that all Participants and all Non-Platting Owners become Electing Participants; (b) alternative assumptions regarding whether certain Non-Platting Owner Owners or holders of Long-Term Leasehold interests in the North Parcel or the Employee Housing Reserved Parcel become Electing Participants. The determinations of Assigned Percentages on the Allocation Schedules are for illustrative purposes only, and the actual Assigned Percentages shall be determined in accordance with this Agreement at the time Participants elect to become Electing Participants or Non-Electing Participants pursuant to Paragraph 3.d. and Paragraph 6.e., as the case may be, and thereafter as required by this Agreement. In addition, the Allocation Schedules assume that the Employee Housing Reserved Parcel has been subdivided or platted separate from the remainder of the North Parcel. If the Employee Housing Reserved Parcel has not been subdivided or platted at the time the Association is to determine Assigned Percentages, then, for purposes of determining the Assigned Percentages, as well as the Intermountain Healthcare Base Percentage, the Excepted Percentage, the Transferred Percentage, the Intermountain Healthcare Adjusted Assigned Percentage and the County Adjusted Assigned Percentage, the North Parcel shall be deemed to have a Maximum Gross Building Area equal to the aggregate of the Maximum Gross Building Area of the North Parcel and the Maximum Gross Building Area of the Employee Housing Reserve Parcel, as both Maximum Gross Building Areas are set forth on the Allocation Schedules attached hereto. If Maximum Gross Building Area is sold or transferred from a Parcel or a parcel of the Non-Participating Lands to another development area within The Canyons SPA, or to any other location, in either case in compliance with applicable law and the SPA Development Agreement, and with the consent of Summit County, acting in its governmental capacity, and, as and to the extent required by the SPA Development Agreement, the Association, then, for purposes of determining the Assigned Percentages, as well as the Intermountain Healthcare Base Percentage, the Excepted Percentage, the Transferred Percentage, the Intermountain Healthcare Adjusted Assigned Percentage and the County Adjusted Assigned Percentage, such transferred Maximum Gross Building Area shall nevertheless be deemed to remain with the Parcel or parcel of Non-Participating Lands, as applicable, from which it was transferred. The Allocation Schedules, as revised from time-to-time in accordance with the provisions of this Agreement, shall

supersede and replace the Allocation Schedules currently attached as **Exhibit B** or any previously-revised Allocation Schedules. The Association shall give written notice of revised Allocation Schedules to the Electing Participants with copies of the revised Allocation Schedules, and, absent any objection thereto by a Participant received within thirty (30) days after the giving of such notice, the Association is hereby authorized to execute and record in the Official Records a notice setting forth any such revised Allocation Schedules. In the event of any objection thereto, the Association shall use reasonable efforts to resolve the objection, but the Association shall make the final decision as to the Allocation Schedules pursuant to the terms and conditions of this Agreement including, without limitation, the provisions of Paragraph 4.a.(ii).

(ii) *Determination of Parcel LV6 Density.* Solely for purposes of determining the Allocated Share of Plan Preparation Costs, Allocated Share of Construction Costs and Allocated Share of Trail Construction Costs to be paid by Intermountain Healthcare, and without limiting the right of Intermountain Healthcare to construct the Maximum Gross Building Area otherwise allowed on Parcel LV6 under, subject to and in accordance with the SPA Development Agreement and other applicable laws and ordinances, the Maximum Gross Building Area of Parcel LV6 ("LV6 Density") shall be deemed for purposes of this Agreement to be the greater of (A) 275,000 square feet, representing Intermountain Healthcare's initial estimate of the square footage of Maximum Gross Building Area that may be accommodated on Parcel LV6 ("Estimated LV6 Density"), and (B) the sum of (1) the maximum square footage of gross building area (density) for development on Parcel LV6 as set forth on site plan(s) therefor as may be approved by the DRC and Summit County, acting in its governmental capacity (the "Approved LV6 Density"), and (2) any Maximum Gross Building Area sold or transferred, in compliance with applicable law (including, without limitation, the SPA Development Agreement, as amended), by Intermountain Healthcare from Parcel LV6 to another parcel within The Canyons SPA or to any other location, with the consent of Summit County, acting in its governmental capacity and, as and to the extent required by the SPA Development Agreement, the Association (the "Transferred LV6 Density" and collectively with the Approved LV6 Density, the "Actual LV6 Density"); provided that in no case shall the LV6 Density be adjusted to a number less than the Estimated LV6 Density for purposes of determining the Allocated Share of Construction Costs, Allocated Share of Plan Preparation Costs and Allocated Share of Trail Construction Costs of Intermountain Healthcare pursuant to this Agreement. At such time as the Actual LV6 Density is determined, the Association shall recalculate the Assigned Percentages and the Allocated Share of Construction Costs of all Electing Participants based on the Actual LV6 Density, and the Association shall then give notice of such recalculations (together with a revised Allocation Schedules) to each of the Electing Participants. Based on any such recalculation(s), each Electing Participant shall pay the increase, if any, in its Allocated Share of Construction Costs ("Additional Payments") within thirty (30) days after its

receipt of such notice (and revised Allocation Schedules). The Additional Payments shall be made into the Work Escrow or, if the Work Escrow is no longer open, to the Association, and, then from the Additional Payments, each Electing Participant shall be promptly reimbursed for overpayment(s), if any, of its respective Allocated Share of Construction Costs.

(iii) *Allocated Share of Construction Cost; Payment by Electing Participants.* In accordance with Paragraph 6, each Electing Participant shall pay the full amount of its respective share of the Construction Costs of the Work (each an "Allocated Share of Construction Costs") as follows:

(A) PCFSD shall pay the amount of the PCFSD Contribution;
and

(B) The Electing Participants (including Summit County, acting only as an Owner) shall pay the remaining Construction Costs of the Work after the payment in Paragraph 4.a.(iii)(A) above based upon their respective Assigned Percentages, except that, if the Owners of the North Parcel or the Employee Housing Reserved Parcel timely do not elect to participate in the use and cost of the Basic Infrastructure with respect to any Later Participating Parcels as to which they, or either of them, are Non-Platting Owners, then the Intermountain Healthcare Adjusted Assigned Percentage and the County Adjusted Assigned Percentage shall be used in the foregoing formula instead of the Assigned Percentages of those Parties.

The payments required by this Paragraph 4.a. shall be a part of the Funds payable under this Agreement.

b. *Related Costs; Amount For Related Costs.* The Parties acknowledge that the Association will be required to incur reasonable costs for: (i) fees (including fees incurred by legal counsel and other professional consultants engaged by the Association) in connection with the preparation, design, engineering and approval of the Proposed Construction Plans, the Basic Infrastructure Construction Plans, the Bid Documents, the Plan Preparation Costs and the Contract Documents; (ii) insurance required by the Association under the Contract Documents or otherwise reasonably obtained by the Association in connection with the Work; (iii) bonds satisfying the requirements of the development improvements agreement and other requirements imposed by Summit County, acting in its governmental capacity, as a condition to governmental approvals required for the Work; (iv) fees and costs of third Person consultants which assist with reviewing and prosecuting the Work; (v) professional fees and costs incurred by the Association in connection with the attempted joinder by any Non-Platting Owner attempting to become a Joining Party which are not immediately recovered from such Non-Platting Owner (it being understood that a Joining Party shall be charged and shall pay such amounts as a condition to becoming a Joining Party); (vi) professional fees and costs incurred by the Association in connection with any defense against mechanic's lien

claims including the cost of bonding against such mechanic's liens (whether pursuant to Paragraph 5.e or otherwise) which are not recovered from the Person filing or threatening to file the lien; (vii) costs for the Work Escrow and fees of the Escrow Agent, if any; (viii) costs and expenses incurred by the Association under Paragraph 4.g. by the Association; and (ix) costs and attorneys' fees incurred by the Association in connection with any Objection Notice or any subsequent litigation or other legal proceedings contemplated by Paragraph 11.d. pertaining to the subject matter of such Objection Notice (collectively, "Related Costs"); provided, that where required by this Agreement, a portion of each of the foregoing elements of Related Costs may be allocated by the Association on a reasonable basis as either LV11 Surface Improvements Costs or costs of the Lower Village Roundabout Surface Improvements for purposes of determining the Limited Participation Payment. To the extent that any Related Costs are charged to the Participants but later recovered from a third Person, such amounts shall be returned to all Electing Participants in accordance with the provisions of Paragraph 3.e. The Parties further acknowledge that an amount approved pursuant to Paragraph 3.a. for the reimbursement of the Association's Related Costs (the "Amount For Related Costs") shall be included as a part of the Construction Costs to be allocated and paid by the Electing Participants and Summit County, acting only as an Owner, in accordance with this Agreement; provided however, that the costs associated with the Proposed Construction Plans shall be allocated among and paid by all Participants in accordance with Paragraph 6.b. Payments made by an Electing Participant pursuant to Paragraph 6.b. shall be credited against such Electing Participant's respective Allocated Share of Construction Costs.

c. *Account; Use of Funds.* The Funds received by the Association pursuant to this Agreement shall be deposited with U.S. Title Insurance Agency, L.L.C., 1630 Short Line Road, 3rd Floor, Park City, UT 84060 (the "Escrow Agent"), marked to the attention of Kathie Johnston or another officer designated by the Escrow Agent, to be held in escrow (the "Work Escrow") and disbursed pursuant to this Agreement and the Contract Documents. The Funds, when placed in such an escrow by the Association, shall be deposited into a federally insured interest bearing escrow account with the Escrow Agent, with accrued interest credited to each Electing Participant in accordance with the amount actually deposited by such Electing Participant. The Funds shall be used by the Association only for the purposes permitted by this Agreement.

d. *Disbursement of Funds.* On a periodic basis the Association will receive applications for progress payments and a final payment from the Contractor for the Work, and that the Association shall use the Funds to make payments to (i) the Contractor for the Work, (ii) ASCU for the ASCU Reimbursement, if any, in accordance with Paragraph 4.h., and (iii) the Association for the reimbursement of Related Costs.

e. *Return of Payments.* Following the Association's final payment to Persons performing the Work (including, without limitation, the Association's Engineer and the Contractor), and the execution and delivery of a final lien waiver as appropriate by such Person, and the payment or reimbursement to the Association of all amounts due to the Association under this Agreement, the Association shall return all unused Funds

(including Eminent Domain Proceeds, if any) to each of the Participating Owners pro rata in accordance with their respective payments of Construction Costs and Related Costs (but not including, for this purpose, any portion of the Delayed Participation Fee or any fees or costs paid to the Association in connection with documenting a Non-Platting Owner becoming a Joining Party or an Electing Participant becoming an Electing Participant); provided, however, that the Association shall have no obligation under this Paragraph 4.e to return any unused Funds to any Participating Owner until such Participating Owner has paid its full share of Construction Costs and Related Costs under this Agreement.

f. *Accounting.* Within ten (10) days following the end of each month during the term of this Agreement, the Association shall promptly provide or make available to the Electing Participants copies of payment applications received during such month from the Contractor as well as the Association's records in the Official Records during such month relating to the Funds, any Related Costs to be paid from the Funds and any disbursements therefrom.

g. *Books and Records.* The Association shall cause to be kept books and records of all Construction Costs for the Work. The Association shall cause to be prepared a quarterly statement of the operating revenues and expenses incurred by the Association relative to this Agreement. Such statement shall be prepared within a reasonable period following the end of each calendar quarter and shall be mailed to the Electing Participants within a reasonable time thereafter. At any time within ninety (90) days of receipt of such quarterly statement, any of the Electing Participants may, upon appointment during regular business hours, and at its own expense, cause an inspection or audit to be made by a nationally recognized public accounting firm of the books and records maintained by the Association with respect to a quarterly statement. Once an audit of a quarterly statement has been carried out by any Electing Participant, it shall serve as the only audit of such quarterly statement, made on behalf of all Electing Participants, and the Electing Participants carrying out such audit shall make the results of such audit available to the other Electing Participants. No audit may be conducted of any such quarterly statement after the expiration of such ninety (90) day period. Further, the Association shall, within ten (10) business days after a request from another Electing Participant, deliver to such Electing Participant any reasonably requested information regarding the Construction Costs. The reasonable out-of-pocket costs and expenses incurred by the Association in maintaining such books and records and preparing the financial statements required by this Paragraph 4.g., and the reasonable out-of-pocket costs and expenses incurred by the Association in connection with any audit undertaking pursuant to this Paragraph 4.g., shall constitute a Related Cost which shall be reimbursed or paid to the Association pursuant to this Agreement.

h. *Agreements with Third Person Contributors.*

(i) *Funds Paid by Third Person Contributors.* Certain third Persons (individually, a "Third Person Contributor" or collectively, the "Third Person Contributors") have agreed to pay for a portion of the Work by depositing Funds

into the Work Escrow (collectively, "Third Person Contributor Funds"), a schedule of which is attached hereto as **Exhibit D**. The Third Person Contributor Funds shall be credited to a Third Person Contributor as and when received, and the Association shall then use the Third Person Contributor Funds received as the next Funds the Association expends to pay for the Work.

(ii) *Agreements with ASCU*. Pursuant to a separate agreement or agreements, which are assignable to Summit County, acting in its governmental capacity if a County Notice is delivered, the Association and ASCU have agreed upon the following formula to allocate the Lower Village Roundabout Construction Costs between ASCU and the Owners and Non-Platting Owners. If a County Notice is delivered, the Association shall assign its rights under such agreement or agreements to Summit County, acting in its governmental capacity, and Summit County, acting in its governmental capacity, shall assume the obligations of the Association thereunder arising after the date of the assignment.

(A) ASCU shall pay to the Association an amount equal to: (i) fifty percent (50%) of the cost of the Lower Village Roundabout Surface Improvements; (ii) sixty-seven percent (67%) of the cost of the Lower Village Roundabout Utilities (both of which amounts shall be determined by the Association consistent with this Agreement); and (iii) fifty percent (50%) of the amount of the Association's Lower Village Roundabout Engineer's Fees. The foregoing payments are part of the Third Person Contributor Funds to be credited against ASCU's portion of Construction Costs and used in accordance with Paragraph 4.h.(i). The separate agreement provides that the payment required under this Paragraph 4.h.(ii)(A): (1) shall be made by ASCU to the Association no later than thirty (30) days after receiving a request for payment from the Association, regardless of whether ASCU is an Electing Participant; and (2) ASCU is not entitled to offset the payment due or that becomes due to ASCU under Paragraph 4.h.(ii)(B) against the payment by ASCU under this Paragraph 4.h.(ii)(A).

(B) Upon completion of the Lower Village Roundabout Improvements, the Association will reimburse ASCU (such reimbursement being hereinafter referred to as the "ASCU Reimbursement") an amount equal to fifty percent (50%) of the amount of the ASCU Engineer's Fees incurred prior to the date of this Agreement, but in no event to exceed \$15,000.00; provided that the payment of the ASCU Reimbursement, if any, is due to ASCU after first offsetting the amount of any unpaid Third Person Contributor Funds payable by ASCU under the arrangement set forth in Paragraph 4.h.(ii)(A) immediately above (if unpaid when the payment required by this Paragraph 4.h.(ii)(B) becomes due), shall be made solely from available Funds and then only when the Association shall have received the payments of Construction Costs required from all Electing Participants.

