

LEISURE FACILITY AGREEMENT

THIS LEISURE FACILITY AGREEMENT (hereinafter, "Agreement"), is made and entered into as of January 1st, 2022 (the "Effective Date") by and between Town Center Metropolitan District (hereinafter, "CLIENT"), and YMCA of Metropolitan Denver (hereinafter, "MANAGER"), regarding the operation of the facility as hereafter described. CLIENT and MANAGER may be referred to as a "Party" or collectively as "Parties."

WHEREAS, CLIENT is a subdistrict of a Colorado metropolitan district and political subdivision of the State of Colorado with full right and authority to enter into this Agreement, and is the owner of the Fairway Villas Clubhouse (the "Facility"), located in Fairway Villas at Green Valley Ranch in Denver, Colorado (the "Property"); and

WHEREAS, MANAGER is in the business of managing and providing consultation to leisure complexes, health/fitness facilities and spas regarding aspects of operational coordination, programming and events implementation within such facilities; and

WHEREAS, the Parties have agreed that MANAGER will provide the scope of services described in this Agreement and the exhibits attached hereto and made a part hereof, in accordance with the terms and conditions of this Agreement; and

NOW, THEREFORE, in consideration of the mutual covenants and representations hereinafter set forth, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto covenant agree as follows:

1. Appointment. Effective Date and Term. Agreement

a. CLIENT hereby engages MANAGER, and MANAGER hereby accepts such engagement, on the terms and conditions of this Agreement. This Agreement will be effective on the Effective Date.

b. Management Services. MANAGER will perform the Management Services detailed in Exhibit B, attached hereto and made a part hereof, commencing on January 1st, 2022 (the "Management Services Commencement Date") and expiring December 31, 2022 (the "Initial Term"), subject to any termination rights contained herein. This Agreement may be renewed for successive calendar years (a "Renewal Term") upon the mutual agreement of the parties.

2. Scope of Authority. Services performed by MANAGER under this Agreement will be done on behalf and at the expense of CLIENT, subject to the limitations set forth in this Agreement.

3. Agreement. The Agreement shall include: (a) this Agreement, (b) Scope of Management Services (c) the Lifestyle Director Job Description, and (d) Key Performance Indicator Performance Agreement.

4. CLIENT and MANAGER Obligations.

- a. CLIENT shall make all payments to MANAGER in accordance with this Agreement.
- b. CLIENT shall provide all MANAGER staff with an initial orientation with respect to the Property.
- c. CLIENT shall provide all MANAGER staff with access to and use of the Facility.
- d. CLIENT shall provide the systems and related facilities necessary for the operation of the Facility, including, without limitation, and to the extent applicable, all life/safety, security cameras, heating, ventilation, air conditioning, water, elevator, telephone, computer, electrical, plumbing, sanitation, kitchen, mechanical and other systems, and facilities ("Building Systems") reasonably necessary in connection with the operation of the Facility.
- e. CLIENT shall maintain and repair all Building Systems reasonably necessary in connection with the operation of the Facility located within or passing through the Facility, as an expense of the Property.
- f. CLIENT will enter into all third-party service agreements as may be required for the Facility. MANAGER will not enter into third-party service agreements without prior CLIENT approval. This includes, but is not limited to, janitorial, equipment maintenance, parking, food service and others for services to the Facility.
- g. CLIENT shall be responsible for the condition of the Facility's physical plant and equipment (whether said equipment is located within or outside the confines of the Facility). It is expressly understood that while MANAGER and its employees are obligated to report its or their observations of conditions in the Facility and with respect to the equipment located within the Facility to the extent and when they observe such conditions, MANAGER and its employees are not qualified to make inspections or repairs to equipment or to the physical plant, and will not be held liable for the condition of the Facility or of the equipment located therein, or for defects and deficiencies of the Facility or equipment.
- h. Subject to the terms of Section 3.G. above, CLIENT shall provide cleaning equipment to MANAGER and evening cleaning service to the Facility for the proper maintenance of all facilities and operating equipment within the Facility. CLIENT covenants and agrees that CLIENT will cause the regular and periodic inspection by qualified persons of the Facility, and all equipment and installations contained therein, to ensure that same are operative, safe and in working order and condition. CLIENT agrees that it will enter into one or more service agreements, as appropriate, to ensure that all Facility equipment is operative, safe and in working order and condition. The cost of said inspections and service agreements will be borne by CLIENT. It is understood and agreed that MANAGER is not responsible to perform safety inspections or to perform maintenance or repairs on any equipment or installations, or within the Facility.
- i. CLIENT shall provide refuse removal services for the Facility at the Property.

j. CLIENT shall provide or make available office equipment and office supplies for use by MANAGER or CLIENT shall assist MANAGER in the procurement thereof.

k. MANAGER shall offer recommendations and other non-financial assistance to CLIENT in connection with CLIENT'S purchase of FF&E for the Facility and any operating equipment or operating supplies in accordance with the CLIENT'S procurement system. All costs and expenses incurred for such FF&E, equipment and supplies shall be borne solely by CLIENT.

