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RASHELLE HOBBS
Recorder, Salt Lake County, UT
SUTHERLAND TITLE
BY: eCASH, DEPUTY - EF 13 P.

When Recorded Return To:

Brian D. Cunningham, Esq.
SNELL & WILMER L.L.P.
Gateway Tower West
15 West South Temple, Suite 1200
Salt Lake City, Utah 84101

APN: 33-01-100-003, 33-01-200-045

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GROUND LESSOR'S CONSENT, NONDISTURBANCE, ATTORNMENT AND ESTOPPEL AGREEMENT

This Ground Lessor's Consent, Nondisturbance, Attornment and Estoppel Agreement ("Agreement") is entered into as of February 21, 2019, by and among PACIFICORP, an Oregon corporation (the "Ground Lessor"), IOP LC, a Utah limited liability company ("Ground Lessee"), and WASHINGTON FEDERAL, NATIONAL ASSOCIATION ("Lender").

Recitals

A. Ground Lessor owns fee simple title to the real property described in Exhibit A hereto (the "Property"). Ground Lessor ground leased the Property to Draper Square, LC, a Utah limited liability company ("Draper"), pursuant to that certain Lease Agreement by and between Ground Lessor and Ground Lessee, dated September 13, 2018 (as amended, the "Lease"). Draper subsequently assigned its interest in the Lease to Ground Lessee pursuant to that certain Assignment and Assumption of Ground Lease dated as of February 8, 2019.

B. Lender intends to extend a loan to Ground Lessee in the maximum principal amount of up to TWENTY-FIVE MILLION AND NO/100 DOLLARS (\$25,000,000.00) (the "Loan"), pursuant to that certain Construction Loan Agreement of approximately even date herewith (the "Loan Agreement").

C. As security for repayment of the Loan and performance of Borrower's obligations to Lender, Lender has required that Ground Lessee execute and deliver to Lender a Fee and Leasehold Deed of Trust, Assignment of Leases and Rents, Assignment of Contracts, Security Agreement and Fixture Filing, of approximately even date herewith, which will be recorded in the official records of Salt Lake County, Utah (the "Deed of Trust"), wherein Lender is beneficiary, granting to Lender a lien on (i) Ground Lessee's leasehold interest in the Property, and (ii) Ground Lessee's fee interest in additional real property adjacent to the Property.

D. Lender is willing to extend the Loan to Borrower, on the condition that Ground Lessor executes this Agreement.

4833-3395-3118

SLT 38248

Agreement

NOW, THEREFORE, for valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Lender, Ground Lessee and Ground Lessor agree as follows:

1. Consent of Ground Lessor; Estoppel Regarding Contingencies; Notice to Ground Lessor. Ground Lessor hereby consents to the lien of the Deed of Trust upon Ground Lessee's interest under the Lease and agrees that the execution, delivery, performance and recordation of the Deed of Trust and any related documents (including UCC financing statements) will not constitute a breach of or default under the Lease. Ground Lessor hereby consents to the assignment of Ground Lessee's leasehold interest under the Lease pursuant to the terms of the Deed of Trust and any other assignment of leases that may be executed by Ground Lessee for the benefit of Lender in connection with the Loan. In addition, Ground Lessor acknowledges and agrees that any limitations set forth in the Lease regarding the Transfer of the Property shall be inapplicable to any Transfer of the Property which may be affected in connection with any judicial or non-judicial foreclosure of the Deed of Trust. The Lease may be assigned without Ground Lessor's further consent to Lender, or to any other person or entity, pursuant to a foreclosure of or trustee's sale under the Deed of Trust, or pursuant to an assignment of Ground Lessee's interest in the Lease in lieu of foreclosure.

2. Definitions of "Transfer of the Property" and "Purchaser." As used herein, the term "Transfer of the Property" means any transfer of Ground Lessee's interest in the Property by foreclosure, trustee's sale or other action or proceeding for the enforcement of the Deed of Trust or by deed or assignment in lieu thereof. The term "Purchaser," as used herein, means any transferee, including Lender, of the interest of Ground Lessee as a result of any such Transfer of the Property and also includes any and all successors and assigns, including Lender, of such transferee.