(iii) *Frostwood Agreement*. The Parties acknowledge the existence of the Frostwood Agreement and agree that it speaks for itself.

5. Performance of Work. Except after receipt of a County Notice pursuant to Paragraph 30 and to the extent Summit County, acting in its governmental capacity, specifies it will construct Basic Infrastructure, the Work shall be performed by the Association on and subject to the following terms and conditions, subject to adjustment as provided in Paragraph 4.h.(ii)(B):

a. *Initiating Performance of the Work*. The Work shall be performed by the Contractor engaged by the Association on and subject to the terms and conditions of this Agreement. At its sole election, subject to the conditions and requirements of this Agreement, any Participant or the Master Developer may become a Requesting Party by giving written notice requesting that the Association commence the Work, which written notice shall be provided to the Association, all of the other Participants and Non-Platting Owners and, unless the Requesting Party is the Master Developer, to the Master Developer (the "Requesting Party's Notice"). If the Master Developer elects to become a Requesting Party, it shall execute a Joinder in the form attached as **Exhibit C** and shall become an Electing Participant as to all Parcels as to which it is the Owner and all Non-Participating Lands as to which it is a Non-Platting Owner or holder of a Long-Term Leasehold Interest. By delivering a Requesting Party Notice, a Requesting Party shall be deemed to be an Electing Participant with respect to all Parcels as to which the Requesting Party is the Owner or holder of a Long-Term Leasehold Interest, and of all parcels of Non-Participating Lands as to which the Requesting Party is an owner or holder of a Long-Term Leasehold, and, in all events (except as otherwise specified in this Agreement), as to all of its Maximum Gross Building Area for such Parcels and Non-Participating Lands. The Requesting Party shall not be entitled to request the performance of less than all of the Work and no Requesting Party Notice may be delivered after Summit County, acting in its governmental capacity, delivers a County Notice pursuant to Paragraph 30. The Requesting Party's Notice shall (i) include a statement of the respective dates by which the Requesting Party desires that the Work be commenced and Substantially Completed, (ii) contain a description of any matters concerning the design or performance of the Work that the Requesting Party desires that the Association take into account in connection with the preparation of the Proposed Construction Plans; and (iii) be accompanied by payment to the Association in the amount of the \$125,000.00 (or such greater amount as the Association may reasonably require to reflect increased costs and expenses from and after the date of this Agreement) representing the reasonably estimated, aggregate costs (including fees payable to consultants) that the Association expects to incur in preparing the Proposed Construction Plans pursuant to Paragraph 3.d. and Paragraph 4.b. (the "Requesting Party's Payment"), which shall be credited against the Requesting Party's Allocated Share of Construction Costs. The Association shall have no obligation under this Agreement to proceed with preparation of the Proposed Construction Plans until it shall have received the Requesting Party's Payment and the Association has determined that the Requesting Party has satisfied all other obligations under this Agreement. If Summit County, acting in its

governmental capacity, subsequently timely delivers a County Notice pursuant to Paragraph 30, the Requesting Party's Payment shall be refunded by the Association but the Association's obligation to refund any portion of the Requesting Party's Payment that has been expended shall be conditioned upon receiving reimbursement therefor from Summit County, acting in its governmental capacity, pursuant to Paragraph 30.a.(i)(D).

b. *Schedule for the Work.* The Contract Documents shall require the Contractor to perform no less than all of the Work. The Association shall use commercially reasonable efforts to cause the Work to be Substantially Completed (minor punch list items excepted) in accordance with the deadline for Substantially Completed as set forth in the Contract Documents, subject to adjustment pursuant to the provisions of the Contract Documents; provided however, that the Contract Documents shall require in any case that the Work shall be Substantially Completed not more than thirteen (13) months after the date on which the Association, pursuant to Paragraph 5.d., delivers its notice to the Contractor to proceed with the performance of the Work under the Contract Documents, subject to (i) extensions not to exceed, in the aggregate, two-hundred seventy (270) days as the Association may grant to the Contractor without the approval of any other Person, and (ii) Force Majeure delays (the "Completion Date").

c. *Performance.* The Association shall take commercially reasonable efforts to cause the Work to be performed diligently by the Association's Engineer and the Contractor (and in the case of the Contractor, in strict compliance with the requirements of the Contract Documents), and to be Substantially Completed no later than the Completion Date. Each of the Owners hereby agrees to fully cooperate with each other, the Association's Engineer and the Contractor with respect to the performance of the Work, and each of the Owners agrees not to unreasonably withhold, delay or condition any consent or approval required or permitted by this Agreement.

d. *Conditions to Commencement of the Work.* The Association shall not commence and shall have no obligation to commence (or permit the commencement of), the performance of the Work unless or until each of the following conditions has been satisfied. None of the following conditions may be waived other than by the written agreement of the Association and all Electing Participants; provided that neither the Association nor an Electing Participant shall unreasonably withhold, condition or delay its respective approval of, if any, or compliance with, any part or all of the following:

1. The Basic Infrastructure Construction Plans shall have been approved in accordance with the procedures set forth in this Agreement;
2. The Contractor shall have obtained and delivered to the Association payment and performance bonds in the respective amounts fixed by the Contract Documents covering the Work, the Association shall have approved the amount of the bonds, and the terms and conditions thereof, and the Association shall have delivered copies of the bonds to each of the other Electing Participants;

3. The Association and the Electing Participants shall have received and approved the evidence of the insurance required by Paragraph 13;

4. The Association shall have entered into a development improvements agreement or other similar arrangement with Summit County, acting in its governmental capacity, with respect to the Work, including placing any required bond or other security, the cost of which shall be included in the Construction Costs, all in a form acceptable to the Association;

5. The Contractor shall have executed the Contract Documents;

6. All governmental approvals reasonably necessary or appropriate for the commencement and performance of the Work shall have been finally issued;

7. The Association shall have received all reasonably necessary or appropriate temporary access, staging area and construction easements from Electing Participants and TCGH necessary for the performance of the Work, all of which shall be reasonably acceptable to the Association. Each Owner hereby agrees to grant to the Association, on reasonable terms and conditions, such temporary access and easement rights as are reasonably necessary for the performance of such Work; and

8. The full amount of the Construction Costs shall have been paid to the Association as required by this Agreement and the Third Person Contributors shall have deposited the Third Person Contributor Funds with the Association or into the Work Escrow.

9. Any determination, dispute, claim or action, whether pending or threatened, against the Association which, in the judgment of the Association, adversely affects the Association's right or obligation to proceed with, perform or pay for the Work pursuant to the terms and conditions of this Agreement or the Contract Documents, including without limitation any matter described in, or for which an Objection Notice is delivered under Paragraph 11.c. of this Agreement, shall have been resolved to the satisfaction of the Association, whether by declaratory judgment, indemnification, funding or other arrangements, acceptable to the Association, between or among the Association and any Persons involved therein or affected thereby; provided, the Association shall not refuse to proceed with the Work on account of any Objection Notice described in Paragraph 11.a. or, subject to and upon receipt of all funds from Electing Participants, Paragraph 11.b. Notwithstanding any

other provision of this Paragraph 5, the Association, acting alone at its sole discretion, may waive the provisions of this Paragraph 5.d.9.

When all of the foregoing conditions have been satisfied, the Association shall promptly issue written notice to the Contractor to proceed with the performance of the Work in accordance with the Contract Documents, and shall provide a copy of such written notice to all Participants and Non-Platting Owners.

e. *Mechanic's Lien Indemnity.* In the event the Contractor or any subcontractor or materialman files a mechanic's lien upon the property of any Owner or on any Non-Participating Lands in connection with or related to the performance of the Work (in any such case, a "Lien"), the Association shall have the right and opportunity, in cooperation with any affected Owner or any Non-Platting Owner, to contest the validity of any such Lien so long as during the pendency of any such contest, the Association shall effectively stay or prevent any official or judicial sale of any of the real property or improvements encumbered by the Lien, upon execution or otherwise, and so long as the Association pays any final judgment enforcing any such Lien and, within a reasonable time thereafter, procures and records in the Official Records a satisfaction of such Lien or judgment. If any Owner's lender(s) shall require release of such Lien from the encumbered property as a condition to financing or disbursement of loan proceeds, the Association shall cause such Lien to be effectively released from the affected Owner's Parcel as a condition to its right to contest such Lien. In the event the Association should fail to provide a bond or cash escrow or otherwise cause the release of the Lien as required by the preceding sentence of this Paragraph 5.e. during the pendency of any contest of the Lien, the Association shall be obligated to pay to or reimburse any affected Owner all reasonable monies that such Owner incurs in discharging any such Lien including all costs and reasonable attorneys' fees incurred by any affected Owner in settling, defending against, appealing or in any manner dealing with such Lien.

f. *General Indemnity.* The Association shall ensure that the Contract Documents contain a provision requiring the Contractor to defend, protect, indemnify and hold harmless each of the Owners and Non-Platting Owners and their respective officers, trustees, directors, managers, officers, employees and agents (each a "Protected Party") against claims, liabilities, judgments, losses, damages, expenses, attorneys' fees and costs of litigation (collectively "Liabilities"), arising out of the Contractor's performance of the Work, except to the extent that a claim asserted against a Protected Party arises from the negligence of the Protected Party or the Protected Party's breach of the Contract Documents. If, despite its use of commercially reasonable efforts the Association is unable to secure the inclusion in the Contract Documents of the indemnification described in the preceding sentence of this Paragraph 5.f., the Contract Documents shall require that the Contractor furnish insurance insuring each of the Protected Parties with respect to the Liabilities, with the type and amounts of such insurance, the exclusions thereto and the deductibles thereunder being subject to the approval of the Association acting in its reasonable discretion.

g. *Special Provisions Governing Trail in Parcel LV13 if Summit County Delivers a County Notice but Elects Not to Construct LV13 Trail.* If Summit County, acting in its governmental capacity, delivers a County Notice but elects not to construct any portions of the Trail within Parcel LV13, then the Association may, by written notice to all Parties and Non-Platting Owners, elect to defer the construction of such portion of the Trail until any later date up to the date the construction of the LV13 Road in Parcel LV13 commences pursuant to the LV13 Road Cost Sharing Agreement and may provide the escrowed funds to the Person constructing the Trail on Parcel LV13, to be used to construct the Trail in accordance with the LV13 Cost Sharing Agreement. The Association shall hold the full amount of such Trail Construction Costs in escrow for the benefit of the Electing Participants until such time as the LV13 Road is to be constructed and, in any event, shall apply the same in any manner contemplated by the LV13 Road Cost Sharing Agreement.

6. Payment of Construction Costs; Reimbursement of Association and Participating Owners.

a. *Obligation of Association.* Subject to the payment, reimbursement and cost-sharing obligations of the Electing Participants and Summit County, acting only as an Owner, under this Agreement, the Association shall be responsible for the payment of all Construction Costs for the Work undertaken by the Association except to the extent relieved of such obligation by a County Notice pursuant to Paragraph 30.

b. *Participation of Owners.*

(i) *Plan Preparation Costs.* Following its Receipt of the Requesting Party's Notice, the Association shall prepare and deliver to each Owner and Summit County, acting only as an Owner, an invoice setting forth each Electing Participant's allocated share of the costs and expenses incurred by the Association for the preparation of the Proposed Construction Plans and the revision and approval thereof pursuant to this Agreement (the "Plan Preparation Costs"), which allocation shall be based on the Assigned Percentages of the Electing Participants as determined and adjusted in accordance with this Agreement ("Allocated Share of Plan Preparation Costs"); provided however, that PCFSD's share of Plan Preparation Costs shall be deemed to be included in and satisfied by payment of the PCFSD Contribution (which shall nevertheless be applied solely to the Construction Costs of Basic Infrastructure), and the Allocated Shares of Plan Preparation Costs for each of the other Electing Participants and Summit County, acting only as an Owner, shall be determined accordingly. No later than thirty (30) days after receiving the invoice, each Electing Participant shall pay the invoiced amount into the Work Escrow, which payment shall be allocated to the Proposed Construction Plans. Within thirty (30) days thereafter, from such payments, the Association shall reimburse to the Requesting Party the amount by which the Requesting Party's Payment, if any, exceeds the Requesting Party's share of the Amount For Related Costs related to the preparation of the Proposed Construction Plans.

(ii) *Construction Costs.* After the satisfaction of each of the requirements and conditions set forth in Paragraph 3 (other than commencement and Substantial Completion of the Work), or, in the alternative, receipt of a County Notice specifying that Summit County, acting in its governmental capacity, will not construct any portion of the Trail within Parcel LV13, the Association shall deliver to each of the Electing Participants (including any Joining Party) and Summit County, acting only as an Owner, a request for payment (the "Association's Request for Payment") setting forth each Electing Participant's respective Allocated Share of the Construction Costs, determined in accordance with Paragraph 4.a. No later than thirty (30) days after its receipt of the Association's Request For Payment (the "Participation Date") or on or before the Joinder Date as may be required of a Joining Party pursuant to Paragraphs 9 and 10, each Electing Participant shall pay into the Work Escrow the full amount of the Electing Participant's respective Allocated Share of Construction Costs. On or before the Limited Participation Date as may be required of a Limited Participant pursuant to Paragraphs 7 and 8, a Limited Participant shall pay the Limited Participation Payment.

(iii) *Trail Construction Costs.* Upon determining the Trail Construction Costs, the Association shall prepare and deliver to each Electing Participant an invoice setting forth such Electing Participant's allocated share of the Trail Construction Costs, which allocation shall be based on the Participants' respective Assigned Percentages of Trail Construction Costs as determined in accordance with this Agreement ("Allocated Share of Trail Construction Costs"); provided, however, that PCFSD's share of Trail Construction Costs shall be deemed to be included in and satisfied by payment of PCFSD Contribution (which shall nevertheless be applied solely to the Construction Costs of the Basic Infrastructure), and the Allocated Share of Trail Construction Costs for each of the other Electing Participants shall be determined accordingly. No later than thirty (30) days after receiving the invoice, each Electing Participant shall pay such amount into the Work Escrow with such amount being allocated to the Trail Construction Costs.