5. Personnel Matters.

a. Employees of MANAGER. All persons engaged in work at the Facility, including the selected Lifestyle Director, will be employees of MANAGER or independent contractors of MANAGER or of Town Center Metropolitan District. MANAGER will have the authority to search for, identify, hire, supervise, manage, discipline, and discharge such employees or contractors in its sole discretion. CLIENT is required to accommodate the needs of the MANAGER'S electronic timekeeping system which will include providing internet access and a computer that meets the specifications for the software system at or near the employee entrance allowing employees to clock in upon arrival or departure. If this cannot be accommodated at the employee entrance, then the CLIENT will provide support for opening and closing procedures which would allow the staff to clock in before performing opening duties and after performing closing duties.

(1) Lifestyle Director. Given the importance of the Lifestyle Director ("Director") position in the operation and programming of the facilities, resident representatives shall be provided the opportunity to participate in the hiring and selection process of the Director. The Director's job description is attached as Exhibit C.

(2) Program Advisory Committee. The Director shall coordinate and chair a Program Advisory Committee (PAC) to identify and review community program offerings and shall develop a series of metrics to effectively measure program offerings. The PAC shall meet no fewer than (4) times annually.

b. Payroll and Human Resource Administration Reimbursement. With respect to all persons engaged in work at the Facility who are employed by MANAGER, CLIENT agrees to pay to the MANAGER the Base Compensation amount set forth in Section 6(B)(i) below that is intended to reimburse MANAGER for all wages, salaries, associated taxes, human resource administration, background checks, sexual offender checks, drug screening, timekeeping system licensing and other employer's payroll expenses, payroll courier services, and processing payroll, which will cover entering the semi-monthly payroll data, processing and mailing the payroll for CLIENT, workers' compensation processing, processing of new employees, wage garnishment per court orders, preparation of Federal and

State unemployment reports, health care program administration, COBRA administration, benefits and 401(K) administration, W-2-year end reporting, 1099-year end reporting and remittance of tax forms, data transfer, stop payments, and direct deposit administration. MANAGER shall also be responsible for and shall indemnify and hold harmless the CLIENT against the payment of any costs incurred based on MANAGER'S improper classification of employees as independent contractors or caused by the negligent or willful conduct of MANAGER, its agents, or employees.

6. Responsibility for Expenses.

a. MANAGER will not make expenditures in excess of the approved Operating Budget as a whole. Notwithstanding the foregoing, in the event of an emergency, where the CLIENT is unavailable and action is required to protect persons or the CLIENT'S property, MANAGER is authorized to expend amounts reasonably necessary to do so without prior authorization.

b. , CLIENT will be responsible for all operating expenses pertaining to the day-to-day operation of the Facility.

c. CLIENT acknowledges and agrees that there may be various licenses, permits, registrations and taxes (collectively the "Permits") required by law for the operation of the Facility and for registering this Agreement. At the request of CLIENT, MANAGER, as an Operating Expense, will conduct an audit of the Facility to assist CLIENT in obtaining information and filing instructions related to the Permits. MANAGER will use all reasonable efforts to determine which Permits are required; however, obtaining and maintaining the actual required Permits and any costs, fees, and penalties associated therewith shall be the sole responsibility of the CLIENT. All Permits shall be in CLIENT'S name.

d. It is expressly understood and agreed that MANAGER is not guarantying any financial results relating to the operation of the Facility.

7. MANAGER Compensation and Expense Reimbursement.

a. Management Services Compensation. From and after the Management Services Commencement Date, CLIENT will pay to MANAGER the following management services fees (collectively, the "Management Fee").

i. Base Compensation. In the Initial Term, CLIENT shall pay to MANAGER the monthly sum of \$10,800.00 which is inclusive of all of the costs and expenses described in paragraph 5(b), above. In each Renewal Term, the Base Compensation will be calculated based on approved budgets as set forth in this Agreement. In no event shall the Base Compensation in any year be less than the Base Compensation in the first year.

ii. All Base Compensation is in addition to any obligation of CLIENT to reimburse MANAGER as required under this Agreement. MANAGER will invoice CLIENT monthly for the amount of Base Compensation.

b. Expense Reimbursement. Within thirty (30) days of CLIENT's receipt of an invoice, CLIENT will reimburse MANAGER for all reasonable expenses associated with the Services provided under this Agreement that are approved by CLIENT, as reflected on the invoice.

c. Late Fees. It is understood and agreed that late payment of any amounts owed to MANAGER under this Agreement, including Base Compensation and/or expense reimbursement invoices, not due to the negligence, willful misconduct or other fault of MANAGER, its employees or agents is a material breach of the Agreement and, in such event, MANAGER shall have the right to elect and exercise any of its remedies under this Agreement including, but not limited to, the right to suspend work by its employees and contractors at the Facility. In the event of any late remittance of payment pursuant to an invoice, CLIENT will owe MANAGER a late fee equal to Two and One-Half percent (2.5%) per month until payment is received. This late fee will be automatically charged to the next debit or invoice.

d. Within 90 days of execution of this agreement MANAGER and CLIENT will develop and agree upon key performance indicators to be used to evaluate MANAGER performance. This agreement will be added to this contract as Exhibit E: Key Performance Indicator Performance Agreement.