3. Nondisturbance. Ground Lessor agrees that the enforcement of the Deed of Trust shall not terminate the Lease or prevent any Purchaser, including Lender if it should be the Purchaser, from obtaining the right of, and continuing as, the lessee (as successor-in-interest to Ground Lessee) in the possession and use of the Property, unless, after such foreclosure, such Purchaser fails to cure any default under the Lease, in accordance with the terms of this Agreement. This nondisturbance applies to any option to extend or renew the Lease term that is set forth in the Lease as of the date of this Agreement, or that is later entered into between Ground Lessor and Ground Lessee with the consent of Lender. This nondisturbance shall be effective and self-operative without the execution of any further instruments upon Purchaser's succeeding to the interest of the lessee under the Lease, but upon written notice to Ground Lessor from Lender notifying Ground Lessor of such succession. Upon completion of any foreclosure or trustee's sale proceedings by Lender under the Deed of Trust (or completion of an assignment of the Lease in lieu of foreclosure), Ground Lessor will recognize Lender, or any other successor thereby to the lessee's interest in the Lease, as the lessee under the terms of the Lease for all purposes thereunder and for the remaining term thereof.

4. Attornment. Subject to Section 3 above, if any Transfer of the Property should occur, any Purchaser, including Lender if it should be the Purchaser, shall, and hereby does, attorn to Ground Lessor, as the landlord under the Lease, and the Purchaser shall be bound to Ground Lessor under all of the terms, covenants and conditions of the Lease for the balance of the Lease term and any extensions or renewals thereof which may then or later be in effect under any validly exercised extension or renewal option contained in the Lease, all with the same force and effect as if the Purchaser had been the original

lessee under the Lease, subject to any waiver of the terms and provisions of the Lease as provided for herein.

5. Notices of Default; Material Notices; Lender's Rights to Cure Default. Ground Lessor shall send a copy of any notice of default or similar statement with respect to the Lease to Lender at the same time such notice or statement is sent to Ground Lessee. In the event of any act or omission by Ground Lessee which would give Ground Lessor the right to terminate the Lease, Ground Lessor shall not exercise any such right or make any such claim until it has given Lender written notice of such act or omission and has given Lender sixty (60) days to cure the default, if the default is monetary, or a reasonable time for Lender to cure the default, if the default is non-monetary, including a reasonable time to gain possession of the Property to effectuate such cure, if necessary. Nothing in this Agreement, however, shall be construed as a promise or undertaking by Lender to cure any default of Ground Lessee. If Lender is prohibited by any process or injunction issued by any court or by any bankruptcy or insolvency proceeding involving Ground Lessee from obtaining possession of the Property in order to cure a non-monetary default by Ground Lessee under the Lease which requires possession to cure, Ground Lessor agrees that Ground Lessor will not terminate the Lease during such prohibition so long as Lender timely cures any monetary defaults of Ground Lessee under the Lease, and diligently and continuously pursues all steps necessary to secure the removal or lifting of such prohibition at the earliest feasible date, and actually removes or lifts such prohibition at least within one-hundred and twenty (120) days after the imposition of such prohibition. The cure rights and other protections granted to Lender in this Section 5 and in any other Sections hereof are in addition to, and not in limitation of, any such rights and protections granted to Lender in the Lease.

6. Limitation on Lender's Performance. Nothing in this Agreement shall be deemed or construed to be an agreement by Lender to perform any covenant of Ground Lessee under the Lease unless and until Lender becomes a Purchaser and succeeds to the rights and obligations of the lessee under the Lease. Ground Lessor agrees that, if Lender becomes a Purchaser, then, upon subsequent transfer of the Property by such parties to a new Purchaser, Lender shall have no further liability under the Lease after said transfer, except for defaults occasioned by Lender. Notwithstanding anything to the contrary in the Lease or in this Agreement, in the event Lender is the Purchaser, Lender as the lessee under the Lease shall not be liable for, bound by or responsible for any of the following:

- (a) any act or omission of any prior tenant under the Lease (including Ground Lessee);
- (b) any offsets or defenses that Ground Lessor might have had against any prior tenant under the Lease (including Ground Lessee);
- (c) any amendment or modification of the Lease made without Lender's prior written consent;
- (d) any term or provision of the Lease, or any amendment thereto, or any other agreement or instrument pertaining or related to the Lease that is personal to Ground Lessee and that may not reasonably be performed by a Purchaser or its successors and assigns in the ordinary course of business;

(e) bound by the exercise by Ground Lessee of any option to purchase the fee interest in the Property or any option to extend the term of the Lease which was not consented to by Lender; or

(f) liable for any damages or other relief attributable to any latent or patent defects in construction with respect to any portion of the Property and Improvements except for such defects arising or occurring after the transfer of the Property to Purchaser or Lender.