(iv) *Related Costs.* If at any time the Association incurs Related Costs which were not included in its original projection of Related Costs, the Association may, from time to time but not more frequently than monthly, invoice the Electing Participants for their respective shares of such additional Related Costs based on each Participant's Allocated Share of Construction Costs. No later than thirty (30) days after receiving such invoice, each such Electing Participant shall pay its Allocated Share of the additional Related Costs, as such Allocated Share is determined pursuant to this Agreement.

c. *Default by Electing Participant.* The failure by an Electing Participant to pay its Allocated Share of the Construction Costs by the Participation Date or its Allocated Share of Plan Preparation Costs or Additional Share of Costs (as determined in accordance with Paragraph 6.d.) or the failure of an Electing Participant to pay its

Allocated Share of Trail Construction Costs as required by this Agreement, shall constitute a default under this Agreement unless such failure is cured within the period provided for under Paragraph 12.a., and, absent such cure, such Electing Participant shall be deemed a Defaulting Party hereunder, and the Association shall be entitled to exercise all remedies provided for in this Agreement against such Defaulting Party, including, without limitation, the filing and enforcement against the Defaulting Party of an "Assessment Lien" as defined and provided for in accordance with the terms and conditions of Paragraph 12.d.

d. *Reallocation upon Default.* The unpaid Allocated Share of the Construction Costs and the unpaid Allocated Share of Plan Preparation Costs of a Defaulting Party shall in its entirety be reallocated among all of the non-defaulting Electing Participants based upon the Assigned Percentages determined and adjusted in accordance with this Agreement as if such Defaulting Party were not an Electing Participant; provided, however, that no portion of any unpaid Allocated Share of another Electing Participant shall be allocated to PCFSD. (Each such respective allocation made pursuant to the preceding sentence is referred to herein as an "Additional Share of Costs"). The Association shall give prompt written notice to each such Electing Participant of the amount and manner of calculation of each such Electing Participant's or Limited Participant's Additional Share of Costs, which amount each such Electing Participant and, if applicable, Limited Participant, shall pay to the Association within thirty (30) days after receipt of such notice. The payment by the non-defaulting Electing Participants of the aggregate amount of Construction Costs as required by this Agreement shall be a condition to the performance of the Work provided for in Paragraph 5.b. Within ten (10) days after its receipt of payments in the aggregate amount of such Construction Costs, the Association, in accordance with Paragraph 12.d., shall file an Assessment Lien against the Resort Property of each Defaulting Party on behalf of each Electing Participant in the respective amount of the Additional Share of Costs paid by such Electing Participant to the Association under this Agreement.

e. *Delayed Participation.* Subject to the terms and conditions of this Paragraph 6.e, a Non-Electing Participant or the Master Developer may, at any time after the Participation Date, provide written notice to the Association that it elects to become an Electing Participant and, upon providing such written notice, it shall be deemed to be "Later Electing Participant". Following receipt of such written notice, the Association shall provide to the Later Electing Participant a written statement of its Allocated Share of Construction Costs (determined in accordance with Paragraph 4.a.) and its Allocated Share of Plan Preparation Costs, together, for each such amount, with the amount of interest that will have accrued at the Interest Rate from the Participation Date until the date of payment by the Later Electing Participant pursuant to this Paragraph 6.e. (the aggregate of such amounts, including the accrued and accruing interest, the "Later Participation Payment"). In addition to the Later Participation Payment, if the Later Electing Participation Date for such Later Electing Participant is or will be more than three (3) months after the Participation Date, the Later Electing Participant shall also pay a delayed participation fee of Twenty Thousand Dollars (\$20,000) (the "Delayed

Participation Fee”). The Association simultaneously shall deliver copies of such statement to all other Participants and the Master Developer.

(i) A Later Electing Participant shall become an Electing Participant upon the satisfaction of each of the following requirements (the date on which all such requirements are satisfied being referred to as the “Later Electing Participation Date”): (A) payment in full by the Later Electing Participant to the Association of the Later Participation Payment and, if applicable, the Delayed Participation Fee; and (B) the execution by the Later Electing Participant of (1) the Lower Village Master Easement Agreement, (2) all agreements and instruments the execution and delivery of which is required by the Lower Village Master Easement Agreement or by the Plat Notes, (3) such other agreements and instruments as the Association may reasonably require to carry out the terms and conditions of this Agreement and the Lower Village Master Easement Agreement, and (4) any agreements and instruments required by Summit County, acting in its governmental capacity, or any other governmental authority having jurisdiction.

(ii) Promptly after the Later Electing Participation Date, and subject to the provisions of Paragraph 4.a.(i)(B), the Association shall take each of the following actions:

(A) The Association shall adjust the respective Allocated Share of Construction Costs of each of the Electing Participants to reflect the addition of the Allocated Share of Construction Costs of such Later Electing Participant which has become an Electing Participant; provided if the Later Electing Participant is Wolf Mountain or ASCU with respect to the West Parcel or North Parcel or the owner of the Employee Housing Reserved Parcel, then, for purposes of making such adjustments, the Intermountain Healthcare Adjusted Assigned Percentage shall not be reduced, and the County Adjusted Assigned Percentage shall be reduced by the Transferred Percentage.

(B) The Association shall retain any portion of the Later Participation Payment relating to the Later Electing Participant’s Allocated Share of Plan Preparation Costs as may be required for the Association to satisfy its obligation, pursuant to the last sentence of Paragraph 6.b.(i), to reimburse to the Requesting Party the amount by which the Requesting Party’s Payment, as previously reduced pursuant to this Paragraph 6.e.(ii)(B) and Paragraph 6.b.(i), then exceeds the Requesting Party’s then redetermined Allocated Share of the Plan Preparation Costs.

(C) If the Work Escrow is then open, the Association shall deposit the balance of the Later Participation Payment into the Work Escrow, and shall use such amount in accordance with the provisions of this Agreement. If the Work Escrow is then closed, the Association shall

allocate the balance of the Later Participation Payment among and pay such allocated amounts to the Electing Participants (but not including any Defaulting Party) who previously contributed their Allocated Shares of Construction Costs prior to such Later Participation Date in accordance with their respective Assigned Percentages as previously adjusted pursuant to this Agreement; provided, as between Intermountain Healthcare and Summit County, acting only as an Owner, such allocation and payment shall be made as such Assigned Percentages were previously adjusted between as set forth in Paragraph 4.a.(i)(B).

(D) In consideration of the other Electing Participants timely advancing of Construction Costs, the Association shall allocate the Delayed Participation Fee among, and pay such allocated amounts to, the Electing Participants which are not then a Defaulting Party and which became Electing Participants not later than three (3) months after the Participation Date (i.e., any Electing Participant which did not pay a Delayed Participation Fee). Such allocation shall be made in accordance with the respective Assigned Percentages of the qualifying Electing Participants, as such Assigned Percentages have previously been adjusted pursuant to this Agreement.

(iii) Notwithstanding anything set forth in this Agreement to the contrary, no portion of any payment made by a Later Electing Participant pursuant to this Paragraph 6.e. shall be paid to PCFSD or allocated or credited in a manner that reduces the PCFSD Contribution.

f. **[DELIBERATELY OMITTED]**

g. *Use of Funds.* The Association may not use any Funds deposited into the Work Escrow for any purposes other than for Construction Costs of the Work. Accordingly, within thirty (30) days after the Work has been Substantially Completed as certified by the Association in writing to all Electing Participants and the Escrow Agent, the Association shall cause the Escrow Agent to distribute to each contributing Electing Participant its respective pro rata shares of the Funds (including any amounts remaining in the Work Escrow, if any), less the Escrow Agent and Work Escrow fees which shall be retained from the Work Escrow by the Escrow Agent, less any reimbursement of costs required by this Agreement, including any amounts to be paid or reimbursed to the Association or ASCU pursuant to this Agreement; provided, however, that notwithstanding anything set forth in this Paragraph 6.g. to the contrary, no portion of the Funds shall be paid or reimbursed to PCFSD or allocated or credited in a manner that reduces the amount of the PCFSD Contribution.

h. *Reimbursement by Summit County pursuant to Paragraph 30.* If Summit County, acting in its governmental capacity, delivers a County Notice, the Association shall cease to perform any further planning, design or seeking of approvals under this Agreement and shall promptly provide Summit County, acting in its governmental

capacity, with a statement of all amounts (including all Related Costs) expended or accrued on or prior to the date of receipt of the County Notice in designing and seeking approvals of the Basic Infrastructure pursuant to this Agreement including, without limitation, the preparation and approval of any of the Proposed Construction Plans and Basic Infrastructure Plans (the "Accounting"), the cost of which shall be a Related Cost reimbursed or paid to the Association; provided, if the County Notice specifies that Summit County, acting in its governmental capacity, will not construct the Trail in Parcel LV13 and Parcel LV2A, the Association in the Accounting shall segregate all costs pertaining to such excluded work. If Summit County, acting in its governmental capacity, contests the Accounting, the Association and Summit County, acting in its governmental capacity, shall each proceed in good faith to resolve any dispute.

7. Limited Participation by Owners, Non-Platting Owners and Others. Without limiting and, in all events subject to, the terms and conditions of this Agreement or the Lower Village Master Easement Agreement, any Owner, Non-Platting Owner, the Master Developer, or any holder of a Long-Term Leasehold Interest in any Parcel or parcel of Non-Participating Lands may request the limited right to use the surface of Parcel LV11 for access as contemplated by and in accordance with the Lower Village Master Easement Agreement ("Limited Participation"), and thus become a "Limited Participant" upon satisfaction, except as otherwise noted, of all of the following terms and conditions:

a. *Notice.* An Owner, Non-Platting Owner, Master Developer, or the holder of a Long-Term Leasehold Interest in any Parcel or Non-Participating Lands requesting Limited Participation for any such Parcels or Non-Participating Lands shall give prior written notice of such request to the Association (the "Limited Participation Notice"), which (except for a request by the Master Developer) shall: (i) identify the Parcels or Non-Participating Lands for which Limited Participation is sought; (ii) state in detail the nature of the use(s), including, without limitation, all proposed surface uses of such Parcels or Non-Participating Lands; and (iii) identify each proposed access point from the identified Parcels or Non-Participating Lands onto Parcel LV11 for which such Limited Participation is requested. An Owner, Non-Platting Owner, Master Developer, or the holder of a Long-Term Leasehold Interest in any Parcel or Non-Participating Lands delivering a Limited Participation Notice shall also provide such additional information as thereafter may be reasonably requested by the Association. The Association shall promptly deliver the Limited Participation Notice to all other Owners, Non-Platting Owners and the Master Developer.

b. *Delivery of Documents to Association; Acceptance by Association.* The Non-Platting Owner, Master Developer or holder of a Long-Term Leasehold Interest in any Parcel or Non-Participating Lands, as and to the extent applicable and required for any such Person, shall have executed, acknowledged (if required) and delivered for acceptance by the Association, and the Association shall have approved, accepted and executed each of the following documents (collectively, the "Limited Participation Documents"), and

(i) The Joinder and Consent to Lower Village Master Easement Agreement substantially in the form attached as Exhibit D to the Lower Village Master Easement Agreement (the "Master Easement Agreement Joinder");

(ii) The Joinder and Consent to this Agreement which is attached as Exhibit C to this Agreement; and

(iii) Such other agreements and instruments as the Association may reasonably determine to be required in order to define and perform its obligations in accordance with the terms and conditions of this Agreement including, without limitation, any agreements and instruments necessary to satisfy any requirements or conditions of any applicable governmental authority.

c. *Payment to Association.* The Limited Participation Payment shall have been delivered by or for the Owner, Non-Platting Owner, Master Developer or holder of a Long-Term Leasehold Interest in any Parcel or Non-Participating Lands, as applicable, to the Association. The Association shall deposit the Limited Participation Payment into the Work Escrow, if the Work Escrow is still open, or, if the Work Escrow is closed, pay on a pro rata basis to the Electing Participants (excluding any Electing Participant which is a Defaulting Party) who have previously contributed in accordance with their respective Applied Percentages, as determined by the Association.

d. *Limited Participant as Electing Participant.* If the Limited Participant later becomes an Electing Participant in accordance with the requirements of Paragraph 6.e., the Limited Participation Payment made pursuant to this Paragraph 7 shall be credited against the payments required of such Limited Participant as an Electing Participant under Paragraph 6.e.

e. *No Reimbursement to PCFSD.* Notwithstanding anything set forth in this Paragraph 7 to the contrary, no portion of the Limited Participation Payment or Deferred Participation Fee shall be paid to PCFSD or allocated or credited in a manner that reduces the amount of the PCFSD Contribution.

Promptly following the Limited Participation Date, the Association shall provide copies of the Limited Participation Documents to the Owners and the Electing Participants and cause the Master Easement Agreement Joinder to be recorded in the Official Records.

8. Obligations and Rights of a Limited Participant.

a. *Obligations.* Prior to the Limited Participation Date, a Limited Participant shall deliver the Limited Participation Payment to the Association as required by this Agreement. The delivery of such payment shall be a condition to Limited Participation under this Paragraph 8 and, in the case of a Non-Platting Owner or the holder of a Long-Term Leasehold Interest in Non-Participating Lands, the execution and delivery of the Master Easement Agreement Joinder shall constitute an additional condition to Limited Participation.

b. *Rights.* Notwithstanding anything in this Agreement to the contrary, each Non-Platting Owner or holder of a Long-Term Leasehold Interest in a parcel of Non-Participating Lands which becomes a Limited Participant, shall have only the rights of Limited Participation created by and defined in the Lower Village Master Easement Agreement and shall have no other rights unless or until such Person becomes an Electing Participant. All such rights shall be governed by, and shall terminate, in accordance with the Lower Village Master Easement Agreement.

9. Joinder by Non-Platting Owners and Master Developer. Any Non-Platting Owner or the Master Developer may become a Joining Party to this Agreement on and subject to the following terms and conditions:

a. *Notice.* The Non-Platting Owner or the Master Developer shall give prior written notice to the Association of the Non-Platting Owner's or Master Developer's election to become a Joining Party to this Agreement (the "Joinder Notice"). The Joinder Notice from the Non-Platting Owner shall state whether the Non-Platting Owner is joining as an Electing Participant or a Non-Electing Participant. The Joinder Notice from the Master Developer shall state that the Master Developer is joining only as an Electing Participant or as a Requesting Party and an Electing Participant. The Association shall promptly deliver the Joinder Notice to all other Parties and Non-Platting Owners.

b. *Execution of Documents.* The Non-Platting Owner or the Master Developer shall have executed and acknowledged (as required) and delivered for acceptance by the Association each of the following documents (collectively, the "Joinder Documents"):

(i) As to the Non-Platting Owner and the Master Developer, the Joinder to Cost Sharing Agreement For The Canyons Lower Village Basic Infrastructure substantially in the form attached hereto as **Exhibit C**;

(ii) As to the Non-Platting Owner, the Joinder to The Canyons Lower Village Master Easement Agreement substantially in the form attached thereto; and

(iii) As to the Non-Platting Owner and the Master Developer, all agreements and instruments the execution and delivery of which is required by the Lower Village Master Easement Agreement, and such other agreements and instruments as the Association may reasonably require to carry out the terms and conditions of this Agreement, including, without limitation, any agreements and instruments necessary to satisfy any requirements or conditions of any applicable governmental authority.

c. *Satisfaction of Conditions.* All conditions set forth in this Agreement to a Non-Platting Owner or the Master Developer becoming a Joining Party, shall have been fully satisfied or performed, including, without limitation, delivery by the Non-Platting Owner or the Master Developer of any payments required by Paragraph 10.a.

d. *Acceptance by Association.* A Non-Platting Owner or the Master Developer, as applicable, shall not become or be deemed to have become a Joining Party until: (i) the Association shall have accepted and executed the Joinder Documents; and (ii) the Non-Platting Owner or the Master Developer, as applicable, shall have satisfied its obligations under Paragraph 10.a. The Non-Platting Owner or the Master Developer, as applicable, shall be deemed to have become a Joining Party on the "Joinder Date" set forth on the Joinder Document referred to in Paragraph 9.b.(i) (the "Joinder Date"). The Association shall provide written notice of each joinder to all of the Participants.

e. *Participation by Joining Party.* A Non-Platting Owner or the Master Developer, as applicable, which becomes a Joining Party prior to delivery of a Requesting Party's Notice shall become a Participant and may thereafter become either an Electing Participant or a Non-Electing Participant. A Non-Platting Owner or the Master Developer which becomes a Joining Party after the delivery of a Requesting Party's Notice shall only be an Electing Participant and may not be a Non-Electing Participant.

