

WATER INFRASTRUCTURE BETTERMENT AGREEMENT

THIS AGREEMENT FOR WATER INFRASTRUCTURE BETTERMENT (“Agreement”) is made as of this ___th day of October 2024, by and between **MOUNTAIN REGIONAL WATER SPECIAL SERVICE DISTRICT**, a special service district of the State of Utah, whose address is 6421 N. Business Park Loop Rd., Suite A, P.O. Box 982320, Park City, Utah 84098 (the “District”) and **PROMONTORY DEVELOPMENT, LLC**, an Arizona limited liability company, successor-in-interest to both Pivotal Promontory, LLC, an Arizona limited liability company, and Pivotal Promontory Development, LLC, an Arizona limited liability company, authorized to do business in the State of Utah, whose address is 8758 Promontory Ranch Road; Park City, UT 84098 (“Promontory”). The District and Promontory are sometimes referred to herein individually as a “Party” and collectively as the “Parties.”

A. District and Promontory previously entered into that certain Agreement for the Annexation of Promontory Development Project and to Provide Culinary Water Service to Development, dated May 1, 2000, as amended (the “Annexation Agreement”). Each capitalized term not defined in this Agreement has the meaning ascribed to it in the Annexation Agreement.

B. Pursuant to Section 8 of the Annexation Agreement, the Parties agreed “To the extent that Pivotal’s distribution or transmission pipelines, because of their location, could be used by the District to serve the broader needs of the District, the District may pay for the incremental cost of constructing enlarged distribution or transmission pipelines with the enlarged carrying capacity being reserved and dedicated to the District for its use and benefit of all its customers.

C. Beginning October, 2024, Promontory plans to perform certain internal subdivision water system improvements in the area of its Painted Valley Pass Road Connection to Brown’s Canyon Road Infrastructure (in Promontory’s Painted Canyon community).

D. The District desires to upsize, enlarge, and enhance its distribution or transmission equipment and pipelines (“Betterment Work”) in connection with the Project, and said equipment and pipelines serve the broader needs of the District but do not serve Promontory.

G. Promontory is willing to cooperate with the District as long as the District pays for all costs allocable to the betterment of the District’s system.

FOR GOOD AND VALUABLE CONSIDERATION, the receipt and adequacy of which are hereby acknowledged, incorporating the above recitals, the Parties agree as follows:

1. Recitals. The foregoing recitals are incorporated herein by this reference.
2. Contract with Contractor. Promontory has or shall enter into an agreement with MVC Construction (the “Contractor”) for the Painted Valley Pass Road Connection to Brown’s Canyon Road Infrastructure (in Promontory’s Painted Canyon community), which project includes the Betterment Work on behalf of the District.

3. Scope of Betterment Work. a. The Betterment Work shall consist of:

Description	Unit	Qty	Cost
1. Pro-rata Mobilization Shared Cost	LS	1	\$3,414
2. Upsize & Install 12" Transmission Line PVC C900 Atkinson Zone	LF	5,767	\$146,775
3. Upsize & Install 55 -12" Fittings	EA	55	\$42,240
4. Upsize & Install 12 – 12" Valves	EA	12	\$39,624
6. Furnish & Install PRV Mechanical specific to 12-inch upsize line connection	LS	1	\$12,000
7. Shared Allowance for expanded trench bedding	LS	1	\$3,350
8. Pro-rata Pressure/Bacteria Test Waterline	LS	1	\$1,420
9. Thrust blocking for larger junctions	LS	1	\$4,100
10. Pro-rata share of CMT testing larger main.	LS	1	\$1,550
Total			\$254,473

b. All subdivision water system improvements will be constructed to the District's standards and shall also comply with the standards of the Division of Drinking Water.

c. Upon completion of these improvements and their inspection and acceptance by the District, Promontory shall transfer all of its right, title and interests in these improvements and all appurtenant easements to the District and the District, subject to the warranties required by its Rules and Regulations, shall assume the obligation for OM&R of these facilities.

d. Promontory shall also transfer to the District all easements and rights of way necessary for the continued operation, maintenance repair and replacement of the water system improvements without cost to the District.

4. Agreement to pay for Betterment. The District agrees to pay **\$254,473.00**, to Promontory, for the Betterment Work performed by Contractor, plus any additional amounts appropriately charged by the Contractor related to the Betterment Work. Payment shall be made to Promontory by check or wire prior to the beginning of the commencement of the Betterment Work.

5. Schedule. Contractor and Promontory intend to schedule the installation of the subject 12-inch water main along Painted Valley Pass Road from Station 10+00 to Station 67+67, beginning at the PRV at Station 67+67 to occur from 1/01/25 – 4/1/25.

6. Further Action/Amendment. The Parties shall execute and deliver all documents, provide all information, and take or forbear from all such action as may be necessary or appropriate to achieve the purposes of this First Amendment.

7. Counterparts. This Agreement may be executed in any number of counterpart originals, each of which shall be deemed an original instrument for all purposes, but all of which shall comprise one and the same instrument.

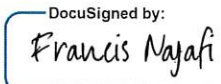
8. Governing Law. This Agreement shall be construed and enforced in accordance with the laws of the State of Utah.

9. No Third Party Beneficiary Rights. This Agreement is not intended to create, nor shall it be in any way interpreted or construed to create, any third party beneficiary rights in any person not a Party hereto.

10. Authority. The individuals who execute this Agreement represent and warrant that they are duly authorized to execute this instrument on behalf of each Party and that no other signature, act, or authorization is necessary to bind the Parties to this Agreement.

IN WITNESS WHEREOF the Parties have caused this instrument to be executed as of the Effective Date first set forth above.

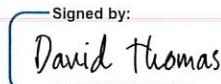
PROMONTORY DEVELOPMENT, LLC

By: 
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Francis Najafi 1/13/2025 | 2:39 PM PST
Authorized Agent

MOUNTAIN REGIONAL WATER SPECIAL SERVICE DISTRICT

By: 
0A74A00C016F4DA...
Andy Garland 1/14/2025 | 9:25 AM MST
General Manager

APPROVED AS TO FORM:


A15028EFC00B4BF...
David L. Thomas 1/14/2025 | 9:29 AM MST
Chief Civil Deputy