7. Limitation on Liability. Upon any sale or transfer of its interest, Purchaser shall have no further obligation under this Agreement or the Lease with respect to matters occurring after such sale or transfer, notwithstanding anything to the contrary in the Lease.

8. Ground Lessor's Covenants. During the term of the Lease or until Lender's rights in the Deed of Trust have been fully satisfied (whichever occurs first), Ground Lessor agrees that, without Lender's prior written consent, which consent will not be withheld, delayed or conditioned, Ground Lessor:

(a) shall not enter into any written material amendment or material modification of the Lease, including changes in the term, rental rate, or leasehold mortgagee protections of the Lease.

9. Right to New Lease. In the event that the Lease or any New Lease (as defined below) is terminated by reason of a rejection of the Lease in a bankruptcy proceeding of Borrower, Ground Lessor shall, upon written request of Borrower or Purchaser (or its nominee) enter into a new lease ("New Lease") of the Property with Borrower or Purchaser (as applicable) for the remainder of the term of the Lease, effective as of the date of such termination, at the rent and upon the same terms, provisions, covenants and agreements as contained in the Lease (including, without limitation, all renewal options, and rights of first refusal), provided:

(a) Borrower or Purchaser (or its nominee) shall pay to Ground Lessor at the time of the request for the New Lease all fees and expenses of Ground Lessor related to such termination, and all sums which would at that time be due pursuant to the Lease but for such termination, less the net income actually collected by Ground Lessor subsequent to the date of termination of the Lease and prior to the execution and delivery of the New Lease. The New Lease shall be delivered by Borrower or Purchaser (or its nominee) to Ground Lessor for approval within fifteen (15) days after such termination, and shall be executed by all parties as soon as possible after presentment.

(b) Upon the execution and delivery of the New Lease, all subleases which theretofore may have been assigned and transferred to Ground Lessor shall thereupon be assigned and transferred (without recourse) by Ground Lessor to the lessee under the New Lease; and the lessee under the New Lease shall have the benefit of all of the right, title, interest, powers and privileges of Borrower under the Lease in and to the Property, including specifically assignment of Ground Lessor's interest in and to any then existing sublease where the sublessee may have attorned to Ground Lessor, and Ground Lessor shall have no further liability under such subleases. The lessee under the New Lease will present to Sublessor for Sublessor's approval the form of such assignment and transfer document, which instrument will be without representation or warranty. Ground Lessor hereby agrees that, with respect to any such sublease so assigned,

Ground Lessor will not modify or amend any of the terms or provisions thereof, during the period between the expiration or termination of the Lease and the execution and delivery of the New Lease.

In the event that such New Lease is entered into between Ground Lessor and Borrower (or in the event that a New Lease is similarly entered into between Borrower and any mortgagee of Ground Lessor's fee interest in the Property, Ground Lessor and Borrower shall take such acts and shall deliver such agreements as may be reasonably necessary to recognize/grant to Lender a deed of trust lien in the same priority as existed at the time the Lease is terminated (upon the same terms and conditions as the Deed of Trust and other Loan Documents) and assignment of leases and rent on Borrower's interest in the Lease and all subleases thereunder. Lender at Lender's cost may also obtain a mortgagee's title insurance policy, in form and content acceptable to Lender and subject to such exceptions and with such endorsements as appear or are issued on Lender's title insurance policy insuring the lien of the Deed of Trust. Borrower shall reimburse Lender for all legal expenses, title insurance premiums and other costs and expenses of Lender reasonably incurred in connection with the New Lease, any new security documents and Lender's new title insurance policy.