10. Obligations and Rights of a Joining Party.

a. *Obligations.* Notwithstanding anything in this Agreement to the contrary, each Non-Platting Owner or the Master Developer, upon becoming a Joining Party, effective as of the Joinder Date, and each Non-Platting Owner or the Master Developer upon receipt of final approval from the Association or Summit County, acting in its governmental capacity, for any application or permit for any Development Purpose on any portion of the Non-Participating Lands, shall thereafter automatically have all of the obligations of a Party, an Owner and a Participant under this Agreement including, without limitation, all obligations of a Party, an Owner or a Participant that accrued or for which performance was required prior to the Joinder Date. No later than the Joinder Date, a Joining Party as an Electing Participant shall make all payments required of Owners and Electing Participants that became due and payable under the terms of the Agreement prior to the Joinder Date, including, without limitation, the following:

(i) In the event that the Joinder Date is after the Participation Date, the payment of Funds into the Work Escrow, in the amount determined in accordance with Paragraph 6.b., as its allocated portion of the Construction Costs, the Additional Share of Costs, Plan Preparation Costs and the Related Costs;

(ii) The Joining Party's allocated shares of amounts for which payment or reimbursement is required under Paragraphs 6.c. and 6.d.;

(iii) Any Delayed Participation Fee required in accordance with Paragraph 6.e.; and

(iv) Any additional costs and expenses that the Association determines to be required for the performance of additional Work, if any, necessary for the Basic Infrastructure to accommodate the Later Participating Parcels as

contemplated by Paragraph 3.a. or to provide access from such Later Participating Parcels to Lower Village Road as contemplated by Paragraph 3.b.

The performance of each of these obligations on or prior to the Joinder Date shall be conditions to the Non-Platting Owner or the Master Developer, as applicable, becoming a Joining Party to this Agreement.

b. *Rights.* Notwithstanding anything in this Agreement to the contrary, each Non-Platting Owner or the Master Developer, as applicable, upon becoming a Joining Party, shall have the rights of an Owner, a Party and Participant under this Agreement; provided however, that a Joining Party shall have no right to exercise any rights, including, without limitation, any approval, objection or consent rights, which an Owner, a Party or Participant was required to exercise or that expired prior to the Joinder Date.

11. Determinations by Association.

a. *Certain Determinations of Association are Final.* Notwithstanding any other provision of this Agreement, the following are final and not subject to further litigation, arbitration, appeal or other recourse by any Participant or Non-Platting Owner:

(i) The determination of whether a Person is a holder of a Long-Term Leasehold Interest in a Parcel or in a parcel of Non-Participating Lands, and whether the holder of a Long-Term Leasehold Interest in a Parcel is the Owner of the Parcel in the stead of the holder of fee title to that Parcel.

(ii) Designation of Association's Engineer pursuant to Paragraph 3.c.

(iii) Except for those matters specifically described in Paragraph 11.c.(i) through (ii), approval of Proposed Construction Plans as part of final approval process pursuant to Paragraph 3.d.(iv)-(v).

(iv) Except for those matters specifically described in Paragraph 11.c.(i) through (ii), final preparation of Bid Documents pursuant to Paragraph 3.e.(i).

(v) Acceptance of Bid which is less than 10% above Estimate.

(vi) Except for those matters specifically described in Paragraph 11.c.(i) through (ii), directing and supervising Work pursuant to Paragraph 5.

(vii) Determination of Construction Plan Preparation Costs pursuant to Paragraph 6.b.(i).

(viii) Determination of documents to be signed by Limited Participants pursuant to Paragraph 7.b.(iii).

(ix) Negotiation and execution of Cost Sharing Agreement with ASCU for Lower Village Roundabout Improvements pursuant and subject to the requirements of Paragraph 31.

b. *Determinations with Respect to Payment Obligations.* All determinations by the Association pursuant to this Agreement which involve the payment of any amounts by any Electing Participant, or the allocation of any specific cost or payment obligation among the Electing Participants shall be made by the Association and shall be final unless arbitrary, capricious, contrary to the terms of this Agreement or applicable law, rule or regulation, or otherwise subject to, or the result of, manifest error. If any Electing Participant objects to any such determination, it must notify the Association of such objection in writing within thirty (30) days of receiving a Notice of Determination (an "Objection Notice"), which Objection Notice shall specify in reasonable detail the basis for the objection. Pending resolution of the dispute, the Association may proceed with the Work and all Electing Participants including, without limitation, the Electing Participant or Electing Participants filing an Objection Notice shall, nevertheless, be obligated to pay and shall in fact pay the amount assessed or allocated to it subject to adjustment upon resolution of the dispute. When the monetary or allocation dispute described below in this Paragraph 11.b. is finally resolved, the Association shall recalculate the amount owed by or reallocated to the Electing Participants, as the case may be, and the Electing Participants which are finally determined to owe any amounts shall make such payments as may be required as a result of such recalculation, and the Association shall refund any overpayments to the Electing Participants entitled thereto when, but only when, it receives all payments owed by all of such Electing Participants. The monetary and allocation determinations subject to this Paragraph 11.b. include, without limitation, the following:

(i) Determination of what are LV11 Surface Improvements and what are LV11 Sub-Surface Improvements.

(ii) Determination of what are Lower Village Roundabout Surface Improvements and what are Lower Village Roundabout Sub-Surface Improvements.

(iii) Determination of Assigned Percentages, the Actual LV6 Density, the Approved LV6 Density and the Transferred LV6 Density pursuant to Paragraph 4.a.

(iv) Determination of the Allocated Share of Construction Costs (or elements of Construction Costs) of each Electing Participant pursuant to Paragraph 4.a.

(v) Allocation and return of unused funds pursuant to Paragraph 4.e.

c. *Certain Other Determinations.* All of the following determinations by the Association pursuant to this Agreement shall be final unless arbitrary, capricious, contrary to the terms of this Agreement or applicable law, rule or regulation, or otherwise

subject to, or the result of, manifest error. If any Participant objects to any such determination, it must file an Objection Notice with the Association of such objection in writing within thirty (30) days of receiving a Notice of Determination, which Objection Notice shall specify in reasonable detail the basis for the objection.

(i) Determination of the specific items included in Basic Infrastructure.

(ii) Determination of what constitutes a "Trunk-Line Utility" or "Excepted Trunk-Line Utility".

d. *Notices of Determination and Objection Notices.* The Association shall promptly provide a written notice of any determinations described in this Paragraph 11, together with a reasonably detailed explanation of the basis for such determination, to all Participants and the Master Developer (a "Notice of Determination") and the thirty (30) day period described in Paragraphs 11.b. and 11.c. shall commence to run on the date such notice is given. If no Electing Participant (as to Paragraph 11.b.) or Participant (as to Paragraph 11.c.) timely files an Objection Notice, all such Participants shall be irrevocably and unconditionally deemed to have agreed and consented to the determinations described in the Notice of Determination. If, and to the extent, any Electing Participant (as to Paragraph 11.b.) or Participant (as to Paragraph 11.c.) timely files an Objection Notice, all Participants shall be deemed to have reserved, and not to have waived, objections to matters set forth in the Objection Notice, but all Participants and Non-Platting Owners shall be irrevocably and unconditionally deemed to have agreed and consented to the determinations set forth in the Determination Notice. The Association shall promptly provide copies of all Objection Notices to all Participants and the Master Developer. If an Electing Participant (as to Paragraph 11.b.) or Participant (as to Paragraph 11.c.) timely files an Objection Notice, the Association, such Electing Participant or Participant, as applicable, and other affected Electing Participants shall negotiate in good faith to resolve any dispute regarding the matters set forth in the Objection Notice. Any litigation, action or other proceeding filed with respect to the matters set forth in Paragraphs 11.b. or 11.c. by the Association or by any Electing Participant or Participant, as applicable, shall be limited to an action for declaratory judgment or specific performance; provided, however, that any litigation, action or other proceeding filed with respect to the matters set forth in Paragraph 11.c. may also include an action for any other equitable relief other than rescission, cancellation, renunciation, repudiation, revocation, termination or similar equitable remedies with respect to this Agreement, the SPA Development Agreement, or any other agreements referred to in this Agreement. In no event shall any Person filing an Objection Notice be entitled to recover damages or attorneys' fees, record any notice, memorandum, lis pendens or other instrument or document with respect to the Objection Notice or any action in the Official Records with respect to any Parcel, or to pursue any other action at law against the Association or any Participant with respect to the matters set forth in the Objection Notice. A final resolution of any matter described in an Objection Notice shall be evidenced by a court order that is not subject to further appeal or review or, if pursuant to a settlement, shall be in writing signed by all affected Participants, the Master Developer

and the Association. Such final resolution shall be deemed to be a determination by the Association and the Association shall provide to each Participant and the Master Developer a Notice of Determination with respect to such final resolution.

e. *Association Not in Default.* None of the following shall, by itself or in any combination, be deemed to give rise to a default by the Association or any Owner, Party or Joining Party pursuant to Paragraph 12 or entitle any such Person to pursue any remedy at law or, except as set forth in Paragraph 10.d., at equity: (i) a determination by the Association pursuant to this Paragraph 11; (ii) the delivery of a Notice of Determination; (iii) the filing of any Objection Notice; (iv) any negotiations pursuant to Paragraph 11.d.; or (v) the commencement or pursuit of any permitted litigation, action or proceeding pursuant to Paragraph 11.d.

12. Default.

a. *Default.* In addition to the acts or omissions specified in Paragraph 6.c., the following acts or omissions shall constitute events of default by an Owner, a Party or a Joining Party (in any such case, a "Defaulting Party") under this Agreement: the material failure to perform any duty or obligation under this Agreement and such failure is not cured within thirty (30) days after receipt of written notice of the occurrence of such failure, except in the case of any failure to make any payment required under this Agreement which shall be cured within ten (10) business days.

b. *Cure of Non-monetary Default.* Only in the event that the Association or another Owner, Party or Joining Party gives notice of a non-monetary default by a Defaulting Party as contemplated hereunder, and the non-monetary default is of such a nature that it cannot be cured within the thirty (30) day period as provided for herein, then such default shall not be deemed to continue so long as the Defaulting Party, after receiving such notice, proceeds to cure the default as soon as reasonably possible and continues to take all steps necessary to Substantially Complete the same within a period of time which, under all prevailing circumstances, shall be reasonable. No default shall be deemed to continue if and so long as the Defaulting Party shall be proceeding to cure the same in good faith or be prevented from curing the same by any of the causes constituting Force Majeure.

c. *Failure to Perform; Remedies.* In the event of a default or threatened default of this Agreement, the Association or another Owner, Party or Joining Party shall be entitled to institute proceedings (at law or in equity) against a Defaulting Party for full and adequate relief and compensation from the consequences of such default or threatened default. Such remedies shall include, without limitation, the right to specific performance and injunctive relief. Notwithstanding anything set forth in this Agreement to the contrary, no Owner, Party or Joining Party shall be entitled to recover from the Association or any other Owner, Party or Joining Party, consequential damages of any kind, including, without limitation, lost profits or special, exemplary or punitive damages. In the event an Owner, Party or Joining Party initiates or defends any legal action or proceeding in connection with a default or alleged default of this Agreement, the

prevailing party in any such action or proceeding (in addition to any other relief which may be granted, whether legal or equitable), shall be entitled to recover from the losing party in any such action or proceeding its reasonable costs and attorneys' fees (including, without limitation, its reasonable costs and attorneys' fees on any appeal). All such costs and attorneys' fees shall be deemed to have accrued on commencement of any legal action or proceeding and shall be enforceable whether or not such legal action or proceeding is prosecuted to judgment.

d. *Lien Rights; Priority.* In the event that, according to the terms and conditions of this Agreement, an Electing Participant fails to pay its Allocated Share of the Construction Costs, Additional Share of Costs and Allocated Share of Plan Preparation Costs or an Owner, Party or Joining Party fails to pay its allocated share of the Trail Construction Costs and shall be or be deemed a Defaulting Party under Paragraphs 6.c. and 12.a. (an "Offending Owner"), the Association shall have the right and the obligation to levy an assessment in the amount of such default (including costs and fees in collecting such amount) ("Assessment") and to record in the Official Records an "Assessment Lien", for the benefit of the Electing Participants (as the case may be) to which such payment(s) is owed, on the Parcels and all improvements thereto owned by the Offending Owner within The Canyons SPA (the "Resort Property"). Under such circumstances, the Association shall have all rights with respect to the Assessment and the Assessment Lien as are provided for or recognized with respect to an "Assessment" or a "Reimbursement Assessment" as follows.

(i) *Reimbursement Assessments.* The Association may levy an Assessment against any Offending Owner if the Offending Owner fails to comply with its obligations set forth herein and any such failure results in the expenditure of funds by the Association including, but not limited to, court costs and attorneys' fees. Such Assessment shall be known as a "Reimbursement Assessment." The Association may exercise all rights set forth in this Paragraph 12 in enforcing a Reimbursement Assessment. The remedies of the Association set forth in this Agreement are not intended to be in lieu of or in any manner limit the rights and remedies of the Association or any Participant that may be available under any agreements, by law, in equity, or otherwise.

(ii) *Assessment Lien Procedure.* In the event any Reimbursement Assessment shall be payable pursuant to this Paragraph 12.d, and such amounts are not paid when due, then the Association shall have the right to record, with respect to the Resort Property of the Offending Party, in the Official Records, an assessment lien in the amount of the Reimbursement Assessment (the "Assessment Lien"), which Assessment Lien shall accrue interest thereon at the Default Interest Rate. Upon recordation of such Assessment Lien in the Official Records, the delinquent Reimbursement Assessment, together with interest thereon at the Default Interest Rate, shall constitute a lien upon the Resort Property of the Offending Party. In the event the Assessment Lien has been recorded in the Official Records, the Association may enforce payment of the amount due pursuant to the Assessment Lien, or enforce the Assessment Lien

against any real property owned by the Offending Party by taking either or both of the following actions, concurrently or separately:

- a. Bringing an action at law against such Offending Party;
- b. Foreclosing the Assessment Lien against the Resort Property owned by the Offending Party in accordance with then applicable law relating to judicial foreclosure of a mortgage or, if or to the extent legally allowed, a trustee's sale or private sale, under Utah law including, without limitation, the right to recover any deficiency; or
- c. Pursuing any other remedy against such Offending Party as may be available at law or in equity.

(iii) *Priority of Assessment Lien.* Any Assessment Lien and any lien imposed under this Agreement shall be superior to any and all other charges, liens or encumbrances which hereafter in any manner may arise or be imposed upon the Resort Property of the Offending Party, including, without limitation, any liens imposed by any special improvement district; provided, however, that such Assessment Lien shall be subject and subordinate to:

(A) Liens for taxes and other public charges which by applicable law are expressly made superior, including, without limitation, the liens imposed by the Association, and

(B) The rights of any and all tenants occupying any portion of the property under written leases except tenants which control are controlled by or are under common control with such Offending Party.