8. Confidentiality and Protection of Intellectual Property.

a. Intellectual Property. The parties further agree that certain Intellectual Property (as defined below) will be provided during the course of performance under this Agreement, but that such Intellectual Property shall remain the property of the Party providing the Intellectual Property. "Intellectual Property" means (i) all software developed and owned by MANAGER or an affiliate of MANAGER (but not any Software leased or licensed to MANAGER) or owned by CLIENT; (ii) all written manuals, instructions, policies, procedures and directives issued by MANAGER or by CLIENT's or MANAGER'S employees at the Facility regarding the procedures and techniques to be used in operation of the Facility; (iii) all products, equipment, designs and the like developed and owned by MANAGER or an affiliate of MANAGER or by CLIENT; and (iv) any and all rights existing from time to time under patent law, copyright law, semiconductor chip protection law, moral rights law, trade secret law, trademark law (including but not limited to trade names, logos, service marks and other identifying language or symbols), unfair competition law, publicity rights law, privacy rights law, and any and all other proprietary rights and any and all applications, reissues, continuations, continuations-in-part, divisionals, renewals, extensions, and restorations thereof, now or hereafter in force and effect anywhere in the world.

b. Limitations on Use; No License. Neither party may use the other party's Intellectual Property without the prior written consent of an authorized representative of the other party. No license or ownership right is granted or implied by the conveying of Confidential Information and Intellectual Property to the other party. None of the Confidential Information

which may be disclosed will constitute any representation, warranty, assurance, guarantee or inducement by discloser of any kind, and, in particular, with respect to the non-infringement of any intellectual property rights or other rights of third persons or of discloser. CLIENT will have no proprietary interest in any software licensed or sub-licensed to CLIENT by MANAGER and MANAGER will have no proprietary interest in any software licensed or sublicensed by CLIENT. Upon notice of termination of this Agreement, MANAGER will have the right to immediately remove all of its Intellectual Property (as is defined below) from the Facility.

c. Limited Right. To the extent allowed by law, MANAGER shall have the right to include photographic or artistic representations of the design of the Facility among MANAGER's promotional and professional materials. MANAGER shall be given reasonable access to the completed Project for such purpose. MANAGER's materials shall not include the CLIENT'S Confidential Information, nor shall any materials used represent CLIENT in a negative light or cause harm to CLIENT'S business or reputation.

9. Indemnification.

The Manager shall defend, indemnify and hold harmless the Client and each of its directors, officers, contractors, employees, agents and consultants (collectively, the "Client Indemnitees"), from and against any and all claims, demands, losses, liabilities, actions, lawsuits, damages, and expenses (the "Claims"), including reasonable legal expenses and attorneys' fees actually incurred, by the Client Indemnitees arising directly or indirectly, in whole or in part, out of the errors or omissions, negligence, willful misconduct, or any criminal or tortious act or omission of the Manager or any of its subcontractors, officers, agents or employees, in connection with this Agreement and/or the Manager's performance of the Services or work pursuant to this Agreement. Notwithstanding anything else in this Agreement or otherwise to the contrary, the Manager is not obligated to indemnify the District Indemnitees for the negligence of the Client or the negligence of any other Client Indemnitee, except the Manager. Except as otherwise provided by applicable law, this indemnification obligation will not be limited in any way by any limitation on the amount or types of damages, compensation or benefits payable by or for the Manager under workers' compensation acts, disability acts or other employee benefit acts, provided that in no event shall the Manager, except as set forth in Section 11.r, be liable for special/consequential or punitive damages.

10. Insurance.

a. During the Initial Term and any applicable Renewal Term, at all times during MANAGER'S involvement, MANAGER will obtain and keep in effect, to cover the scope of services provided for in this Agreement, the following insurance, in amounts not less than the amounts set forth below:

(1) Worker's compensation insurance to cover full liability under worker's compensation laws in effect from time to time in the applicable state.

(2) General liability insurance with the following limits:

\$2,000,000 General Aggregate
\$1,000,000 Products/Completed Operations
\$1,000,000 Personal & Advertising injury
\$1,000,000 Each Occurrence

(3) Comprehensive automobile liability insurance for all vehicles used by MANAGER with respect to the operation of the Facility, whether non-owned or hired, with a combined single limit of \$1,000,000.