10. Mortgagee Protection Provisions. Lender shall be deemed to be a third party beneficiary of the Lease with respect to any and all provisions of the Lease that are intended to benefit a lender or mortgagee (the "Mortgagee Protection Provisions"). Furthermore, Ground Lessor hereby grants its approval of the Loan and all of the financing arrangements contemplated by the Loan Documents (as defined in the Loan Agreement), including, but not limited to, the lien of the Deed of Trust upon Ground Lessee's interest under the Lease. The aforementioned approval satisfies all of the requirements for Ground Lessor approval of Ground Lessee financing relative to the Property set forth in the Lease. Furthermore, notwithstanding anything to the contrary in the Lease, Ground Lessor hereby recognizes Lender as a lender satisfying the requirements of Section 7 of the Lease. Upon Lender's succession to the interest of the lessee under the Lease, all of Ground Lessor's representations and warranties under the Lease shall be deemed remade by Ground Lessor to Lender as of the applicable date, except as they may be modified at that time to reflect any change in factual circumstances. This Section 10 is intended to supplement and not to limit any Mortgagee Protection Provisions in the Lease.

11. Insurance and Condemnation Provisions. Notwithstanding anything to the contrary in the Lease, in the event of any damage to or destruction of the Property or any portion thereof or interest therein, upon the request of Lender, the proceeds of Ground Lessee's insurance shall be deposited with Lender and shall be applied in accordance with the applicable provisions of the Deed of Trust. It is understood and acknowledged that the failure to apply the insurance proceeds to the repair and reconstruction of the Property shall not limit, restrict or in any way waive Ground Lessee's obligation to repair and reconstruct the Property following an event of damage and destruction as more specifically provided in the Lease. Notwithstanding anything to the contrary in the Lease, in the event of any condemnation of the Property, or any portion thereof or any interest therein, upon the request of Lender, the proceeds of the condemnation award shall be deposited with Lender, who shall act as the disbursing agent and apply the condemnation proceeds in accordance with the terms of the Lease. Ground Lessor acknowledges that, except as otherwise provided in the Lease, Ground Lessee's interest in its portion of any condemnation proceeds to which it is entitled under the Lease shall be applied in accordance with the applicable provisions of the Deed of Trust and the Loan Documents (as defined in the Loan Agreement). Nothing herein shall be construed to affect, in any way, any insurance or condemnation proceeds payable to Ground Lessor based upon Ground Lessor's fee interest in the Property, or any insurance or condemnation proceeds attributable to Ground Lessee's leasehold estate in the Property and interest in the

Improvements that are separate from any insurance or condemnation proceeds payable to Ground Lessor based upon Ground Lessor's fee interest in the Property.

12. Ground Lessor's Estoppel Certificate.

(a) True and Complete Lease. Ground Lessor represents and warrants to Lender that attached to this Agreement is a true and correct copy of the Lease and all amendments, supplements, side letters and other written agreements pertaining to the Lease and the leasehold estate.

(b) Contingencies. All contingencies to the effectiveness of the Lease or the commencement of rent under the Lease have been satisfied or waived and the Lease is in full force and effect in accordance with its terms.

(c) No Default. As of the date of this Agreement, Ground Lessor represents and warrants that, to the best of Ground Lessor's knowledge, without investigation, there exist no events of default or events that, with notice or the passage of time or both, would be events of default under the Lease on either Ground Lessor's part or Ground Lessee's part. Ground Lessor represents and warrants that the Lease is in full force and effect as of the date of this Agreement.

(d) No Other Leases. To the best of Ground Lessor's knowledge and belief, as of the date of this Agreement, there are no leases, options or other agreements regarding transfer of any interest in, or otherwise materially affecting the Property other than the Lease, and any subleases.

(e) No Advance Payments. Other than Lessee's security deposits, no rent or other sums payable under the Lease have been paid in advance.

(f) No Prior Assignments. Except as described above, Ground Lessor has not received written notice of any prior assignment, hypothecation or pledge of Ground Lessee's interest in the Lease.

(g) No Pending Litigation/Violations. Ground Lessor has not received notice of any litigation pending, proposed or threatened against or in connection with the Property or the Lease. Ground Lessor has not sent or, to the best of Ground Lessor's knowledge and belief, received any written notice that the Property, or any part thereof, is in violation of any laws, ordinances or regulations which could materially affect any of Ground Lessee's rights or materially increase any of Ground Lessee's obligations under the Lease.