(vi) *Contest.* Any provision contained in this Agreement to the contrary notwithstanding, any owner of a fee interest or any holder of a Long-Term Leasehold Interest in any portion of the Resort Property of the Offending Party, or the Person entitled to contest an Assessment Lien as specified any Long-Term Lease of any portion of the Resort Property of the Offending Party, shall have the right to contest, in a court of competent jurisdiction, the recordation in the Official Records or enforcement of any Assessment Lien against the Resort Property of the Offending Party on the basis that the recordation or enforcement of such Assessment Lien or the amounts claimed to be delinquent therein is or are incorrect or improper under the provisions of the Agreement. The prevailing party in such action shall be entitled to recover from the other party or parties its reasonable attorneys' fees incurred in connection with such action. The right to contest the validity of any Assessment Lien shall not be lost if an owner chooses first to pay the Reimbursement Assessment to remove the Assessment Lien from the Official Records.

(v) Cure. Within twenty (20) days of the curing of any default for which an Assessment Lien was recorded in the Official Records, the Association shall record an appropriate release of such Assessment Lien in the Official Records.

13. Insurance Requirements. The Association shall cause each of the Association, the Owners and, upon the terms set forth in this Paragraph 13, the Non-Platting Owners be named as additional insureds under the commercial general liability and business auto liability insurance of the Contractor. The commercial general liability insurance and business auto liability coverage carried by the Contractor shall have a combined single limit of coverage in such amount as the Association shall establish but in no event less than Two Million Dollars (\$2,000,000) per occurrence. The insurance shall be rated by Best's Insurance Guide of not less than A/IX. The insurance shall be endorsed to require a minimum of thirty (30) day's notice from the carrier(s) to each of the Association, the Owners and Non-Platting Owners prior to any cancellation, material change or non-renewal thereof. A current certificate of insurance (and of the carrier's requirement to provide any such notice of cancellation) shall be provided to each of the Association, the Owners and Non-Platting Owners prior to the commencement of the Work by the Contractor. In this connection, the Association and the other Owners hereby waive, and each Non-Platting Owner shall be required to waive, as a condition to being named as an additional insured pursuant to this Paragraph 13, any and all rights of recovery against the Association, the other Owners or Non-Platting Owners, for loss or damage occasioned to any of the Association, the other Owners and the other Non-Platting Owners, or property or the property of others under their respective control, to the extent that such loss or damage is covered under any insurance policies, if any, carried by the Association, an Owner, a Non-Platting Owner or any other Person, and in force at the time of such loss or damage; provided any Owner, Non-Platting Owner or third Person with an audited net worth of at least \$100,000,000 may implement a self-insurance or risk-management program and in such event, any such loss or damage covered thereunder shall be deemed to be covered by an insurance policy in an amount not to exceed the lesser of One Million Dollars (\$1,000,000.00) or the actual amount of any such loss or damage. Each insurance policy obtained hereunder shall provide that the insurance company waives all right of recovery by way of subrogation against the Association, the other Owners and the other Non-Platting Owners in connection with any loss or damage covered by such insurance policy, all without impairment or invalidation of such insurance.

14. Additional Projects. Only by unanimous written agreement of the Parties, the scope of this Agreement may be expanded to cover additional improvements and projects not included in or related to the Work.

15. Survival. Except to the extent terminated by Paragraph 30, the agreements, covenants, conditions, representations and warranties set forth in this Agreement shall survive final payment or the expiration or earlier termination of this Agreement.

16. Assignment. Except as set forth below, no Owner, Participant or Limited Participant shall assign this Agreement, any portion of this Agreement, the right to receive payments under this Agreement or any cause of action arising under this Agreement, either voluntarily or involuntarily, by operation of law or otherwise. Notwithstanding the foregoing,

but subject to Section 5.12 of the SPA Development Agreement, each Owner, Participant or Limited Participant shall be subject to the following provisions:

a. *Sale and Transfer of a Parcel.* Any Owner, Participant or Limited Participant shall, without the prior written approval of, but with written notice to, the Association, be entitled to assign all of its rights subject to all of its obligations under this Agreement to the extent accruing from and after the date of any such assignment, in connection with the sale, transfer, or execution and delivery of any Parcel or any parcel of Non-Participating Lands or in connection with the execution of a Long-Term Lease with respect to any such Parcel or parcel of Non-Participating Lands, but such Owner, Participant or Limited Participant shall not be released from its then accrued liabilities or obligations under this Agreement upon such assignment unless, and then only to the extent, it procures the prior written agreement to a release from the other Owners and the Association.

b. *Mortgage of a Parcel.* Any Owner, Participant or Limited Participant may, without consent or approval but with prior written notice to the Association, execute, acknowledge, deliver and record in the Official Records a Mortgage with respect to a Parcel or, to the extent legally permissible, a portion of a Parcel; provided such Mortgage shall state on the first page thereof in bold capitalized letters that it is subject and subordinate to the terms and conditions of this Agreement and shall expressly provide that a copy of any and all notices of default thereunder be delivered to the Association.

c. *Limited Right of Assignment by Master Developer.* The Master Developer may, in connection with any transfer and assignment of all of its rights as Master Developer under the SPA Development Agreement, assign or transfer this Agreement and its rights and obligations under this Agreement to any Person which, at the time or in connection with such transfer and assignment becomes the Owner of a Parcel, a Non-Platting Owner or the holder of a Long-Term Leasehold Interest in a Parcel or in a parcel of Non-Participating Lands (and regardless of whether Master Developer is then a Joining Party, a Requesting Party or an Electing Participant), without obtaining, in any instance, the prior written approval from any other Person. Notwithstanding the foregoing, the Master Developer shall provide written notice of such assignment to the Association, the Participants and the assignee shall execute the Acknowledgment and Approval of Master Developer in the form attached to this Agreement with only such alterations as may be required to the date and the identity of the Master Developer. The Master Developer shall not be released as to any then accrued liability or obligation unless, and then only to the extent it procures, it procures the prior written agreement to a release by the Owners and the Association.

17. Attorneys' Fees. In any legal or equitable proceeding regarding any claim or dispute arising under this Agreement, the prevailing Party shall be entitled to an award of reasonable attorneys' fees and costs in such amount as may be fixed by the court in such proceedings, in addition to costs of suit.

18. Conflict of Laws. The laws of the State of Utah shall govern the interpretation, validity and construction of the terms and conditions of this Agreement. Under no circumstances, however, shall this Paragraph 18 be interpreted to apply Utah conflict of laws principles to require the laws of another state to determine the interpretation, validity or construction of this Agreement.

19. Amendment. This Agreement may be amended or supplemented only by a written instrument executed by all Owners and by a written joinder or consent of the Master Developer.

20. **[DELIBERATELY OMITTED]**

21. Severability. Should any of the provisions of this Agreement prove to be invalid or otherwise ineffective, the other provisions of this Agreement shall remain in full force and effect. There shall be substituted for any such invalid or ineffective provision a provision which, as far as legally possible, most nearly reflects the intention of the Parties hereto.

22. No Relationship of Principal or Agent. Nothing contained in this Agreement, nor any acts of the Parties pursuant to this Agreement, shall be deemed or construed to create the relationship of principal and agent, or of limited or general partnership, or of joint venture or of any other similar association between or among the Parties.

23. Successors and Assigns; Obligations to Run with the Land. Subject to Paragraph 16, this Agreement shall inure to the benefit of and be binding on the respective successors and permitted assigns of the Parties. The rights, burdens obligations and interests granted or otherwise set forth in this Agreement shall run with, benefit and burden only the Parcels. Either this Agreement or a memorandum hereof shall be recorded in the Official Records against the Parcels.

24. **[DELIBERATELY OMITTED]**

25. Notices. Any notices or statements required or given under this Agreement, unless otherwise provided herein, shall be hand delivered (receipted), delivered by a nationally recognized courier or sent by United States mail to the address set forth below with respect to the Parties or at the address in the Summit County assessor's office, with respect to each Non-Platting Owner, until notice of a difference in address is given. Notices not hand delivered shall be deemed given one (1) business day after deposit with a nationally recognized, overnight courier or three (3) business days after deposit in the United States mail, properly addressed and with postage prepaid. Whenever this Agreement requires a notice to be provided by the Association to an Owner, an Electing Participant, a Participant or a Non-Platting Owner, such notice shall also be simultaneously provided to the Master Developer.

26. Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be an original and all of which together shall constitute one and the same instrument.

27. Authority and Further Assurances. Each Party represents and warrants that it has the right, power, legal capacity, authority, and means to enter into and perform this Agreement (as well as the documents referenced herein) and that, to the best of its knowledge, the same will not contravene or result in the violation of any agreement, law, rule, or regulation to which any such Party may be subject. Each Party shall use reasonable efforts and exercise reasonable diligence to accomplish and effect the transactions contemplated and, to that end, shall execute and deliver all such further instruments and documents as may be reasonably requested by the other Party in order to fully carry out the transactions contemplated by this Agreement, including, but not limited to, temporary access, staging and construction easements for performing the Work.

28. Environmental Matters. Notwithstanding any other term or condition of this Agreement and except as specifically agreed to in writing by the Parties, no Party shall have any liability for any environmental condition, pollution, or damage on or attributable to another Party's property in the Lower Village Development Area.

29. Force Majeure. If a Party shall be prevented or delayed from the performance of any act required hereunder by reason of a strike, labor trouble, acts of nature or any other cause beyond the reasonable control of such Party (financial inability excepted) including, without limitation, unavailability of materials or services at a commercially reasonable prices and inability to obtain required consents, approvals or rights from third Persons, and such Party is otherwise without material fault, the performance of such act (excluding, for this purpose, any payment, charge or expense, due and payable hereunder) shall be excused for the period of delay (such circumstances, a "Force Majeure"). Without limiting the foregoing, any Party asserting that a Force Majeure circumstance has or is occurring shall give written notice thereof to the other Parties and the period of Force Majeure shall commence to run not earlier than thirty (30) days prior to the date of such written notice.

30. County Determination to Construct Lower Village Road and Basic Infrastructure.

a. *County Notice.* Notwithstanding any other provision of this Agreement, Summit County, acting in its governmental capacity, may, at its sole discretion, elect to design and construct substantially all of the Basic Infrastructure; provided Summit County, acting in its governmental capacity, shall determine, at its discretion, whether it shall design and construct any portion or portions of the Trail to be located in Parcel LV13. The election shall be made by Summit County, acting in its governmental capacity, in writing delivered to the Association (the "County Notice"), which shall promptly deliver copies thereof concurrently to each of the other Parties. The County Notice may be delivered to the Association not later than the County Notice Outside Date.

(i) *Summit County Design Work.* If Summit County, acting in its governmental capacity, provides a County Notice, then as consideration for Summit County, acting in its governmental capacity, undertaking the obligations set forth in this Paragraph 30:

(A) The Association shall promptly allow Summit County, acting in its governmental capacity, to review any designs, plans and specifications, Proposed Construction Plans or similar materials or work product which it has developed or caused to be developed to date (collectively, the “Interim Design Work”). The Association agrees that Summit County, acting in its governmental capacity, at its election, may use all or any portion of the Interim Design Work in connection with its design and construction of the Basic Infrastructure provided that the: (i) Association’s Engineer and any other engineer, architect or other consultant owning or responsible for the preparation of the Interim Design Work shall have first entered into (A) appropriate, direct written agreements with Summit County, acting in its governmental capacity, providing for the delivery to, and the use by Summit County, acting in its governmental capacity, of the Interim Design Work or any portion thereof as may be provided for in such agreements, and (B) agreements with the Association containing terms and conditions acceptable to the Association, including, without limitation, the release of the Association from any liability with regard to the delivery to or use by Summit County, acting in its governmental capacity, of the Interim Design Work or any portion thereof, and otherwise terminating the agreement between the Association and the Association’s Engineer (and any other agreements between the Association and other engineers, architects or other consultants) relating to the Interim Design Work; and (ii) the Association and Summit County, acting in its governmental capacity, shall have entered into a written agreement acknowledging that the delivery and use of the Interim Design Work by the Association is without warranty of any kind or nature by or on behalf of the Association, and releasing the Association from any liability arising by reason of Summit County’s use of or reliance on the Association as to any of the Interim Design Work or any portion thereof. If Summit County, acting in its governmental capacity, determines to use the Interim Design Work, it shall enter into appropriate direct written agreements with the engineer, architect or other consultant and cause the Association to be released of its obligations under existing agreements. Summit County, acting in its governmental capacity, shall determine the scope of the Basic Infrastructure to be designed and constructed by Summit County, acting in its governmental capacity, in accordance with this Paragraph 30 and the applicable laws and ordinances of Summit County, acting in its governmental capacity,; provided, except as provided otherwise by the ordinances or policies of Summit County, acting in its governmental capacity, that the scope of such work performed by Summit County, acting in its governmental capacity, shall generally be consistent and substantially in compliance with Paragraph 3.a., except for portions of the Trail located in Parcel LV13 that Summit County, acting in its governmental capacity, actually elects not to design and construct, and, subject to further required approvals for each Parcel by Summit County,

acting in its governmental capacity, Paragraph 3.b. Notwithstanding any other provision of this Paragraph 30, Summit County, acting in its governmental capacity, may, but shall not be required, to include in its design and Work any portion of the Trail within Parcel LV13. Summit County, acting in its governmental capacity, shall state in the County Notice whether and to what extent Summit County, acting in its governmental capacity, will construct the Trail within Parcel LV13. In the event and to the extent Summit County, acting in its governmental capacity, shall determine not to design or construct any portion of the Trail within Parcel LV13, this Agreement shall continue to govern the construction of such Trails and any portion of the Basic Infrastructure not constructed by Summit County, acting in its governmental capacity. In such event, the Association shall design the portions of the Trail within Parcel LV13, and shall perform all other obligations with respect thereto in accordance with the LV13 Road Cost Sharing Agreement.

(B) Summit County, acting in its governmental capacity, shall commence construction of the Lower Village Road and the Basic Infrastructure within ten (10) months after delivery of the County Notice, and shall Substantially Complete such construction within twenty-two (22) months after delivery of the County Notice, in each case plus any additional periods required due to Force Majeure. Upon the delivery of the County Notice, and as and to the extent Summit County, acting in its governmental capacity, shall determine to design and construct the Basic Infrastructure, the right of any Participant to deliver a Requesting Party's Notice pursuant to Paragraph 5.a. or of the Association to construct the Basic Infrastructure pursuant to this Agreement shall be suspended and, so long as Summit County, acting in its governmental capacity,, subject to Force Majeure, diligently prosecutes to completion the Basic Infrastructure, then this Agreement shall be inapplicable as to the Work being performed by Summit County, acting in its governmental capacity, except as set forth in Paragraph 30.a.(ii) and Paragraph 30.c., with respect to the payment of the cost thereof.

(C) The Association shall separately design the Trail within Parcel LV13 which Summit County, acting in its governmental capacity, elects not to design and construct in accordance with Paragraph 3, and shall allocate the Trail Construction Costs for the portion of the Trail within Parcel LV13 which Summit County, acting in its governmental capacity, elects not to construct in accordance with Paragraph 4.