(4) Excess (Umbrella) liability policy in excess of the limits set forth in the sections above, in the amount of \$10,000,000.

(5) Medical Professional Liability insurance with limits of no less than \$1,000,000, with sub-limits for sexual harassment and molestation with limits of no less than \$1,000,000.

(6) Employment practices liability insurance with \$1,000,000 limit.

b. The policies of insurance of general liability, automobile liability and excess (umbrella) liability referenced above will be endorsed to name CLIENT, its subsidiaries, affiliates, directors, officers and employees (as and when identified in writing by CLIENT) as additional insureds. MANAGER will notify CLIENT at least thirty (30) days prior to the effective date of any cancellation or modification of such policy. MANAGER will, upon execution of this Agreement and upon request by CLIENT, provide CLIENT with a certificate of insurance evidencing the coverage listed above. It is also understood and agreed that from time-to-time MANAGER and/or its insurance advisor may recommend to CLIENT that the type or amount of insurance coverage be modified to meet the needs of the Facility, and that CLIENT will consider such recommendation in good faith. If CLIENT requires additional insurance to be carried by MANAGER, CLIENT agrees to promptly reimburse MANAGER for said costs attributable thereto.

c. MANAGER shall, on behalf of CLIENT, promptly investigate all accidents made known to MANAGER, report the same promptly to the relevant insurance carrier, and upon request from time to time by CLIENT, make a full report to CLIENT as to all material claims for damages relating to the ownership, operation, and maintenance of the Facility, as such claims become known to MANAGER. As to any deductible payments, damage, or destruction to the Facility and the estimated cost thereof, as such matters become known to MANAGER, MANAGER shall prepare any and all reports and furnish any and all information required by any insurance company in connection therewith to the extent such information is within the control of or available to MANAGER. MANAGER will work together with CLIENT to address and resolve all claims and will only negotiate and settle claims with CLIENT'S consent, which shall not be unreasonably withheld.

11. Defaults and Remedies: Termination.

a. CLIENT Defaults. The following events shall constitute a CLIENT Default: (i) CLIENT fails to make any payment in accordance with the terms and conditions of this Agreement within thirty (30) days after the date of notification by MANAGER; provided that under this section an updated invoice reflecting past due amounts of non-payment shall be sufficient notification; and/or (ii) CLIENT commits a material violation of any other term, condition, or provision of this Agreement, and such violation continues for a period of thirty (30) days following CLIENT'S receipt of a written notice from MANAGER setting forth the basis of

MANAGER's assertion of a violation. In the event CLIENT undertakes to cure a CLIENT Default within said thirty (30) day period which cure, in spite of CLIENT'S diligent and continuing good faith efforts, cannot reasonably be completed within then period, then said cure period will be extended for a reasonable time, upon MANAGER'S prior written consent, to afford CLIENT an opportunity to effect the cure.

b. MANAGER Default. MANAGER is in Default ("MANAGER Default") if MANAGER commits a material violation of any term, condition, or provision of this Agreement, and such violation continues for a period of thirty (30) days following MANAGER'S receipt of a written notice from CLIENT setting forth the basis of CLIENT'S assertion of a violation and the manner in which said violation may be cured within said thirty (30) day period. In the event MANAGER undertakes cure the MANAGER Default within said thirty (30) day period which cure, in spite of MANAGER's diligent and continuing good faith efforts, cannot reasonably be completed within then period, then said cure period will be extended for a reasonable time to afford MANAGER an opportunity to effect the cure.

c. MANAGER Remedies. In the case of a CLIENT Default, MANAGER will have the right to elect any one or a combination of the following remedies: (i) to suspend performing any of the services to be provided by MANAGER under this Agreement until the CLIENT Default has been cured; (ii) to continue performing the services to be provided by MANAGER under this Agreement without waiving the CLIENT Default and allowing the Late Fee to accrue (and with the express right to subsequently invoke any of its other remedies pertaining to the same, or any future, CLIENT Default); (iii) to initiate an action for damages or equitable relief prior to exercising any right to terminate or suspend performance under this Agreement; and (iv) to terminate this Agreement, reserving the right to pursue any further legal and equitable remedies that may be available to MANAGER hereunder, including but not limited to the right to pursue collection of any amounts owed to MANAGER and reimbursement of any expenses incurred in doing so. MANAGER'S rights and remedies hereunder are cumulative and may be exercised concurrently or separately.

d. CLIENT Remedies. In the case of a MANAGER Default, CLIENT will have the right to elect any one or a combination of the following remedies: (i) initiate an action for damages or equitable relief prior to exercising any right to terminate performance under this Agreement; and (ii) to terminate this Agreement, reserving the right to pursue any further legal and equitable remedies that may be available to CLIENT hereunder, including but not limited to the right to pursue collection of any amounts owed to CLIENT and reimbursement of any expenses incurred in doing so. CLIENT'S rights and remedies hereunder are cumulative and may be exercised concurrently or separately.

e. Termination. Either Party may terminate this Agreement without cause upon thirty (30) days written notice (the "Termination Notice Period").

f. Actions Upon Termination. Notwithstanding anything to the contrary in this Agreement, in the event of a termination of this Agreement by either party in accordance with the terms and provisions of this Agreement, the parties agree that:

- (1) CLIENT shall be obligated to continue to make timely payments to

MANAGER of all amounts owed under this Agreement including fees owed through the end of Termination Notice Period.

