

INTERLOCAL AGREEMENT

THIS INTERLOCAL AGREEMENT (“**Agreement**”) is made and entered into this _____ day of _____, 2021 (“**Contract Date**”), by and between the **OGDEN CITY REDEVELOPMENT AGENCY**, a redevelopment agency created under the laws of the state of Utah (“**Agency**”), and **WEBER COUNTY**, a political subdivision within the state of Utah (“**County**”). Agency and County are referred to herein as the “**Parties**” and sometimes individually as a “**Party**.”

RECITALS:

A. The Agency was created and organized pursuant to the provisions of the Utah Neighborhood Development Act, Utah Code Annotated § 17A-2-1201 et seq. (2000), and continues to operate under the provisions of its extant successor statute, the Limited Purpose Local Government Entities - Community Reinvestment Agency Act, as found in UTAH CODE ANN.

§17C-1-101 et seq. (the “**Act**”), and is authorized and empowered thereby to undertake various activities and actions pursuant thereto;

B. The Agency, together with key stakeholders, has a desire and a mission to bring about purposeful and significant community development activities and to assist in the development of certain key properties and projects, the result of which will advance the policies, goals and objectives of the Ogden City’s general plan, preserve and maintain the natural environment desired by the citizens of the community, contribute to capital improvements which substantially benefit Ogden City and County, create economic benefits to the immediate area, and improve the public health, safety and welfare of its citizens;

C. In or about July 2020, the Agency will have thoroughly reviewed the Airport Community Reinvestment Project Area Plan (“**Plan**”) and Budget (“**Budget**”) and it is anticipated that the Agency Board will approve the Plan and adopt the Budget on or around August, 2021. The Plan and Budget will govern the development within the Airport Community Reinvestment Project Area (“**Project Area**”), which is more fully described in Exhibit A – Airport CRA Plan and Budget attached hereto;

D. Pursuant to certain interlocal agreements with taxing entities, the Act authorizes funding of community reinvestment project areas and plans, such as the Project Area and related Plan, with real and personal property tax increment;

E. UTAH CODE ANN. § 11-13-215 (2003) authorizes a taxing entity to share its tax and other revenues with other governmental agencies;

F. The Agency is willing to use tax increment from the Project Area, and the County is willing to consent to the Agency’s use of tax increment from the Project Area, to fund the Project Area and Plan;

G. For the purpose of providing funds to carry out the purposes and activities set forth in the Plan, the County consents to the Agency receiving certain tax increment from the Project Area in accordance with the terms of this Agreement; and

H. This Agreement is made pursuant to the provisions of the Interlocal Cooperation Act, UTAH CODE ANN. §11-13-101, *et seq.*, (the “**Cooperation Act**”).

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

1. **Recitals.** The above recitals are incorporated herein by reference and made a part hereof.

2. **Base Taxable Value.** After combining the Weber County assessed values of all real and personal property within the Project Area for the base year 2020, and pursuant to §17C-1-102(8) of the Act, the Parties agree that the base taxable value for all such properties within the Project Area shall be \$211,920,205 regardless of the Tax Increment Commencement Date as defined below (“**Base Taxable Value**”).

3. **Weber County Payment of Tax Increment to Agency.** Pursuant Section 17C-5-204 of the Act and Sections 11-13-202.5 and 11-13-215 of the Cooperation Act, the County hereby agrees and consents that for twenty-five (25) consecutive tax years (“**Tax Increment Period**”), the Agency shall collect from Weber County 90% of the County’s tax increment generated from the County’s General Operations local levy within the Project Area during the Tax Increment Period for the purpose of providing funds to the Agency to carry out the Plan. The Parties understand and agree that payment for the last year of Tax Increment will be paid to the Agency in the year following the Tax increment Termination Date. The County consents to Agency’s use of, for administrative purposes, 5% of the County’s Tax Increment the Agency collects from the Project Area for the duration of the Tax Increment Period. The County further consents to Agency’s use of, for housing purposes outlined in the Act, 20% of the County’s Tax Increment the Agency collects from the Project Area for the duration of the Tax Increment Period. In accordance with 17C-5-204(6)(d) of the Act, the County shall not proportionally reduce the agreed-upon amount of the tax increment paid to the Agency under this Agreement by the amount of any direct expenditures the County makes within the Project Area for the benefit of the Project Area or the Agency.

4. **Commencement and Termination of the Tax Increment Period.** The Tax Increment Period will begin on the first day of January in the year for which the Agency accepts its first Tax Increment payment from the Project Area, or January 1, 2023, whichever date is earlier (“**Tax Increment Commencement Date**”). The year of receipt of the first Tax Increment payment will not affect or determine the Tax Increment Commencement Date. The Parties are aware that Tax Increment payments are paid during the year following the year in which Tax Increment is generated or accrued. The Tax Increment Period will end on the 31st day of December preceding the twenty-fifth (25th) anniversary of the Tax Increment Commencement Date (“**Tax Increment Termination Date**”). The County’s Tax Increment generated from the Project Area after the Tax Increment Termination Date or after the maximum increment specified in Section 5 is paid to the Agency, whichever occurs first, shall be paid to the County.