(D) The Association shall quitclaim Parcel LV11 to Summit County, acting in its governmental capacity, immediately upon: (i) written demand by the Summit County, acting in its governmental capacity, which states that Summit County, acting in its governmental capacity, is prepared

to commence construction of the Basic Infrastructure which it has elected to construct pursuant to this Paragraph 30 not later than sixty (60) days after delivery of such written demand, subject to Force Majeure; (ii) payment by Summit County, acting in its governmental capacity, of the amount set forth in the Accounting, which shall be made by Summit County, acting in its governmental capacity, regardless of whether it uses any Interim Design Work pursuant to Paragraph 30.a.(I)(A).

(E) The PCFSD shall quitclaim to Summit County, acting in its governmental capacity, the PCFSD Easement 94 Parcel and execute any required amendment to the Parcel 1 Plat.

(F) Except for the obligation to construct the Trail within Parcel LV13, if excluded from the scope of the Basic Infrastructure pursuant to Paragraph 30(a)(i)(A), the Association shall have no further obligation with respect to Basic Infrastructure under this Agreement; provided if the Trail is so excluded, this Agreement shall be in full force and effect with respect to the Trail in Parcels LV13.

(G) The Association shall pay to Summit County, acting in its governmental capacity, all unexpended Third Person Contributor Funds which it holds, or deliver documentation satisfactory in form and substance to Summit County, acting in its governmental capacity, confirming that the entitlement to all Third Person Contributor Funds that the Association has not collected is irrevocably and unconditionally assigned to Summit County, acting in its governmental capacity.

(H) The Association shall assign to Summit County, acting in its governmental capacity, and Summit County, acting in its governmental capacity, shall assume all of its right, title and interest in the agreement or agreements between the Association and ASCU referenced in Paragraph 4.h.(ii) relating to payment of Lower Village Roundabout Improvement Costs.

(ii) *County Payment Notice.* Notwithstanding any term or condition of this Paragraph 30, in the event Summit County, acting in its governmental capacity, elects to, and shall, design and construct part or all the Basic Infrastructure pursuant to this Paragraph 30, then the Participants and the Master Developer (but only if the Master Developer is, at such time, an Electing Participant, Requesting Party, or a Limited Participant), and each of them, agree to pay to Summit County, acting in its governmental capacity, and Summit County, acting in its governmental capacity, shall collect from each Participant and the Master Developer their respective Assigned Percentages of the out-of-pocket costs and expenses incurred by Summit County, acting in its governmental capacity, in connection with the construction of the Basic Infrastructure (the

"County Construction Costs") as determined in accordance with Paragraph 4.a. Each Electing Participant shall pay, and any Non-Electing Participant or Non-Platting Owner may elect to pay, its Assigned Percentage of the County Construction Costs within fifteen (15) business days following written demand from Summit County, acting in its governmental capacity, together with reasonably satisfactory evidentiary documentation supporting any such demand (collectively, the "County Payment Notice"), or, together with interest at the Interest Rate until paid, at such later time specified in Paragraph 6.e.; provided, however that in no event shall a Participant, the Master Developer or Non-Platting Owner pay its actual or, absent Summit County's Payment Notice and subject to reconciliation once the County Construction Costs are actually determined, estimated Assigned Percentage of the County Construction Costs later than the date any such Participant or the Master Developer applies to Summit County, acting in its governmental capacity, for a permit to construct any improvements on any part of such Participant's Parcel or any part of the Non-Participating Lands. Except as otherwise specified in this Paragraph 30, in no event shall any Participant's Assigned Percentage of Summit County Construction Costs, as determined in accordance with Paragraph 4.a. and otherwise in a manner consistent with Paragraph 30.b., be increased in the event Summit County, acting in its governmental capacity, elects not to collect, or is unable to collect, from any Participant that Participant's Assigned Percentage of the County Construction Costs as determined in accordance with Paragraph 4.a.

(iii) *Payment of Assigned Percentages.* Each of the Participants and the Master Developer (but only if the Master Developer is, at such time, an Electing Participant, Requesting Party, or a Limited Participant) agree that if Summit County, acting in its governmental capacity, provides a County Notice and timely commences and diligently prosecutes to completion construction of the Basic Infrastructure pursuant to this Paragraph 30, then each such Participant and the Master Developer shall pay to Summit County, acting in its governmental capacity, all amounts due pursuant to this Agreement with respect to their Parcels or Non-Participating Lands, as applicable, in accordance with the terms and conditions set forth in this Agreement and, without limiting the foregoing, but subject to the terms and conditions of this Agreement, all Participants and the Master Developer, and each of them, irrevocably and unconditionally agree that:

(A) All Basic Infrastructure contemplated by this Agreement constitutes "project improvements" as defined in Utah Code Annotated § 11-36a-102(11).

(B) Any and all payments required to be made by a Participant or the Master Developer pursuant to this Agreement do not constitute an "impact fee" as defined in Utah Code Annotated § 11-36a-102(8)(a) by virtue of being a fee for project improvements within the meaning of Utah Code Annotated § 11-36a-102(20)(a).

(C) The Basic Infrastructure contemplated by this Agreement does not constitute "system improvements" as defined in Utah Code Annotated § 11-36a-102(11).

(D) Subject to Paragraph 30.a.(iii), it will not challenge the right of Summit County, acting in its governmental capacity, to collect any amount due under this Agreement as set forth in this Paragraph 30 for any reason, including, without limitation, that the same is an impact fee, an assessment improperly levied under Utah Code Annotated § 11-36a-101 *et seq.* or otherwise.

(iv) *Assessment Area Act.* Subject to Paragraph 30.a.(ii) and Paragraph 30.b., all Owners and the Master Developer and each of them, agrees that if Summit County, acting in its governmental capacity, provides a County Notice and elects to form an assessment area pursuant to Utah Code Annotated § 11-42-101 *et seq.* (the "Assessment Area Act"), Summit County, acting in its governmental capacity, may assess the Owners for the cost of the Basic Infrastructure in accordance with this Agreement. Further, Summit County, acting in its governmental capacity, shall enforce payment of any such assessments by all Owners and the Master Developer, and all Owners and the Master Developer will pay to Summit County, acting in its governmental capacity, all such assessments with respect to their Parcels or Non-Participating Lands (as applicable) in accordance with the terms and conditions set forth in this Agreement. Without limiting the foregoing, but subject to the terms and conditions of this Agreement, each and every Owner and the Master Developer irrevocably and unconditionally agree that:

(A) Its payment of the amounts set forth in this Agreement shall constitute a donation or contribution pursuant to Utah Code Annotated § 11-42-107 for all purposes under the Assessment Area Act, but not otherwise, and notwithstanding the foregoing, such payment shall be and remain an enforceable obligation of each Owner and of the Master Developer under this Agreement.

(B) Subject to Paragraph 30.a.(iv)(C), each of the Owners and the Master Developer, acting in accordance with Utah Code Annotated § 11-42-104, waive:

(1) The prepayment period under Utah Code Annotated § 11-42-411(6);

(2) The procedure that a local entity like Summit County, acting in its governmental capacity, is required to follow to designate an assessment area or levy an assessment; or

(3) A period to contest the local entity action.

(C) This Agreement constitutes the written waiver set forth in Utah Code Annotated § 11-42-104, and the Owners, and each of them, and the Master Developer consent to Summit County, in its governmental capacity, taking the required action to waive the prepayment period, procedure or contest period; provided, however, that in the event any Owner or the Master Developer initiates any contest or protest of any assessment pursuant to Utah Code Annotated §§ 11-42-106 or 11-42-203, and such contest or protest would increase the amount of the Assigned Percentage of the County Construction Costs of any other Owner or the Master Developer, as determined in accordance with this Agreement and any other agreements referenced in this Paragraph 30, such waiver shall not limit, restrict, delay, or impair the right of such Owner or the Master Developer to oppose any such contest or protest in any applicable forum, but no such opposition shall support any claim that the Assigned Percentage of County Construction Costs of such Owner or the Master Developer should be less than that determined in accordance with Paragraph 30.a.(ii).

b. *Boundary Line Adjustment Agreement.* Notwithstanding any other term or condition of this Agreement including, without limitation, Paragraph 1 and this Paragraph 30, the making of any determination to construct, or any construction, by or at the direction of Summit County, acting in its governmental capacity, of the Basic Infrastructure, or the termination of the Association's right or obligation to construct the Basic Infrastructure, in whole or in part, shall not terminate, alter or amend any other rights or obligations between Summit County and Intermountain Healthcare under that certain Boundary Line Adjustment Agreement, dated February 17, 2009 (the "Boundary Line Adjustment Agreement"), or that certain Closing Agreement, dated July 15, 2009 (the "Closing Agreement"), which are reflected in Paragraph 4.a.(i)(B) of this Agreement, and nothing herein shall constitute a waiver of any right to enforce such rights or obligations or contest or protest any action inconsistent therewith. Accordingly, the cost allocation provisions of this Agreement, the Boundary Line Adjustment Agreement and the Closing Agreement, which provide, in pertinent part, that Intermountain Healthcare's Assigned Percentage, Allocated Share of Plan Participation Costs, Allocated Share of Trail Construction Costs, Allocated Share of Construction Costs or the proportionate allocation of any amounts otherwise assessed, charged or allocated by Summit County, acting in its governmental capacity under this Agreement after delivery of a County Notice, shall not exceed that percentage or allocation determined under this Agreement if a County Notice had not been delivered, either as a percentage or allocated share of the Construction Costs or the County Construction Costs, as the case may be, which excess percentages or allocations, if any, shall be and remain the sole responsibility of Summit County, without recourse to Intermountain Healthcare. Notwithstanding the terms and conditions of this Paragraph 30, the terms and conditions

of Paragraph 4.1.(i)(B) of this Agreement, the Boundary Line Adjustment Agreement, and the Closing Agreement (which are expressly reserved and not waived by reason of this Paragraph 30 or otherwise), shall continue to govern the respective rights and obligations of Intermountain Healthcare and Summit County, irrespective of any construction of the Basic Infrastructure by or at the direction of Summit County, acting in its governmental capacity.

c. *Survival.* Without limiting the foregoing, Summit County, acting only as an Owner, and Intermountain Healthcare acknowledge, understand and agree that Intermountain Healthcare's obligation in Paragraph 4.a. to pay Additional Payments shall survive the delivery of any County Notice. All Additional Payments shall be made to Summit County, acting in its governmental capacity, by Intermountain Healthcare and, in such event, the Additional Payments shall be distributed by Summit County, acting in its governmental capacity, to the Participants (including Summit County, acting only as an Owner) in accordance with Paragraph 4.a.(ii).

31. ASCU Determination to Initiate Construction of Lower Village Roundabout Improvements.

a. *ASCU Roundabout Notice.* Notwithstanding any other provision of this Agreement, if ASCU constructs certain building improvements outside of the Lower Village Development Area, Summit County, acting in its governmental capacity, may determine that the issuance of any specified building permit or other approval including, without limitation, a low impact permit, to ASCU or its affiliates may impact Canyons Resort Drive and, as a result, may require, as a condition to such building permit or other approval, that ASCU or its affiliates to cause the Lower Village Roundabout Improvements to be designed and constructed. In such event, ASCU may initiate the design and construction of the Lower Village Roundabout Improvements by delivering a notice in writing to the Association (the "ASCU Roundabout Notice"), and the Association shall promptly deliver copies thereof concurrently to each of the other Participants. The ASCU Roundabout Notice may be delivered to the Association at any date prior to the date of delivery of a Requesting Party Notice.

(ii) *Roundabout Agreement.* Not later than thirty (30) days after the delivery of the ASCU Roundabout Notice, ASCU and the Association shall enter into a separate cost sharing agreement, which shall not require the joinder or consent of any Owner or Non-Platting Owner, pursuant to which the Association shall design and construct all of the Lower Village Roundabout Improvements and the Trail in the Lower Village Roundabout Area and as much of the Basic Infrastructure and Trail in Parcel LV11 as may be required to allow the Association to design and construct the Lower Village Roundabout Improvements (the "ASCU/Association Roundabout Agreement"). The ASCU/Association Roundabout Agreement shall in all events require:

(i) Such design work shall be performed by the Association in a manner consistent with and in accordance with this Agreement.

(ii) ASCU shall advance or directly pay all cost of Lower Village Roundabout Improvements and Lower Village Roundabout Related Costs incurred by the Association subject only to future reimbursement of the portion of cost of the Lower Village Roundabout Improvements and Lower Village Roundabout Related Costs that would not have been paid by ASCU under Paragraph 4.h. of this Agreement, such payment to be made only when the Association has collected such funds from the Electing Participants pursuant to this Agreement.

(iii) ASCU shall advance the Construction Costs and Trail Construction Costs as may be required to be constructed at that time, subject to future reimbursement when the Electing Participants pay their respective Allocated Share of Construction Costs and allocated Shares of Trail Construction Costs.

(iii) *Construction.* The Association shall construct the Lower Village Roundabout Improvements and so much of the Basic Infrastructure, if any, as may be required to allow the Association to construct the Lower Village Roundabout Improvements.

d. *Participant Review.* The ASCU/Association Roundabout Agreement shall be provided to the Participants for review in the same manner as specified for review of Proposed Construction Plans pursuant to Paragraph 3.d.(iv).

32. Estoppel Certificate. The Association is authorized to execute and deliver to any Electing Participant and to its Mortgagee and prospective purchasers a written estoppel certificate or other statement regarding the status of payment and performance by such Electing Participant of its obligations under this Agreement, in such form and substance as the Association shall reasonably determine. The Association shall make available to any requesting Electing Participant copies of all estoppel certificates which the Association executes and delivers but the Association shall permit the Electing Participant which originally requested the estoppel certificate to redact all confidential information from copies that the Association makes available to other Electing Participants.