(2) MANAGER shall have the right to relocate or reassign its Lifestyle Director (and any Assistant Lifestyle Director) at any time following delivery by either party of a notice of termination, and such relocation or reassignment shall not constitute an event of default nor relieve CLIENT of any of its financial obligations to MANAGER under this Agreement.

(3) If the Lifestyle Director (and any Assistant Lifestyle Director) resigns their employment (or is dismissed from employment by MANAGER), at any time, such resignation or dismissal shall not constitute a MANAGER Default nor relieve CLIENT of any of its financial obligations to MANAGER under this Agreement.

(4) In order to protect MANAGER confidential information and MANAGER intellectual property rights, CLIENT may not employ or otherwise contract with MANAGER employees or contractors during the twelve (12) months following any Termination of this Agreement.

g. Force Majeure. If, because of weather, plagues, or diseases (including COVID-19), acts of God, governmental orders, strikes or other labor disputes not caused by any act or failure to act on the part of the Parties, their agents or employees, vendor delays, or other unavoidable cause, either party is unable to perform its obligations hereunder, such non-performance shall not be considered a breach of the Agreement.

12. Miscellaneous Provisions.

a. Notices. With the exception of specific provisions contained in this Agreement, all notices will be hand delivered or sent by certified or registered mail, postage prepaid, return receipt requested, to the following address:

To CLIENT: Town Center Metropolitan District:
25633 Roxana Pointe Drive, Evergreen, CO
80439

To MANAGER: Denver Metropolitan YMCA:
2625 S. Colorado Blvd, Denver, CO 80222

Any Notice will be considered to have been given on the date of hand delivery or on the date of receipt or refusal.

b. No Waiver. No waiver of any breach of any covenant, condition or agreement or any right of exercise contained herein will be construed to be a subsequent waiver of that covenant, condition, or agreement or of any subsequent breach thereof of this Agreement.

c. Relationship of Parties. In its performance of this Agreement, MANAGER will at all times act as an independent contractor of CLIENT. Nothing contained in this Agreement

shall be construed to create a partnership or joint venture between MANAGER and CLIENT or their successors in interest.

d. Entire Agreement. This Agreement, including any exhibits, schedules and attachments hereto, will constitute the entire Agreement between the parties, and no variance or modification thereof will be valid and enforceable, except by a supplemental Agreement or amendment in writing, executed and approved in the same manner as this Agreement, and there are no promises, agreements, conditions, understandings, warranties or representations, oral or written, express or implied, except as set forth herein.

e. Assignment. Neither party may assign this Agreement nor delegate its duties or obligations hereunder without the prior written consent of the other party, and any attempt to do so will be null and void *ab initio*.

f. Benefits and Burdens. This Agreement will inure to the benefit of and bind the parties, their successors-in-interest, and their permitted assigns.

g. Construction. Unless the context clearly indicates otherwise, where appropriate the singular will include the plural and the masculine will include the feminine or neuter, and vice versa, to the extent necessary to give the terms defined herein and the terms otherwise used in this Agreement their proper meanings.

h. Severability. If any provision of this Agreement is held to be illegal, invalid or unenforceable under the present or future laws effective during the term of this Agreement, such provision will be fully severable; this Agreement will be construed and enforced as if such illegal, invalid or unenforceable provision had never comprised a part of this Agreement; and theremaining provisions of this Agreement will remain in full force and effect and will not be affected by the illegal, invalid or unenforceable provision or by its severance from this Agreement, unless to do so renders the performance of the Agreement economically infeasible, in which event the party suffering from the infeasibility may terminate performance under this Agreement.

i. No Third-Party Beneficiaries. This Agreement is made solely and specifically between and for the benefit of the parties hereto, and their respective successors and permitted assigns, subject to the express provisions hereof relating to successors and assigns, and no other person or entity will have any rights, interest or claims hereunder or be entitled to any benefits under or on account of this Agreement as a third-party beneficiary or otherwise. In furtherance of and not in limitation of the foregoing, nothing contained in this Agreement is intended to be for the benefit of any creditor or other person or entity to whom any debts, liabilities or obligations are owed by (or who otherwise has any claim against) the CLIENT or MANAGER or any officer, director, shareholder or agent thereof; and no such creditor or other person or entity will obtain any right hereunder against the either CLIENT or MANAGER by reason of any debt, liability or obligation (or otherwise).

