

**INTERLOCAL COOPERATION AGREEMENT BY AND BETWEEN
THE HEBER CITY COMMUNITY REINVESTMENT AGENCY AND
CENTRAL UTAH WATER CONSERVANCY DISTRICT FOR THE
HEBER CITY DOWNTOWN COMMUNITY REINVESTMENT
PROJECT AREA**

THIS INTERLOCAL COOPERATION AGREEMENT is entered into as of the 23rd day of August, 2023, by and between the **HEBER CITY COMMUNITY REINVESTMENT AGENCY**, a political subdivision of the State of Utah (the “**Agency**”), and **CENTRAL UTAH WATER CONSERVANCY DISTRICT**, a political subdivision of the State of Utah (the “**Taxing Entity**” or “**Water District**”). The Agency and the Taxing Entity shall be referred to individually as a “**Party**” and collectively as the “**Parties**”.

A. WHEREAS the Agency was created pursuant to the provisions of, and continues to operate under, the Limited Purpose Local Government Entities – Community Reinvestment Agency Act, Title 17C of the Utah Code (the “**Act**”), and is authorized thereunder to conduct urban renewal, economic development, community development, and community reinvestment activities within Heber City, Utah, as contemplated by the Act; and

B. WHEREAS the Agency created the Heber City Downtown Community Reinvestment Project Area (the “**Project Area**”) and adopted a community reinvestment project area plan for the Project Area (the “**Project Area Plan**”) on July 20, 2021 (attached hereto as Exhibit A and incorporated herein by this reference) which includes the legal description and a map of the Project Area, pursuant to which the Agency desires to encourage, promote and provide for desirable development within the Project Area; and

C. WHEREAS the Taxing Entity and the Agency have determined that it is in the best interests of the Taxing Entity to provide certain financial assistance through the use of Tax Increment (as defined below) in connection with the development of the Project Area as set forth in the Project Area Plan; and

D. WHEREAS the Agency anticipates providing a portion of the tax increment (as defined in Utah Code Annotated (“**UCA**”) § 17C-1-102(61) (hereinafter “**Tax Increment**”), created by development within the Project Area to encourage desirable development within the Project Area; and

E. WHEREAS UCA § 17C-5-204(3) authorizes the Taxing Entity to consent to the payment to the Agency of all or a portion of the Taxing Entity’s share of Tax Increment generated from the Project Area for the purposes set forth therein; and

F. **WHEREAS** UCA § 11-13-215 further authorizes the Taxing Entity to share its tax and other revenues with the Agency; and

G. **WHEREAS** to facilitate development of the Project Area, the Taxing Entity agrees to pay to the Agency a portion of the Taxing Entity's share of Tax Increment generated by development within the Project Area in accordance with the terms of this Agreement; and

II. **WHEREAS** the provisions of applicable Utah State law shall govern this Agreement, including the Act and the Interlocal Cooperation Act, Title 11 Chapter 13 of the UCA, as amended (the "**Cooperation Act**").

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

1. **Taxing Entity's Consent.**

a. Pursuant to Section 17C-5-204(4) of the Act and Section 11-13-215 of the Cooperation Act, the Taxing Entity hereby agrees and consents that the Agency shall be paid seventy five percent (75%) of the Taxing Entity's share of the Tax Increment from the Project Area (the "**Taxing Entity's Share**") for up to twenty (20) consecutive years from the trigger date (the "Tax Increment Period"), provided, however, that the total amount of such Tax Increment properly attributable to the Taxing Entity's tax levy that is paid to the Agency under this Agreement shall not exceed One Million Dollars (\$1,000,000.00) (the "Tax Increment Cap"). If the total cumulative amount paid to the Agency reaches the Tax Increment Cap prior to the expiration of the Tax Increment Period, the Agency's interest in the property tax attributable to the Water District's tax levy shall automatically cease and thereafter all of the taxes, including Tax Increment as defined herein, shall be paid to the Water District by Wasatch County. The Agency may begin collecting increment, or "trigger" the collection of Tax Increment, upon written notice to the Taxing Entity and to Wasatch County. Regardless of the date for which the Agency begins collecting Tax Increment under this Agreement, the Agency shall not collect Tax Increment for any period beyond December 31, 2043. The date that the Agency begins collecting Tax Increment under this Agreement shall be on January 1 of the particular year.