33. Approving Representative. The Association shall only be required to deal with one Person with respect to each of the Newly Platted Parcels, the North Parcel, the West Parcel, the South Parcel and, if applicable, the Employee Housing Reserved Parcel. In the event that at any time or on for any reason more than one Person is the Owner of any of those parcels or more than one Person is the holder of a Long-Term Leasehold Interest in any of those parcels, then the Persons owning or holding interests in any of those parcels shall be required to designate in a written notice to the Association one Person to receive all notices and give all necessary consents and approvals required by the terms of this Agreement with respect to all of the Owners of the Parcel and all of the Non-Platting Owners or holders of a Long-Term Leasehold Interest in the parcel of Non-Participating Lands, as applicable (an "Approving Representative").

a. The Approving Representative must be one of the following Persons: (i) if there is no owners' or condominium association, the Approving Representative shall be one (1) Person which is the owner or holder of some interest in a Parcel or parcel of Non-Participating Land; (ii) if there is an owners' or condominium association with respect to a Parcel or parcel of Non-Participating Land, then the only Person that may be the Approving Representative shall be the owners' association or condominium association, as applicable.

b. The name and contact information of the Approving Representative shall be provided to the Association in writing in a manner reasonably satisfactory to the Association.

c. Whenever notice is to be provided to the Owners of a Parcel or the Non-Platting Owners or holders of a Long-Term Leasehold Interest in a parcel of Non-Participating Lands under this Agreement, the Association may deliver such notice only to the designated Approving Representative and need not give notice to any other Person.

d. Whenever the consent or approval of the Owners of a Parcel or the Non-Platting Owners or holders of a Long-Term Leasehold Interest in a parcel of Non-Participating Lands is required under this Agreement, the Association may rely on the consent or approval of the designated Approving Representative and the Association need not obtain the consent or approval of any other Person.

e. The Approving Representative shall have absolute discretion to make the decisions on behalf of the entire Parcel or parcel of Non-Participating Lands, as applicable.

f. In the event the name and contact information of an Approving Representative is not properly provided to the Association, the Association shall not be held liable for failure to provide notice to or seek approval from such Approving Representative or the Owners of the applicable Parcel or the owners or holders of a Long-Term Leasehold Interest of the parcel of Non-Participating Lands. The Association may rely on the name and contact information of the Approving Representative provided to the Association, regardless of whether the information is, in fact, incorrect or is disputed by the Owners of the Parcel or the owners or holders of a Long-Term Leasehold Interest in a parcel of Non-Participating Lands. The Association is under no duty to verify the authority or power of the Approving Representative or any other information given to the Association regarding the Approving Representative. Each Owner of an interest in a Parcel or owner of or holder of a Long-Term Leasehold Interest in a parcel of Non-Participating Lands agrees to indemnify, defend, and hold harmless the Association in the event the Association contracts with, or gives notice to, a designated Approving Representative and that Approving Representative, for any reason, is not, or is disputed to be, the Approving Representative designated by such Owners, Non-Platting Owners or holders of a Long-Term Leasehold Interest, as applicable.

34. Provisions Relating to Master Developer. If and to the extent that ASCU is simultaneously (a) the Master Developer and (b) a Non-Platting Owner or holder of a Long-Term Leasehold Interest in Non-Participating Lands, then ASCU may exercise its rights under this Agreement in either capacity, and shall have only the rights and only be subject to the obligations that apply to the exercised capacity; provided, if ASCU does not clearly specify in writing the capacity in which it is exercising rights, it shall be deemed to be exercising its rights as a Master Developer and shall have only the rights and be subject to the obligations of the Master Developer under this Agreement.

35. Mortgagee Protection. A breach of any of the covenants or restrictions contained in this Declaration shall not defeat or render invalid the lien of any Mortgage made in good faith and for value as to a Parcel or any part thereof, but all of the foregoing provisions, terms and covenants of this Agreement shall be binding upon and effective against any Owner whose title thereto is acquired by foreclosure, trustee's sale, deed in lieu of foreclosure or otherwise. Unless and until it enters into possession or acquires title pursuant to foreclosure, trustee's sale or any arrangement or proceeding in lieu thereof, a Mortgagee shall have no obligation to take any action to comply with, and may not be compelled to take any action to comply with, any of the covenants, provisions, or requirements of this Agreement except the obligation to subordinate its lien or security interest to this Agreement.

36. Captions. The captions to the Paragraphs, subparagraphs or other portions of this Agreement are for convenience only and shall in no way affect the manner in which any provision thereof is construed. When a Paragraph is referred to in this Agreement followed by an arabic or roman number, a letter or a combination of the foregoing, the reference shall be deemed to be to the correspondingly numbered or lettered Paragraph of this Agreement unless a Paragraph in another agreement, document or instrument is expressly referenced.

[SEPARATE SIGNATURE PAGES FOLLOW]

IN WITNESS WHEREOF, the Parties have executed and delivered this Agreement as of the date first set forth above.

ASSOCIATION:

THE CANYONS RESORT VILLAGE
ASSOCIATION, INC., a Utah nonprofit
corporation

By [Signature]
Its: Director

Address: ⁷⁰ 1777 Sun Peak Drive, Suite ^{A-106} 130-B
Park City, UT 84098

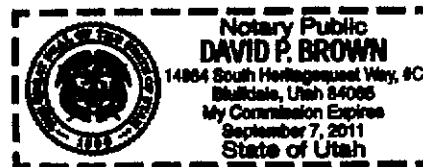
STATE OF UTAH)
COUNTY OF Summit) : ss.

The foregoing instrument was acknowledged before me this 22nd day of July, 2011, by Jennifer Guetschow, Director of The Canyons Resort Village Association, Inc., a Utah nonprofit corporation.

[Signature]
NOTARY PUBLIC
Residing at: Summit County, UTAH

My Commission Expires:

Sept. 7, 2011



PCFSD:

PARK CITY FIRE SERVICE DISTRICT, a special
service district organized under the laws of the
State of Utah

By Scott W. Adams
Its: ASST. FIRE CHIEF

Address: PO Box 980010
PARK CITY, UT 84098

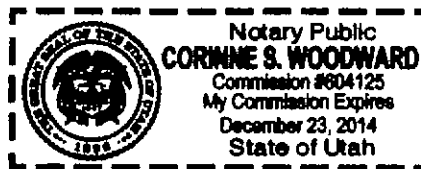
STATE OF Utah)
COUNTY OF Summit) ss.

The foregoing instrument was acknowledged before me this 26th day of July,
2011, by Scott W. Adams, Asst. Fire Chief of Park
City Fire Service District, a special service district organized under the laws of the State of Utah.

[Signature]
NOTARY PUBLIC
Residing at: Park City, UT

My Commission Expires:

12/23/2014



INTERMOUNTAIN
HEALTHCARE:

IHC HEALTH SERVICES, INC.,
a Utah nonprofit corporation

Handwritten: 7/20/11

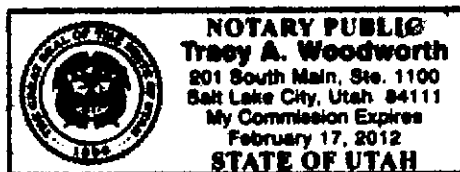
By *D.R. Gardner*
Its: *D.R. Gardner*
Address: _____

STATE OF UTAH)
: ss.
COUNTY OF SALT LAKE)

The foregoing instrument was acknowledged before me this 20 day of July, 2011, by *D.R. Gardner*, *Vice. President* of IHC Health Services, Inc., a Utah nonprofit corporation.

Tracy A. Woodward
NOTARY PUBLIC
Residing at: *Salt Lake*

My Commission Expires:
2-17-2012



COUNTY:

SUMMIT COUNTY, a political subdivision of the
State of Utah

By Aust W. Jones
Its: Manager

Address: 60 N. Main
Coalville, UT 84017

STATE OF Utah)
: ss.
COUNTY OF Summit)

The foregoing instrument was acknowledged before me this 23rd day of June,
2011, by Robert Jasper, _____ of Summit
County, Utah, a political subdivision of the State of Utah.



Nancy M. Wetherell
NOTARY PUBLIC
Residing at: Provo, Utah

My Commission Expires: 3/21/2014

WHITE PINE:

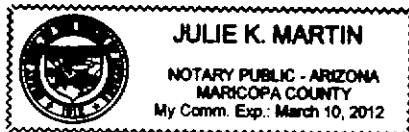
WHITE PINE DEVELOPMENT CORP.,
a Utah corporation

By 
Its Manager

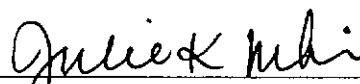
Address: 4800 N Scottsdale Rd #1200
Scottsdale, AZ 85251

STATE OF Arizona)
: ss.
COUNTY OF Maricopa

The foregoing instrument was acknowledged before me this 14 day of July,
2011, by R Paul Barker, _____ of White Pine
Development Corp., a Utah corporation.



My Commission Expires: 03-10-12


NOTARY PUBLIC
Residing at: 9719 E Rose Ln.
Scottsdale AZ 85250

ACKNOWLEDGMENT, APPROVAL AND LIMITED JOINDER
OF SUMMIT COUNTY TO
COST SHARING AGREEMENT
FOR
THE CANYONS LOWER VILLAGE BASIC INFRASTRUCTURE

By the signature below, and without affecting or limiting any other signature of Summit County to this Agreement in the capacity as the Owner of Parcel LV4, the foregoing Cost Sharing Agreement for The Canyons Lower Village Basic Infrastructure is acknowledged and approved by Summit County, acting in its governmental capacity; provided that Summit County, acting in its governmental capacity, also joins the foregoing Cost Sharing Agreement for The Canyons Lower Village Basic Infrastructure solely with respect to Paragraphs 6.h. and 30 thereof (and incorporating by this reference the meanings of all capitalized terms used in Paragraph 30) and agrees to be bound by said Paragraphs 6.h. and 30 only if it delivers a County Notice (as defined in said Paragraph 30).

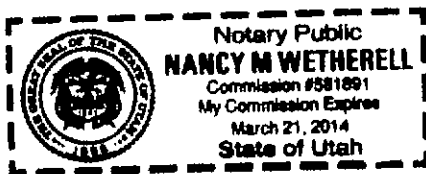
SUMMIT COUNTY, a political subdivision of the
State of Utah

By: Robert W. Jasper
Name: Robert W. Jasper
Its: Manager

Address: 60 N Main
Coalville, UT 84017

STATE OF Utah)
: SS.
COUNTY OF Summit)

The foregoing instrument was acknowledged before me this 23rd day of June,
2011, by Robert Jasper, _____ of Summit
County, Utah, a political subdivision of the State of Utah.



My Commission Expires: 3/21/2014

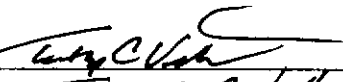
Nancy M. Wetherell
NOTARY PUBLIC
Residing at: Erda, Utah

ACKNOWLEDGMENT AND APPROVAL
OF MASTER DEVELOPER
TO
COST SHARING AGREEMENT
FOR
THE CANYONS LOWER VILLAGE BASIC INFRASTRUCTURE

ASC Utah LLC, a Delaware limited liability company ("ASCU"), in its capacity as Master Developer under the SPA Development Agreement, is executing this Agreement for the limited purpose of: (i) confirming that, as of the date of this Agreement, ASCU is the Master Developer under the SPA Development Agreement; (ii) acknowledging its right, subject to and in accordance with the terms of this Agreement, to become a Joining Party, a Requesting Party, a Later Electing Participant, a Limited Participant or an Electing Participant; (iii) acknowledging and agreeing that, upon becoming a Joining Party, a Requesting Party, a Later Electing Participant, a Limited Participant or an Electing Participant, in any such capacity, its rights and obligations will be governed by the terms of this Agreement as to those matters contemplated by this Agreement; (iv); the obligation of ASCU pursuant to Paragraph 31; and (v) acknowledging that, other than (a) the right to provide and receive notices and documents pursuant to the terms of this Agreement, (b) the right with respect to indemnities pursuant to Paragraph 5.f. of this Agreement, (c) the limited right to transfer and assign its interest as Master Developer under Paragraph 16.c, and (d) the obligations of ASCU under Paragraph 31, until such time as ASCU becomes a Joining Party under this Agreement, ASCU, either as Master Developer or otherwise, shall have no further rights or obligations under this Agreement. Capitalized terms used in this Acknowledgment and Approval of Master Developer shall be as defined in the Agreement.

Master Developer:

ASC UTAH LLC, a Delaware limited liability company

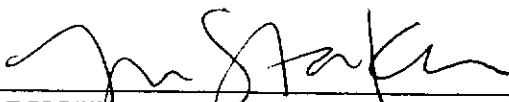
By: 
Name: Timothy C. Vetter
Its: Vice President

Address: 4000 The Canyons Resort Drive
Park City UT 84098

STATE OF Utah)
COUNTY OF SUMMIT) : ss.



The foregoing instrument was acknowledged before me this 22 day of JULY, 2011, by TIM VETTER, VICE PRESIDENT of ASC Utah, LLC, a Delaware limited liability company.



NOTARY PUBLIC
Residing at: 1850 Sidenwinder Dr. Park City UT 84060

My Commission Expires:

06/13/2012

**EXHIBIT A-I
TO
COST SHARING AGREEMENT
FOR
THE CANYONS LOWER VILLAGE BASIC INFRASTRUCTURE**

**LOWER VILLAGE PLATTED PARCELS
(Legal Description for the Newly Platted Lower Village Parcels)**

"Newly Platted Lower Village Parcels"

All of Lots LV2A, LV2B, LV3, LV4, LV6, LV7, LV10, LV11 and LV13 according to the Lower Village Area Master Plat, according to the Official Plat thereof, on file in the Official Records

"PCFSD Parcel"

Lower Village Parcel 1 Plat recorded in the Official Records on June 7, 2004 as Entry No. 700482

Tax ID NO. PP-102-C-2-A, PP-PW-1-610-A, PP-102-B-12, PP-102-B-10-11-A,
PP-102-B-10-11-X, PP-102-B-8-9-X, PP-102-B-8-11, PP-102-B-5-16-X,
PP-102-B-6, PP-102-C-2-B, LV1-X

**EXHIBIT A-II
TO
COST SHARING AGREEMENT
FOR
THE CANYONS LOWER VILLAGE BASIC INFRASTRUCTURE
NON-PARTICIPATING LANDS**

[Depictions of the North Parcel, West Parcel and South Parcel are attached to Exhibit F]

(Legal Description for Non-Participating Lands)

Beginning at the southwest corner of Section 31, Township 1 South, Range 4 East, Salt Lake Base & Meridian, a Found brass cap, (basis of bearing being S.89°44'59"E., a distance of 2694.30 feet from the said southwest corner to the south quarter corner of said Section 31); thence North 00°00'31" East a distance of 1359.80 feet along the west line of said Section 31 to a point on the southerly right-of-way line of The Canyons Resort Drive and a point on a non-tangent 392.00 foot radius curve to the left, center bears North 26°08'10" West; thence along the arc of said curve and along said southerly right-of-way and through a central angle of 15°21'50", a distance of 105.12 feet to a point on the boundary of the "Lower Village Parcel 1" Subdivision boundary; thence leaving said southerly right-of-way, and along said boundary the following eight (8) calls; 1) South 00°47'37" West a distance of 136.62 feet; 2) thence South 20°41'06" East a distance of 189.75 feet; 3) thence South 82°34'05" East a distance of 143.41 feet; 4) thence North 90°00'00" East a distance of 8.85 feet to a point on a non-tangent 330.00 foot radius curve to the right; center bears North 81°17'40" East; 5) thence along the arc of said curve through a central angle of 11°35'49", a distance of 66.79 feet; 6) thence North 02°53'29" East a distance of 227.85 feet to a point on a 150.00 foot radius curve to the left; 7) thence along the arc of said curve through a central angle of 44°20'26", a distance of 116.08 feet; 8) thence North 41°26'57" West a distance of 72.68 feet to a point on the southerly right-of-way line of The Canyons Resort Drive; thence leaving said subdivision boundary and continuing along said southerly right-of-way North 48°30'00" East a distance of 135.85 feet to a point on a 900.00 foot radius curve to the right; thence along said southerly right-of-way and the arc of said curve through a central angle of 35°20'26", a distance of 555.13 feet; thence leaving said southerly right-of-way South 00°00'00" East a distance of 94.81 feet; thence North 90°00'00" East a distance of 29.72 feet; thence South 00°00'00" East a distance of 64.00 feet; thence North 90°00'00" East a distance of 100.00 feet; thence North 00°14'50" East a distance of 64.00 feet; thence North 90°00'00" East a distance of 30.00 feet; thence North 00°00'00" East a distance of 84.19 feet to a point on said southerly right-of-way, said point also being on non-tangent 196.93 foot radius curve to the right, center bears South 23°01'04" West; thence along said southerly right-of-way and the arc of said curve through a central angle of 18°51'56", a distance of 64.84 feet; thence continuing along said right-of-way South 48°07'00" East a distance of 151.50 feet to a point on a 340.00 foot radius curve to the left; thence continuing along said southerly right-of-way and the arc of said curve through a central angle of 43°22'08", a distance of 257.36 feet to the westerly right-of-way line of State Highway 224 and the point of a non tangent 1230.92 foot radius curve to the left, center bears North 75°45'48" East; thence leaving said southerly right-of-way of Canyons Resort Drive and along said westerly right-of-way line of State Highway 224