j. Applicable Law. This Agreement, and the rights and obligations of the parties hereunder, will be governed by the laws of the State of Colorado.

k. Either party may initiate litigation, to be initiated exclusively in the State or Federal courts located in Denver, Colorado. The parties agree that the courts located in Denver Colorado shall have jurisdiction over disputes related to this Agreement and that venue is proper in Denver, Colorado.

l. Counterpart Execution. This Agreement may be executed in several counterparts, each of which will be deemed an original but all of which together will constitute one and the same instrument. Delivery of an executed signature page by facsimile transmission or email via PDF or similar electronic format shall be effective as delivery of a manually executed counterpart hereof.

m. Attorney's Fees. In the event that either party has to resort to judicial remedies in the enforcement of this Agreement, the substantially prevailing party shall be entitled to and the court shall award reasonable attorney's fees, expert witness fees and costs of litigation.

n. Tax Exempt. CLIENT is exempt from Colorado sales and use taxes. It is MANAGER'S responsibility to obtain and use the sales tax exemption number of the CLIENT (# 98-17786-0000). The CLIENT shall not reimburse MANAGER from sales or use taxes erroneously paid.

o. Immunity. The CLIENT, its directors, officials, officers, agents and employees are relying upon and do not waive or abrogate or intend to waive or abrogate by any provision of this Agreement the monetary limitations or any other rights immunities or protections afforded by the Colorado Governmental Immunity Act, C.R.S Section 24-10-101 *et seq.* as the same may be amended.

p. Budget Requirements. All obligations of the CLIENT under and pursuant to this Agreement are subject to prior appropriations of monies expressly made by the CLIENT'S Board of Directors for the purposes of this Agreement.

q. No Personal Liability. No elected official, director, officer, agent or employee of the CLIENT or MANAGER shall be charged personally or held contractually liable by or to the other party under any term or provision of this Agreement or because of any breach thereof or because of its or their execution, approval, or attempted execution of this Agreement.

r. Immigration Laws. MANAGER shall comply with any and all federal, state and local laws, rules and regulations regarding the hiring of employees and retention of subcontractors, including without limitation Section 8-17.5-101 *et seq.*, C.R.S. MANAGER shall not knowingly employ or contract with an illegal alien to perform work under this Agreement. MANAGER shall not knowingly contract with a subcontractor that (a) knowingly employs or contracts with an illegal alien to perform work under this Agreement or (b) fails to certify to MANAGER that the subcontractor will not knowingly employ or contract with an illegal alien to perform work under this Agreement.

MANAGER hereby certifies that it does not knowingly employ or contract with an illegal alien. MANAGER shall participate in either the E-Verify Employment Verification Program administered by the United States Department of Homeland Security ("E-Verify Program") or the program of the State of Colorado's Department of Labor and Employment established pursuant to C.R.S. section 8-17.5-102(5)(c) to confirm the employment eligibility of all employees who are newly hired for employment to perform work under the Agreement. MANAGER shall not utilize the E-Verify Program or the Department Program procedures to independently undertake pre-employment screening of job applicants.

MANAGER shall require each subcontractor to certify that subcontractor will not knowingly employ or contract with an illegal alien to perform work under the Agreement. If MANAGER obtains actual knowledge that a subcontractor performing work under this Agreement knowingly employs or contracts with an illegal alien, MANAGER shall, unless the subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with an illegal alien: (1) notify the subcontractor and the CLIENT within three days that MANAGER has actual knowledge that the subcontractor is employing or contracting with an illegal alien; and (2) terminate the subcontract with the subcontractor if, within three days of receiving notice that MANAGER has actual knowledge that the subcontractor is employing or contracting with an illegal alien, the subcontractor does not stop employing or contracting with the illegal alien.

MANAGER shall comply with any reasonable request of the Colorado Department of Labor and Employment made in the course of an investigation pursuant to Section 8-17.5-102(5), C.R.S. In addition to any other legal or equitable remedy the CLIENT may be entitled to for a breach of this Agreement, if the CLIENT terminates this Agreement, in whole or in part, due to MANAGER'S breach of any of this Article XIV, MANAGER shall be liable for actual and consequential damages to the CLIENT.

[Signatures Appear on Following Page]

IN WITNESS WHEREOF, CLIENT and MANAGER have caused this Agreement to be signed as of the Effective Date.

