

**INTERLOCAL COOPERATION AGREEMENT
(South Pointe Community Reinvestment Project Area)**

THIS INTERLOCAL COOPERATION AGREEMENT (“Agreement”) is entered into by and between the Washington Terrace Redevelopment Agency, (“Agency”), and Weber County (“Taxing Entity”). The Agency and the Taxing Entity may collectively be referred to hereinafter as the “Parties” or individually as a “Party.”

RECITALS

A. The Agency is a redevelopment agency created and existing under the Limited Purpose Local Government Entities – Community Reinvestment Agency Act, Utah Code Ann. §§ 17C-1-101 *et seq.*, (the “Act”) or under predecessor statutes. The Agency is authorized under the Act to conduct urban renewal, economic development, community development, and community reinvestment activities within its boundaries.

B. The governing body of the Agency adopted a Project Area Plan (the “Plan”) for the South Pointe Community Reinvestment Project Area (the “Project Area”) on March 2, 2021. The Project Area Plan, which includes the map and legal description of the Project Area, is incorporated herein by this reference.

C. The Act authorizes funding of community reinvestment project areas and plans—such as the Project Area and Plan—with property tax increment pursuant to interlocal cooperation agreements with various taxing entities that levy property taxes within a project area.

D. The Taxing Entity, as a taxing entity, now desires to consent to the Agency receiving certain tax increment generated within the Project Area and attributable to the Taxing Entity’s tax levy within the Project Area in order to provide funds to the Agency to carry out the Plan.

E. The Agency and the Taxing Entity are “public agencies” as defined by the Utah Interlocal Cooperation Act, Utah Code Ann. Title 11 Chapter 13 (the “Interlocal Act”), and, as such, are authorized by the Interlocal Act to enter into this Agreement to act jointly and cooperatively in a manner that will enable them to make the most efficient use of their resources and powers. Additionally, Section 11-13-215 of the Interlocal Act also authorizes a taxing entity to share its tax and other revenues with other public agencies.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual representations, covenants, and agreements contained herein, the sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

ARTICLE 1 - INCORPORATION AND DEFINITIONS

1.1. Incorporation and Definitions. The foregoing recitals and all exhibits attached hereto are hereby made a part of this Agreement. Unless otherwise defined in this Section or in

this Agreement, terms shall have the meaning set forth in the Act. For the purposes of this Agreement, the following definitions apply:

- (a) Act: As defined in the Recitals to this Agreement.
- (b) Agency Board: The governing body of the Agency.
- (c) Agency's Share: 50 % of the Taxing Entity Tax Increment.
- (d) Base Tax Year: Defined in Section 2.1 of this Agreement
- (e) Base Taxable Value: Defined in Section 2.1 of this Agreement.
- (f) Taxing Entity Tax Increment: The Tax Increment attributable to the Taxing Entity's tax levies within the Project Area.
- (g) Collection Cap: \$743,000 (taxing entities portion)
- (h) County: Weber County.
- (i) Effective Date: As defined in Section 3.1 of this Agreement.
- (j) Project Area: The geographic area described in the Plan as the Project Area.
- (k) Plan: The Project Area Plan for the Project Area, as adopted and amended by the Agency Board and Washington Terrace City from time to time.
- (l) Property: All locally-assessed and centrally-assessed real and personal property.
- (m) Tax Increment: As defined in the Act, but generally referring to the difference between the amount of property tax revenues generated each tax year from Property within the Project Area using the current year assessed value of the Property and the amount of property tax revenues that would be generated each tax year by the Taxing Entities from that same Property using the Base Taxable Value of the Property.
- (n) Tax Increment Collection Period: The 16 year period commencing with the Trigger Year.
- (o) Trigger Year: Any tax year before the 2024 tax year, as determined by the Agency and evidenced by a written notice from the Agency to the Taxing Entity and to the County Auditor on or before November 1st of the year prior.