EXHIBIT A-II

EXECUTION VERSION
786841.30

LV11 COST SHARING AGREEMENT

and along the arc of said curve through a central angle of 18°36'07", a distance of 399.64 feet; thence continuing along said westerly right-of-way South 89°59'29" East a distance of 7.34 feet to a point on a non-tangent 1230.92 foot radius curve to the left, center bears North 56°53'26" East; thence continuing along said westerly right-of-way and along the arc of said curve through a central angle of 27°15'15", a distance of 585.52 feet; thence continuing along said westerly right-of-way South 60°37'46" East a distance of 809.08 feet; thence leaving said westerly right-of-way South 00°25'09" East a distance of 179.62 feet; thence North 90°00'00" West a distance of 769.36 feet; thence North 00°00'00" West a distance of 366.63 feet; thence North 64°11'52" West a distance of 22.55 feet; thence South 15°14'09" West a distance of 100.00 feet; thence North 74°45'51" West a distance of 340.16 feet; thence South 52°15'00" West a distance of 286.02 feet; thence South 03°33'29" East a distance of 446.81 feet to the northerly boundary of White Pine Canyon Road; thence along said right-of-way North 89°44'59" West a distance of 530.60 feet; thence South 00°15'01" West a distance of 33.98 feet to the south line of said Section 31; thence along said section line North 89°44'59" West a distance of 272.18 feet to a point on a non-tangent 370.00 foot radius curve to the left, center bears North 50°26'19" West; thence leaving said section line and along the arc of said curve through a central angle of 02°45'41" a distance of 17.83 feet; thence South 70°44'25" West a distance of 401.20 feet; thence South 89°18'57" West a distance of 173.27 feet to a point on the west line of Section 6, Township 2 South, Range 4 East, Salt Lake Base & Meridian; thence along said section line North 00°21'03" East a distance of 122.75 feet to said point of beginning.

Containing 2,804,267 square feet, or 65.38 acres, more or less.

Less and Except the following Real Property:

All of Lots LV2A, LV2B, LV3, LV4, LV6, LV7, LV10, LV11, and LV13, according to the Lower Village Development Area Master Plat, according to the Official Plat thereof, on file and of record in the official records of the Summit County, Utah Recorder.

And

Lower Village Parcel 1 Plat previously recorded in the official records of the Summit County, Utah Recorder on June 7, 2004, as Entry No. 700482, in Book 1625, beginning at Page 1779.

Tax ID No. PP-102-B-12, PP-FW-1-610-A, PP-102-C-2,
PP-102-B-3-A, PP-102-M, PP-102-B-3

EXHIBIT A-III

EXECUTION VERSION
786841.30

LV11 COST SHARING AGREEMENT

**EXHIBIT B
TO
COST SHARING AGREEMENT
FOR
THE CANYONS LOWER VILLAGE BASIC INFRASTRUCTURE**

Allocation Schedules

CALCULATION OF ASSIGNED PERCENTAGES ASSUMING ALL OWNERS
PARTICIPATE

Parcel	Maximum Gross Building Area	Assigned Percentages
LV4	185,000	18.44%
LV6	275,000	27.40%
LV10	80,000	7.97%
South Parcel	125,584	12.51%
North Parcel/West Parcel	209,200	20.85%
Employee Housing Reserved Parcel	128,700	12.84%
Total	1,003,484	100.00%

CALCULATION OF ASSIGNED PERCENTAGES ASSUMING ALL OWNERS EXCEPT
OWNER OF NORTH PARCEL AND OWNER OF EMPLOYEE HOUSING RESERVED
PARCEL PARTICIPATE

Parcel	Maximum Gross Building Area	Assigned Percentages	Reallocation Upon Non- Participation (<u>"Excepted Percentage"</u>)	Reallocation Solely Between IHC and County (<u>"Transferred Percentage"</u>)	County and Intermountain Healthcare Adjusted Percentage Interests
LV4	185,000	18.44%	27.80%	13.91%	41.71%
LV6	275,000	27.40%	41.31%	(13.91%)	27.40%
LV10	80,000	7.97%	12.02%		
South Parcel	125,584	12.51%	18.87%		
North Parcel/West Parcel	209,200	20.85%	0.00%		
Employee Housing Reserved Parcel	128,700	12.83%	0.00%		
Total	1,003,484	100.00%	100.00%		

CACULATION OF ASSIGNED PERCENTAGES ASSUMING ALL OWNERS EXCEPT
OWNER OF EMPLOYEE HOUSING RESERVED PARCEL PARTICIPATE

Parcel	Maximum Gross Building Area	Assigned Percentages	Reallocation Upon Non- Participation ("Excepted Percentage")	Reallocation Solely Between IHC and County ("Transferred Percentage")	County and Intermountai n Healthcare Adjusted Percentage Interests
LV4	185,000	18.44%	21.15%	4.03%	25.18%
LV6	275,000	27.40%	31.43%	(4.03%)	27.40%
LV10	80,000	7.97%	9.15%		
South Parcel	125,584	12.51%	14.36%		
North Parcel/West Parcel	209,200	20.85%	23.91%		
Employee Housing Reserved Parcel	128,700	12.83%	0.00%		
Total	1,003,484	100.00%	100.00%		

CALCULATION OF ASSIGNED PERCENTAGES ASSUMING ALL OWNERS BUT
OWNER OF NORTH PARCEL PARTICIPATE

Parcel	Maximum Gross Building Area	Assigned Percentages	Reallocation Upon Non- Participation ("Excepted Percentage")	Reallocation Solely Between IHC and County ("Transferred Percentage")	County and Intermountain Healthcare Adjusted Percentage Interests
LV4	185,000	18.44%	23.29%	7.21%	30.51%
LV6	275,000	27.40%	34.62%	(7.21%)	27.40%
LV10	80,000	7.97%	10.07%		
South Parcel	125,584	12.51%	15.81%		
North Parcel/West Parcel	209,200	20.85%	0.00%		
Employee Housing Reserved Parcel	128,700	12.83%	16.21%		
Total	1,003,484	100.00%	100.00%		

**EXHIBIT C
TO
COST SHARING AGREEMENT
FOR
THE CANYONS LOWER VILLAGE BASIC INFRASTRUCTURE**

**FORM OF JOINDER AND CONSENT TO COST SHARING AGREEMENT FOR THE
CANYONS LOWER VILLAGE BASIC INFRASTRUCTURE**

WHEN RECORDED, RETURN TO:

Jones Waldo Holbrook & McDonough PC
170 South Main, Suite 1500
Salt Lake City, Utah 84101
Attn: Glen D. Watkins

**JOINDER AND CONSENT TO COST SHARING AGREEMENT FOR THE CANYONS
LOWER VILLAGE BASIC INFRASTRUCTURE**

Effective as of the Joinder Date (set forth below the signature block of The Canyons Resort Village Association, Inc.), the undersigned hereby joins as a Party to that certain Cost Sharing Agreement For The Canyons Lower Village Basic Infrastructure, dated as of _____, 20____, recorded in Official Records on _____, 20____, as Entry No. _____, in Book _____ beginning at Page _____, as amended (the "Agreement"), hereby acknowledges that it has received and read a full and complete copy of the Agreement, and hereby consents to and agrees to be bound by each and every term of the Agreement, including, without limitation, each of the obligations of the Parties, Owners, **[for Master Developer: "Requesting Party"]** and Participants as well as a Joining Party thereunder. Capitalized terms not otherwise defined herein shall have the same meaning as set forth in the Agreement.

Effective as of the Joinder Date, the undersigned hereby agrees and represents and warrants to each of the Parties as follows:

1. The undersigned owns the whole or undivided fee interest, or, as lessee, holds a Long-Term Leasehold Interest, in that certain real property located within the Lower Village Development Area (as defined in the Agreement) and more particularly described as follows (the "Property"):

[Insert Legal Description of Property]

2. The Property is a Parcel subject to the Agreement, and the obligations of the undersigned as Party, an Owner and Participant, as well as a Joining Party, under the Agreement shall be servitudes on the Property and shall run with the land. The undersigned hereby authorizes the Association to record this instrument against the Property in the Official Records.

[Note to Preparer: this Paragraph 2 is not required or applicable if Master Developer is the Joining Party.]

3. This instrument may be executed in counterparts.

4. The effectiveness of this instrument is subject to acceptance below by The Canyons Resort Village Association, Inc., and, when so accepted, shall become effective upon the Joinder Date.

[SEPARATE SIGNATURE PAGES TO FOLLOW]

a

Address: _____

EXHIBIT C-3
00927113 Page 83 of 89 Summit County
COST SHARING AGREEMENT

ACCEPTED:

ASSOCIATION:

THE CANYONS RESORT VILLAGE
ASSOCIATION, INC, a Utah nonprofit corporation

By _____
Its: _____

Address: 1777 Sun Peak Drive, Suite 130-B
Park City, UT 84098

Dated: _____, 20__ (the "Joinder
Date")

STATE OF _____)
: ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____,
20__, by _____, _____ of The
Canyons Resort Village Association, Inc., a Utah nonprofit corporation.

NOTARY PUBLIC

Residing at: _____

My Commission Expires:

**EXHIBIT D
TO
COST SHARING AGREEMENT
FOR
THE CANYONS LOWER VILLAGE BASIC INFRASTRUCTURE**

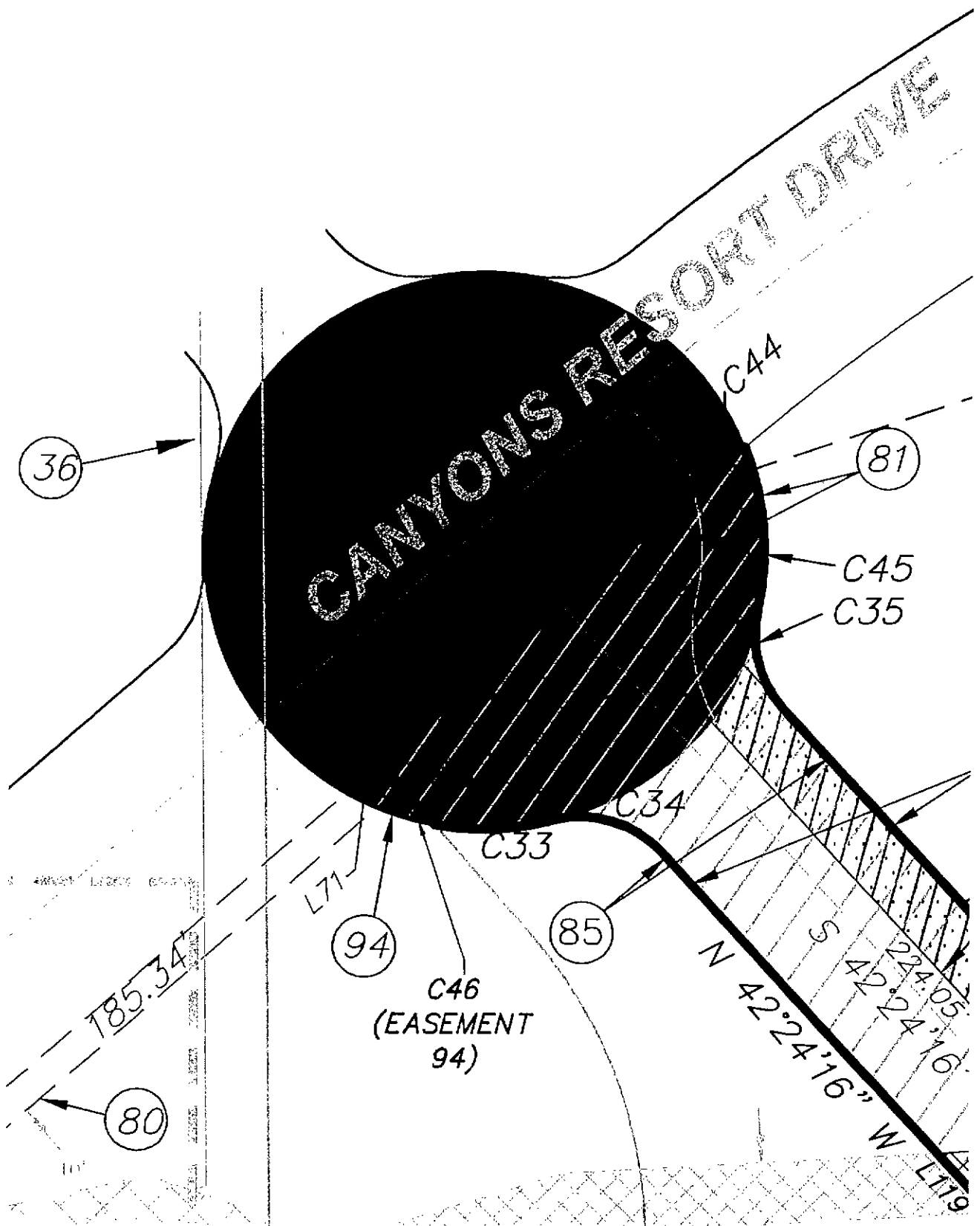
[Third Person Contributor Funds]

Iron Mountain Associates\$46,000.00

ASCU an amount equal to sixty seven percent (67%) of the Lower Village Roundabout Utility Improvements and fifty percent (50%) of the aggregate of the Lower Village Roundabout Surface Improvements, the Lower Village Roundabout Engineering Costs and the Related Costs, all as determined in accordance with Paragraphs 3.e.(i.) and 4.h. of the Agreement

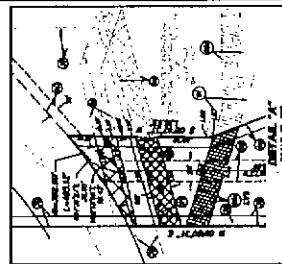
**EXHIBIT E
TO
COST SHARING AGREEMENT
FOR
THE CANYONS LOWER VILLAGE BASIC INFRASTRUCTURE**

Depiction of Lower Village Roundabout Area



**EXHIBIT F
TO
COST SHARING AGREEMENT
FOR
THE CANYONS LOWER VILLAGE BASIC INFRASTRUCTURE**

Depiction of North Parcel, South Parcel and West Parcel

[illegible]SEE ENTRY 3 OF 3 FOR
MARRIED COUSIN
INTERESTS LINKS

The Southern boundary of the South Parcel may vary in accordance with the terms of the Agreement.

WEST PARCEL