b. The Taxing Entity's Share shall be used for the purposes set forth in the Act as reflected herein and in the Project Area Documents and shall be disbursed as specified herein. The calculation of annual Tax Increment shall be made using (a) the Taxing Entity's tax levy rate during the year for which Tax Increment is to be paid and (b) the base year value for purposes of calculating Tax Increment shall be \$271,862,421 (the "**Base Year Value**"), which taxable value is subject to adjustment as required by law.

c. All centrally assessed property existing within the Project Area as of the date of this Agreement, if any, shall be excluded from the calculation of Tax Increment under this Agreement. However, any new centrally assessed property constructed within the Project Area in connection with the Project shall be considered as new incremental value for purposes of calculating Tax Increment pursuant to this Agreement. Wasatch County is hereby authorized to make such calculations and estimates as may be reasonably necessary to accomplish such treatment as described in this Subsection.

d. The Taxing Entity hereby authorizes and directs Wasatch County to pay directly to the Agency the Taxing Entity's Share in accordance with UCA § 17C-5-206 for the Tax Increment Period or to the Tax Increment Cap, whichever occurs first.

2. **Authorized Uses of Tax Increment.** The Parties agree that the Agency may apply the Taxing Entity's Share to the payment of any of the components of the development within the Project Area and related purposes, including but not limited to the cost and maintenance of public infrastructure and other improvements located within the Project Area, incentives to developers or participants within the project area, administrative, overhead, legal, and other operating expenses of the Agency, and any other purposes deemed appropriate by the Agency, all as authorized by the Act.

3. **Return of Tax Increment to the Taxing Entity.** If the Agency is unable to utilize the full amount of the Taxing Entity's Share for the uses authorized in Section 2 above, then the Agency shall return to the Taxing Entity that portion of the Taxing Entity's Share that the Agency is unable to utilize.

4. **Agreement(s) with Developer(s).** The Agency is authorized to enter into one or more participation agreements with one or more Participants which may provide for the payment of certain amounts of Tax Increment (to the extent such Tax Increment is actually paid to and received by the Agency from year to year) to the Participant(s) conditional upon the Participant(s)'s meeting of certain performance measures as outlined in said participation agreement. Any participation agreement shall be consistent with the terms and conditions of this Agreement, shall require as a condition of the payment to the Participant(s) that the respective Participant or its approved successors in title as owners of all current and subsequent parcels within the Project Area, and shall pay any and all taxes and assessments which shall be assessed against the applicable properties in the Project Area in accordance with levies made by applicable municipal entities in accordance with the laws of the state of Utah applicable to such levies and shall satisfy such other performance measures agreed to by the parties to the definitive participation agreement.

5. **Formation of Advisory Committee.** The Agency shall form an advisory committee for the Project Area that shall consist of at least one representative from each taxing entity that has an interlocal agreement with the Agency to contribute tax increment for the Project Area, if such taxing entity requests a representative on the advisory committee. The advisory

committee shall meet as often as determined by the advisory, may review all capital expenditures of the Agency in connection with the Project Area, and may recommend investments to the Agency Board.

6. **Administrative Payment.** Taxing Entity consents to the Agency making an annual administrative payment to Heber City of not more than five percent of the Agency tax increment receipts.

7. **Housing Allocation.** The Agency shall prioritize funds required under Section 17C-5-307 of the Act for housing for employees of each taxing entity that has an interlocal agreement with the Agency to contribute tax increment for the Project Area.

8. **Consent to Project Area Budget.** As required by UCA § 17C-5-304, the Taxing Entity consents to the Project Area Budget (attached hereto as Exhibit B and incorporated herein by this reference) as adopted by the Agency for the Project Area.

9. **Issuing Bonds Secured by the Taxing Entity's Share of the Tax Increment.** Notwithstanding anything contained herein, or in the Act, to the contrary, the Agency covenants with the Taxing Entity that if the Agency issues bonds secured by the Taxing Entity's Share of the Tax Increment to be paid to the Agency under this Agreement, and bond documents shall include substantially the following disclaimer: "The obligation to repay the Bonds is solely an obligation of the CRA, and not a general obligation or debt of, the State of Utah or any of its political subdivisions (including the Taxing Entities), and none of the Taxing Entities shall be liable thereon."

10. **No Third-Party Beneficiary.** Nothing in this Agreement shall create or be read or interpreted to create any rights in or obligations in favor of any person or entity not a party to this Agreement. Except for the parties to this Agreement, no person or entity is an intended third-party beneficiary under this Agreement.