CLIENT

Town Center Metropolitan District

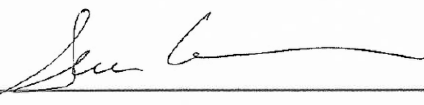
By: 

Name: William Schmidt

Title: Director

Date: 1/26/2022

MANAGER

By: 

Name: Sue Glass

Title: President & CEO

Date: 3/21/2022

EXHIBIT A

Base Compensation and Staffing 2022 Fairway Villas

\$ 121,000.00: 12 monthly payments of \$ 10,800.00 due January – December 2022

Includes a Full Time Lifestyle Director. Office Hours will be Monday- Friday 9am-5pm. Part time staff will fill the office hours. Lifestyle Director will schedule facility clubs, be responsible for issuing key cards to the facility under the direction of the Subdistrict Manager and the Board, issue Newsletter communications and plan events. Lifestyle Director will work with a social committee or the Board to offer community special events. Manager will assist in overseeing all staffing for the facility, the Subdistrict Manager will oversee all staff for the facility. Other programming to the community such as Fitness Classes, Clubs, Events, or other requests from the community will be offered.

- Other Staffing included in the bid are special events staff, fitness staff and pool staff. For Special Events:
- 1 additional staff person for up to 3 hours per event for 72 small events 2 additional staff for up to 3 hours per event for 10 medium events
- 4 additional staff for up to 4 hours per event for 6 large events
- 1 additional staff for 2 weekly evening clubs and 4 monthly evening clubs are included at 2 hours per club.
- Additional event staffing would be billed at a rate of \$25/hr.
- Additional staffing for facility rentals, pool service or other programming will be billed at a rate of \$25/hour.

Some program staff may be paid for from the fees for the program. For example: if we offer a Kids Night Out and we charge the homeowners \$10/child the revenue covers the cost of the additional staff.

All supplies for the facility and pool will be billed to the district with no mark up.

EXHIBIT B
Scope of Management Services

In addition to or in concert with those services described in the Exhibit A, MANAGER will provide the following Management Services for the Facility in accordance with and subject to the text of the Agreement. In the event of an inconsistency between this Exhibit B and the text of the Agreement, the Agreement will control. The Management Services will include the following:

Management Services

MANAGER will provide complete management and day-to-day operational services for the Facility under the authority of the CLIENT'S appointed representative. MANAGER's role in this area will include the following:

Staffing

MANAGER will select, train, and supervise a Lifestyle Director, service providers for the Facility, and (if required) Assistant Lifestyle Director(s). Hourly wage and contract staff will be selected and supervised by MANAGER as needed.

The Lifestyle Director and Assistant Lifestyle Director(s) will be hired and salaried directly by MANAGER. Their salaries and associated benefits, costs and payroll taxes will be reimbursed to MANAGER by the CLIENT as part of the Base Compensation. Individuals selected and supervised by MANAGER for key management positions are chosen based upon academic and practical experience. However, MANAGER is also encouraged to hire personable, articulate, highly responsible individuals with capabilities to organize, promote and implement services of the highest standards. The staff will, at all times, exemplify the standards of the CLIENT and will, pending CLIENT approval, be trained in the CLIENT'S procedures.

Programming Components

MANAGER will create a wide array of programs and activities for guests. They will be promoted through a calendar of events and/or an activity guide that will be distributed to all guests and groups based on the amenities and space provided. These would include, but not limited to:

- Sports (e.g., bocce ball, pickleball, etc.)
- Aquatics (e.g., swim lessons, water aerobics, etc.)
- Social Programs (e.g., wine tastings, casino, dive in movie night, etc.)
- Life Enrichment (e.g., seminars, culinary classes, visual arts, etc.)
- Outdoor Adventure (e.g., team building, off site excursions, hiking, biking, excursions, etc.)
- Fitness (Personal Training, Group X, and fitness evaluations)

Promotional and Informational Materials

MANAGER will assist the Lifestyle Director in the development of all promotional and informational materials in order to effectively expose and promote each of the Facilities to the guests. This will include an Activities Guide, which will be developed and updated on a regular basis for distribution to guests (at CLIENT request). Costs of promotional and informational materials will be borne by the CLIENT as an operating expense.

Facility Operations

- Implementation of a maintenance and replacement program for the leisure equipment.
- Notify CLIENT when general repairs are required.
- Identify trends in the leisure field.
- Recommend and implement on an ongoing basis, capital equipment replacements, additions, and operational improvements for CLIENT approval.
- Maintain monthly inventory of equipment and supplies and replace as needed.
- Maintain daily records of program and class attendance.
- Review and respond to all CLIENT and guest suggestions.
- Establish and maintain tracking procedures for the Facilities use and programs.
- Prepare reports to CLIENT of any incidents or accidents.
- Daily chemical checks in the pools and spa

Communications

MANAGER will meet with CLIENT regularly to summarize operations, programming, participation levels, problems, and any other areas pertinent to the operation of the leisure amenities. MANAGER corporate representatives will communicate on a reasonably consistent basis with the Lifestyle Director, staff, and the CLIENT.

EXHIBIT C

Lifestyle Director – Job Description

The Lifestyle Director is in a lead position to facilitate the aspirational lifestyle residents desire through the effective use of community amenities and the coordination of year- round health, wellness, and social programming that promotes a true sense of place and enduring connections. Additionally, this position will be committed to communicating the opportunity of our active adult community effectively with prospects.