(h) Hazardous Substances. Ground Lessor represents and warrants that, based upon its best knowledge and belief, it has not used, generated, released, discharged, stored or disposed of any Hazardous Substances on, under, in or about the Property other than Hazardous Substances used in the ordinary and commercially reasonable course of Ground Lessor's business and in compliance with all applicable laws. As used herein, "Hazardous Substance" means any substance, material or waste (including petroleum and petroleum products), which is designated, classified or regulated as being "toxic" or "hazardous" or a "pollutant" or which is similarly designated, classified or regulated under any federal, state or local law, regulation or ordinance.

13. Amendments. This Agreement may not be modified or amended except by a written agreement signed by the parties or their respective successors-in-interest.

14. Integration; Etc. This Agreement integrates all of the terms and conditions of the parties' agreement regarding Ground Lessor's consent to the Lease, attornment, nondisturbance, and the other matters contained herein. This Agreement supersedes and cancels all oral negotiations and prior and other writings with respect to such attornment, non-disturbance and other matters contained herein. If there is any conflict between the terms, conditions and provisions of this Agreement and those of any other agreement or instrument, including the Lease, the terms, conditions and provisions of this Agreement shall prevail. This Agreement may not be modified or amended except by a written agreement signed by the parties or their respective successors-in-interest

15. Notices. All notices given under this Agreement shall be in writing and shall be given by personal delivery, overnight receipted courier or by certified United States mail, postage prepaid, sent to the party at its address appearing below or by facsimile. Notices shall be effective upon receipt (or on the date when proper delivery is refused). Addresses for notices may be changed by any party by notice to all other parties in accordance with this Section.


If to Ground Lessor: Pacificorp
c/o Rocky Mountain Power
1407 West North Temple
Salt Lake City, UT 84116

If to Lender: Washington Federal
1207 East Draper Parkway
Draper, Utah 84020
Attention: James Endrizzi

with a copy to: Snell & Wilmer L.L.P.
Gateway West Tower
15 West South Temple, Suite 1200
Salt Lake City, Utah 84101
Attention: Brian D. Cunningham, Esq.

To Ground Lessee: IOP LC
920 East Woodoak Lane, Suite 200
Salt Lake City, UT 84117
Attention: Robert D. Irvine

with a copy to:

Attention: _____ 

Any notice shall be deemed to have been given either at the time of personal delivery or, in the case of courier or mail, as of the date of first attempted delivery at the address and in the manner provided herein, or, in the case of facsimile, upon receipt; provided that service of a notice required by any applicable statute shall be considered complete when the requirements of that statute are met. Notwithstanding the foregoing, no notice of change of address shall be effective except upon actual receipt.

16. Attorneys' Fees. If any lawsuit or arbitration is commenced that arises out of or relates to this Agreement, the prevailing party shall be entitled to recover from each other non-prevailing party such sums as the court or arbitrator may adjudge to be reasonable attorneys' fees, including the costs for any legal services by in-house counsel, in addition to costs and expenses otherwise allowed by law.

17. Miscellaneous Provisions. This Agreement shall inure to the benefit of and be binding upon the parties and their respective successors and assigns. This Agreement satisfies any condition or requirement in the Lease relating to the consent required from Ground Lessor to the Loan or Deed of Trust. As used herein, the word "include(s)" means "include(s), without limitation," and the word "including" means "including, but not limited to." Lender, at its sole discretion, may, but shall not be obligated to, record this Agreement.

18. Jury Waiver. GROUND LESSEE, LENDER AND GROUND LESSOR HEREBY VOLUNTARILY, KNOWINGLY, IRREVOCABLY AND UNCONDITIONALLY WAIVE ANY RIGHT TO HAVE A JURY PARTICIPATE IN RESOLVING ANY DISPUTE (WHETHER BASED UPON CONTRACT, TORT OR OTHERWISE) BETWEEN GROUND LESSEE, LENDER AND GROUND LESSOR ARISING OUT OF OR IN ANY WAY RELATED TO THIS AGREEMENT, THE DEED OF TRUST OR ANY OTHER LOAN DOCUMENT (AS DEFINED IN THE LOAN AGREEMENT), OR ANY RELATIONSHIP BETWEEN GROUND LESSEE, LENDER AND GROUND LESSOR. THIS PROVISION IS A MATERIAL INDUCEMENT TO LENDER TO PROVIDE THE FINANCING DESCRIBED HEREIN OR IN THE LOAN AGREEMENT.