ARTICLE 2 – PAYMENT OF TAX INCREMENT

2.1. **Base Year and Base Taxable Value.** The Parties agree that for purposes of calculating the amount of Taxing Entity Tax Increment from the Project Area to be paid by the County Treasurer to the Agency pursuant to this Agreement, the base tax year will be 2020 (the “**Base Tax Year**”), and the base taxable value shall be \$2,482,300 (the “**Base Taxable Value**”).

2.2. **Payment of Tax Increment.** The Taxing Entity agrees and consents that, for each tax year during the Tax Increment Collection Period, but subject to the Collection Cap as provided in Section 2.3 *below*, the County Treasurer will pay fifty percent (50%) of Taxing Entity Tax Increment to the Agency (the “**Agency’s Share**”) and shall pay the remainder of Taxing Entity Tax Increment, if any, to the Taxing Entity. The County Treasurer shall continue to pay any and all tax revenues attributable to the Taxing Entity’s tax levies on the Base Taxable Value to the Taxing Entity.

2.3. **Tax Increment Collection Cap.** The total amount of Taxing Entity Tax Increment paid to the Agency under this Agreement will not exceed the Collection Cap of \$743,000, as defined above. Once the Collection Cap has been reached, the County must not pay any further Taxing Entity Tax Increment to the Agency. If the Agency receives any Taxing Entity Tax Increment in excess of the Collection Cap, the Agency will promptly refund the excess amount to the Taxing Entity.

2.4. **Tax Rate Increases.** The Agency will be entitled to all Taxing Entity Tax Increment resulting from any increase(s) in the tax rate of the Taxing Entity’s tax levies that occur(s) after the Base Tax Year.

2.5. **Allowed Uses.** The Agency may use Taxing Entity Tax Increment paid to the Agency under this Agreement to pay for any use authorized under the Act and the Plan, as determined by the Agency Board.

ARTICLE 3 – GENERAL PROVISIONS

3.1. **Term and Effective Date.** 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 the final payment of Tax Increment as described herein has been paid to the Agency as provided herein (the “**Effective Date**”).

3.2. **Consent to Project Area Budget.** As required by UCA § 17C-5-304, the Taxing Entity consents to the Project Area Budget adopted by the Agency for the Project Area on March 2, 2021.

3.3. **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.

3.4. 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 and the Project's 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.

3.5. Termination. This Agreement will terminate on the earlier of the following: (i) December 31, 2024, if the Tax Increment Collection Period has not been triggered prior to that date, as evidenced by a written notice from the Agency to the Taxing Entity and the County Auditor prior to that date; (ii) the date that the final payment of the Agency Share is made to the Agency after expiration of the Tax Increment Collection Period; or (iii) the date on which the Agency has been paid amounts under this Agreement equal to the Collection Cap or (iv) termination for cause.

(a) Termination for Cause. This Agreement may be terminated immediately by a Party if the other Party:

(1) Commits a material breach of this Agreement, which breach has not been cured after the breaching Party receives 20 days' advance written notice with the specifics of the breach to be cured; or

(2) Assigns or attempts to assign this Agreement in contravention of the terms of this Agreement

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

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

(d) The term of this Agreement, including any extensions, shall not exceed fifty (50) years pursuant to Section 11-13-216 of the Interlocal Act.

(e) Except as otherwise specifically provided herein, each Party shall be responsible for its own costs of any action done pursuant to this Agreement, and for any financing of such costs.

(f) No separate legal entity is created by the terms of this Agreement and no facility or improvement will be jointly acquired, jointly owned, or jointly operated by the Parties under this Agreement.

(g) To the extent this Agreement requires administration other than as set forth herein, it shall be administered by the chief administrative officer of each Party pursuant to Section 11-13-207 of the Interlocal Act.

3.7. Publication of Notice. Immediately after execution of this Agreement by the Parties, the Agency shall cause to be published a notice regarding this Agreement and the Parties' resolutions authorizing this Agreement, as provided and allowed pursuant to Section 11-13-219 of the Interlocal Act and in accordance with Section 17C-5-205 of the Act.