The 5 C's of an effective Lifestyle Director/Facilitator:

- a. **Connected** in the 'greater community' to provide unprecedented access for its residents to experts, partnerships, activities, discounts, etc.
- b. **Creative** - activities, events, travel, parties, etc.
- c. **Collaborative** with residents and others to deliver the dream
- d. **Compassionate** – respect and appreciation for the life experience and the ageless aspirations of the residents
- e. **Communicative**—able to transmit and receive information in an effective and timely manner

Our active adult community seeks a poised individual with exceptional organization, communication, and interpersonal skills to provide a comprehensive lifestyle agenda for our residents, their guests, and prospects. The Lifestyle Director will be responsible for planning, promoting and executing a robust annual calendar of activities, classes, sports, health programs, group fitness, and special events; creating and executing a strategic communications plan; building partnerships and sponsorships with local businesses and organizations; recruiting and organizing volunteers; overseeing and scheduling clubhouse facilities; maintaining the community website and other social media platforms; producing and editing community newsletter; managing annual activities budget; and serving as a local (concierge-style) resource for residents and their guests.

Job Duties and Responsibilities:

- Plans and Implements lifestyle programs and services for residents and guest; prior to opening of the community center and after.
- Assists with the operations of the facilities with contracted service providers.
- Supports and participates in informational/lifestyle seminars.
- Works closely with the Metropolitan District and other community stakeholders to coordinate efforts and ensure resident relations are always positive.
- Enhances community awareness, participation, and the vibrancy/vitality of the lifestyle.
- Responsible for on-going query of residents and prospects relative to lifestyle interests and bringing new and interesting opportunities to the residents and management to ensure lifestyle is new, vibrant, and relevant.

- Facilitates new resident orientation programs with community management.
- Responsible for lifestyle related resident communication (includes newsletter, website, blog, social media, etc.).
- Coordinates the formation of Chartered Clubs and Interest Groups pursuant to the by-laws.
- Coordinates resident volunteer and lifestyle partnership programs.
- Manages, supports and co-chairs Activities Committee
- Manages and updates Resident Handbook
- Provides marketing support as needed.
- Partner & collaborate with Oakwood Sales and realtors to host events for resident prospects (i.e., resales)

Background, Experience, and Profile of a Successful Lifestyle Director

- Relevant Background & Work Experience**
 - Hospitality
 - Event planning
 - Non-Profit
 - Parks and Recreation
 - Customer Relations & Service
- Personal Attributes and Skills**
 - Comfortable and experienced working with active adult audiences
 - Professional dress and style
 - Strong verbal, written and electronic communication skills
 - Excellent listener
 - Empathetic and compassionate
 - Engaging personality
 - Passionate
 - Resourceful
 - Active, energetic, and healthy
 - Connected in the ‘greater community’
- Other Qualifications**
 - Bachelor’s degree (B.A.) from four-year college or university; 2-3 years related experience and/or training, or equivalent.
 - Comfortable with budgeting principals and working with a board of directors
 - Able to clearly present information through the spoken word. Can accurately communicate, providing the necessary level of detail even under stressful or demanding conditions. Ensures a positive attitude and team orientation is exhibited in verbal and non-verbal communication.
 - Solid performance management skills, including the ability to communicate performance expectations, document performance conversations, coach and

document performance issues and complete performance management expectations as guided by the company.

- [Demonstrated ability to use independent judgment and discretion to make decisions designed to achieve district expectations and goals for the community.
- [Able to operate standard office equipment.
- [Ability to effectively utilize technology including use of computers, iPad/Tablet use, Word programming (Microsoft 365 Suite), internet access, email, and social media.
- [Position requires driving responsibilities (may use Company provided vehicle and/or personal vehicle).
- [Must possess valid driver's license.
- [Must satisfactorily hold the following certifications -
 - o First aid, CPR and AED

About the Community:

The Club at Fairway Villas (approximately 7,000 square feet) includes a fitness center, demonstration kitchen, interior fireplace with cozy sitting area, exterior fireplace with covered veranda, outdoor fire pit, outdoor BBQ grills, indoor and outdoor pool, an indoor hottub, horseshoe pits, grand room, showers, locker rooms, multi-purpose room and a staff office.

The Lodge at Fairway Villas (approximately 3,000 square feet) includes an exercise center with fitness on demand, extra-large multi-purpose room, outdoor BBQ grills, 4 pickleball courts, 2 bocce ball courts and kitchen.

Additionally, the Fairway Villas residents have access to dining and event space at Ebert's Restaurant at the Green Valley Ranch Golf Course (space managed by restaurant).

These two facilities will serve 370 active adult homes at build out.

EXHIBIT D
Key Performance Indicator Performance Agreement