19. No Merger. The undersigned agree that unless Lender shall otherwise consent in writing, Ground Lessor's estate in and to the Property and the leasehold estate created by the Lease shall not merge, but shall remain separate and distinct, notwithstanding the union of such estates either in Ground Lessor or Ground Lessee or any third party by purchase, assignment or otherwise.

20. Governing Law. THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF UTAH WITHOUT GIVING EFFECT TO CONFLICT OF LAWS PRINCIPLES (REGARDLESS OF THE PLACE OF BUSINESS, RESIDENCE, LOCATION OR DOMICILE OF GROUND LESSEE, LENDER OR GROUND LESSOR OR ANY PRINCIPAL THEREOF).

21. Counterpart. This Agreement may be executed in any number of counterparts, each of which shall be an original but all of which shall constitute one and the same instrument.

22. Reliance. Ground Lessor acknowledges that the representations and agreements made by Ground Lessor to and with Lender herein constitute a material inducement to Lender to provide the

financing described herein or in the Loan Agreement, and Lender would not provide the financing in the absence of this Agreement.

[Remainder of Page Intentionally Left Blank]

Dated the date first written above.

Ground Lessee:

IOP LC
a Utah limited liability company

By: **IRVINE CONSTRUCTION AND REALTY**
a Utah corporation
its manager

By: [Signature]
Name: R. Scott Irvine
Title: Manager

State of Utah

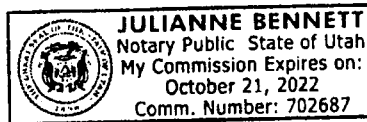
ss.

County of Salt Lake)

On this 11th day of February, in the year 2019, before me Julianne Bennett, a notary public, personally appeared R. Scott Irvine, an individual, a Manager of IRVINE CONSTRUCTION AND REALTY, a Utah corporation, the manager of IOP LC, a Utah limited liability company, proved on the basis of satisfactory evidence to be the persons whose name is subscribed to in this document, and acknowledged he executed the same.

(Notary Seal)

[Signature]



[SIGNATURES CONTINUE ON FOLLOWING PAGE]

EXHIBIT A

Description of Property

That certain real property located in the County of Salt Lake, State of Utah and described as follows:

A parcel of land situate in the Northwest Quarter of Section 1, Township 4 South, Range 1 West, Salt Lake Base and Meridian, being more particularly described as follows: Commencing South 89°37'14" West 93.78 feet along the North Section line and South 00°21'51" East 1,654.14 feet from the North Quarter Corner of Section 1, Township 4 South, Range 1 West, Salt Lake Base and Meridian, and running; thence South 00°21'51" East 313.48 feet; thence South 35°34'39" West 767.12 feet to a point on the Northerly Right-of-Way of 13800 South Street; thence North 89°52'06" West 225.86 feet along said Northerly Right-of-Way; thence North 35°34'39" East 1,151.91 feet to the point of beginning.

Tax Parcel No. 33-01-100-003

A parcel of land situate in the North Half of Section 1, Township 4 South, Range 1 West, Salt Lake Base and Meridian, being more particularly described as follows: Commencing South 89°37'14" West 93.78 feet along the North Section line and South 00°21'51" East 1,654.14 feet from the North Quarter Corner of Section 1, Township 4 South, Range 1 West, Salt Lake Base and Meridian, and running; thence North 35°34'39" East 266.59 feet to a point on the Southerly UDOT Right-of-Way of Bangerter Highway; thence Easterly 241.69 feet along the arc of a 2,166.59 feet radius curve to the right (center bears South 08°00'07" East and the chord bears North 85°11'37" East 241.56 feet with a central angle of 06°23'29") along said Southerly UDOT Right-of-Way; thence South 35°34'39" West 676.89 feet; thence North 00°21'51" West 313.48 feet to the point of beginning.

Tax Parcel No. 33-01-200-045

Exhibit A