3.8. Governmental Immunity. Both Parties are governmental entities under the Governmental Immunity Act of Utah, §§ 63G-7-101 *et seq.* (the "Immunity Act"). Neither Party waives any defenses or limits of liability available under the Immunity Act and other applicable law. Both Parties maintain all privileges, immunities, and other rights granted by the Immunity Act and all other applicable law.

3.9. Authorization. Each of the Parties hereto represents and warrants to the others 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.

3.10. Modification and Amendment. This Agreement may be amended, enlarged, modified or altered only by an instrument in writing signed by the Parties in the same manner as this Agreement was first approved.

3.11. Further Documents and Acts. Each of the Parties agrees to cooperate in good faith with the other to execute and deliver such further documents and perform such other acts as may be reasonably necessary or appropriate to consummate and carry into effect the intent and transactions contemplated under this Agreement.

3.12. Entire Agreement. This Agreement and the exhibits attached hereto constitute the entire agreement between the Parties pertaining to the subject matter hereof, and all prior agreements, representations, negotiations and understandings of the Parties hereto, pertaining to the subject matter hereof, are hereby superseded by this Agreement.

3.13. No Waiver. The failure of either Party at any time to require performance of any provision or to resort to any remedy provided under this Agreement will in no way affect the right of that Party to require performance or to resort to a remedy at any time thereafter. Additionally, the waiver of any breach of this Agreement by either Party will not constitute a waiver as to any future breach, and no extension of time for performance of any obligation or act shall be deemed an extension of the time for performance of any other obligation or act.

3.14. No Obligations to Third Parties. The Parties agree that the Agency's obligations under this Agreement are solely to the Taxing Entity and that the Taxing Entity's obligations under

this Agreement are solely to the Agency. The Parties do not intend to confer any rights to third parties unless otherwise expressly provided for under this Agreement.

3.15. Assignment. No Party may assign its rights, duties or obligations under this Agreement without obtaining prior written consent from the other Party, which consent must be given in the same manner as this Agreement was first approved.

3.16. Governing Law and Venue. The laws of the State of Utah apply. Venue for any and all legal actions arising hereunder will lie in the District Court in and for Weber County.

3.17. Severability. If any provision of this Agreement and any related document shall be held 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, the Parties agree that:

- (a) such holding or action will be strictly construed;
- (b) such provision will be fully severable;
- (c) this Agreement will be construed and enforced as if such provision had never comprised a part hereof;
- (d) the remaining provisions of this Agreement and related documents will remain in full force and effect and will 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 will 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.

3.18. Survival of Certain Provisions. All provisions of this Agreement which expressly or impliedly contemplate performance after expiration or termination hereunder shall survive such expiration or termination.

3.19. Counterparts. This Agreement may be executed in counterparts and all so executed will constitute one agreement binding on all the Parties, it being understood that all parties need not sign the same counterpart. Further, executed copies of this Agreement delivered by facsimile or email will be deemed an original signed copy of this Agreement.

Each Party hereby signs this Interlocal Cooperation Agreement on the date written by each Party on the signature pages attached hereto.

[The balance of this page was left blank intentionally – Signature pages follow]

INTERLOCAL AGREEMENT -- SIGNATURE PAGE FOR TAXING ENTITY

WEBER COUNTY:

By: _____

Name:

Title:

Dated: _____, 20__

Attest:

Name:

Title:

Approved as to Form and Legality:

By: _____
_____, Attorney for Taxing Entity

[Signatures continue on next page.]

INTERLOCAL AGREEMENT -- SIGNATURE PAGE FOR AGENCY

WASHINGTON TERRACE
REDEVELOPMENT AGENCY

By: 

Name: MARK C. ALLEN

Title: Mayor / CHAIR

Dated: 3-02, 2021


Attest:



Name: Amy Rodriguez

Title: City Recorder

Approved as to Form and Legality:

By: 

Adam S. Long, Attorney for Agency