11. **Due Diligence.** Each of the Parties acknowledges for itself that it has performed its own review, investigation, and due diligence regarding the relevant facts upon which this Agreement is based, including representations of the Agency concerning the Project Area Plan and the benefits to the community and to the Parties, and each Party relies upon its own understanding of the relevant law and facts, information, and representations, after having completed its own due diligence and investigation.

12. **Interlocal Cooperation Act.** In satisfaction of the requirements of the Cooperation Act in connection with this Agreement, the Parties agree as follows:

a. This Agreement shall be authorized and adopted by resolution of the legislative body of each Party pursuant to and in accordance with the provisions of Section 11-13-202.5 of the Cooperation Act.

b. This Agreement shall be reviewed as to proper form and compliance with applicable law by a duly authorized attorney in behalf of each Party pursuant to and in accordance with the Section 11-13-202.5(3) of the Cooperation Act.

c. A copy of this executed Agreement shall be filed immediately with the keeper of records of each Party pursuant to Section 11-13-209 of the Cooperation Act.

d. The Chair of the Agency is hereby designated the administrator for all purposes of the Cooperation Act.

e. The term of this Agreement shall commence on the publication of the notice required by Section 17C-5-205 of the Act and shall continue through the date on which all of each Taxing Entity's Share has been paid to and disbursed by the Agency as provided herein.

f. Following the execution of this Agreement by all Parties, the Agency shall cause a notice regarding this Agreement to be published on behalf of all parties in accordance with Section 11-13-219 of the Cooperation Act and Section 17C-5-205 of the Act.

13. Modification and Amendment. Any modification of or amendment to any provision contained herein shall be effective only if the modification or amendment is in writing and signed by all Parties. Any oral representation or modification concerning this Agreement shall be of no force or effect.

14. Further Assurance. Each of the Parties hereto agrees to cooperate in good faith with the others, to execute and deliver such further documents, to adopt any resolutions, to take any other official action, and to perform such other acts as may be reasonably necessary or appropriate to consummate and carry into effect the transactions contemplated under this Agreement. Further, in the event of any question regarding the calculation or payment of amounts contemplated hereunder, the Parties shall cooperate in good faith to resolve such issue.

15. Governing Law. This Agreement shall be governed by, and construed and interpreted in accordance with, the laws of the State of Utah.

16. Interpretation. The terms "include," "includes," "including" when used herein shall be deemed in each case to be followed by the words "without limitation."

17. Severability. If any provision of this Agreement is held to be invalid or unenforceable by any court of competent jurisdiction or as a result of future legislative action, and if the rights or obligations of any Party hereto under this Agreement will not be materially and adversely affected thereby,

a. such holding or action shall be strictly construed;

b. such provision shall be fully severable;

c. this Agreement shall be construed and enforced as if such provision had never comprised a part hereof;

d. the remaining provisions of this Agreement shall remain in full force and effect and shall not be affected by the invalid or unenforceable provision or by its severance from this Agreement; and

e. in lieu of such illegal, invalid, or unenforceable provision, the Parties hereto shall use commercially reasonable efforts to negotiate in good faith a substitute, legal, valid, and enforceable provision that most nearly effects the Parties' intent in entering into this Agreement.

18. **Authorization.** Each of the Parties hereto represents and warrants to the other that the warranting Party has taken all steps, including the publication of public notice where necessary, in order to authorize the execution, delivery, and performance of this Agreement by each such Party.

19. **Time of the Essence.** Time is of the essence in the performance of this Agreement.

20. **Incorporation of Recitals.** The recitals set forth above are hereby incorporated by reference as part of this Agreement.

21. **Counterparts.** This Agreement may be executed in counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same agreement

22. **Incorporation of Exhibits.** Any exhibits to this Agreement are hereby incorporated by reference as part of this Agreement.

ENTERED into as of the day and year first above written.



Agency:

HEBER CITY COMMUNITY
REINVESTMENT AGENCY

By: Heidi Franco
Heidi Franco, Chair

Reviewed As To Proper Form And Compliance With Applicable Law:


Jeremy R. Cook, City Attorney

Taxing Entity:

**CENTRAL UTAH WATER CONSERVANCY
DISTRICT**

By: 
Its: Chair, Board of Trustees

ATTEST:

By: 
Secretary

Reviewed As To Proper Form And Compliance With Applicable Law:

By: 
Attorney for Water District

EXHIBIT "A"
to
INTERLOCAL COOPERATION AGREEMENT

Project Area Plan

EXHIBIT "B"
to
INTERLOCAL COOPERATION AGREEMENT

Project Area Budget