5. **Maximum Payment of Tax Increment.** The total payments made to the Agency from the County's Tax Increment generated from the Project Area during the Tax Increment Period shall not exceed \$17,000,000.

6. **Approval of Plan and Adoption of Budget.** If the Agency Board fails to approve the Plan or adopt the Budget, in the form as attached hereto, or if Ogden City Council fails to adopt by ordinance the Plan, in the form as attached hereto, then this Agreement shall be void. If the Agency approves a plan or adopts a budget with changes or variations from the Plan and Budget attached hereto, then the County will have the opportunity to approve such changes or variations before this Agreement will be binding upon the Parties. This Interlocal Agreement shall be void if the County does not approve such changes or variations.

7. **Interlocal Cooperation Act.** In accordance with the requirements of the Cooperation Act, the Parties agree as follows:

- a. This Agreement shall be authorized by a 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 Section 11-13-202.5 of the Cooperation Act;
- c. A duly executed original counterpart of this 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 Executive Director of the Agency is hereby designated as the administrator to administer all joint or cooperative undertaking pursuant to Section 11-13-207 of the Cooperation Act;
- e. The term of this Agreement shall commence on the Effective Date as defined below and shall continue for 180 days after the Tax Increment Termination Date, or the date on which the last payment of Tax Increment of the County is paid to the Agency, whichever date occurs first.
- f. This Agreement may be terminated before the end of the Tax Increment Termination Date by mutual written agreement of the Parties. If Ogden City School District, Ogden City, or Central Weber Sewer District do not agree to contribute a portion of their tax increment funding to the Plan in accordance with the Budget, or if any one of them otherwise fail to participate in the Plan, then the County may terminate this agreement in writing anytime thereafter without penalty.
- g. The Agency will be responsible for budgeting all required funding for the Plan and the County will be responsible for budgeting its activities.

8. **Publication of Notice.** Immediately after execution of this Agreement by the Parties, each of the Parties shall cause to be published a notice regarding this Agreement and the Party's

resolution authorizing this Agreement, as provided and allowed pursuant to Section 11-13- 219 of the Cooperation Act. The County agrees that the Agency may cause such publication of notice be made on the County's behalf and at the Agency's expense in a joint publication.

9. **No Third-Party Beneficiary.** Nothing in this Agreement shall be deemed or considered to create any obligation in favor of or rights in any person or entity not a party to this Agreement. No person or entity is an intended third-party beneficiary of this Agreement. Any obligation of the Agency to make any payments to a developer, business or any person or entity is to be set forth in written agreements between the Agency and the person or entity, in accordance with terms and requirements satisfactory to the Agency.

10. **Due Diligence.** Each of the Parties acknowledges for itself that it has performed its own review, investigation and due diligence regarding the relevant facts concerning the Project Area and Plan and the expected benefits to the community and to the Parties, and each of the Parties relies on its own understanding of the relevant facts and information, after having completed its own due diligence and investigation.

11. **Modification.** A modification of, or amendment to, any provision contained in this Agreement shall be effective only if the modification or amendment is in writing and signed by the Parties after proper approval of the modification or amendment as required by law. Any oral representation or modification concerning this Agreement shall not be binding upon the Parties, or any one of them.

12. **Further Documents and Acts.** Each of the Parties hereto 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.

13. **Entire Agreement.** This Agreement and its exhibits constitute the entire agreement between the Parties pertaining to the subject matter hereof, and the final, complete and exclusive expression of the terms and conditions thereof. All prior agreements, representations, negotiations and understandings of the Parties hereto, oral or written, express or implied, are hereby superseded and merged herein.

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

15. **Effective Date.** Pursuant to Section 17C-5-204 of the Act, this Agreement shall become effective upon publication of the notice as required by the Act.

16. **Disputes.** In the event a dispute arises between the Parties with respect to the terms of this Agreement, or the performance of any contractual obligations by one or both Parties, the Parties agree to submit the matter to formal and confidential non-binding mediation before any judicial action may be initiated, unless an immediate court order is needed or a statute of limitations period will run before mediation can be reasonably completed. A mediator will be selected by mutual agreement of the parties. The parties must mediate in good faith to resolve the dispute in a timely manner. Each party will be responsible for its own costs and one-half of the cost of the mediator. The place of mediation shall be Weber County, Utah.

17. **Assignment.** No Party may assign any rights, duties, or obligations under this Agreement without the prior written consent of all Parties hereto.

18. **Counterparts and Signatures.** 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. This Agreement may be executed by electronic signature, which shall be considered as an original signature for all purposes and shall have the same force and effect as an original signature. Without limitation, "electronic signature" shall include faxed versions of an original signature or electronically scanned and transmitted versions (e.g., via pdf) of an original signature.

19. **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,

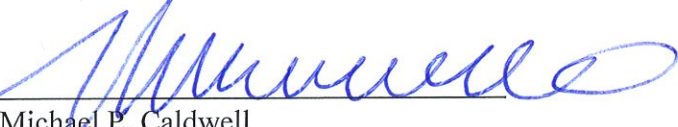
- a. such holding or action shall be strictly construed;
- b. such provision shall be fully severable;
- c. this Agreement shall be construed and enforced as if such provision had never comprised a part hereof;
- d. the remaining provisions of this Agreement shall remain in full force and effect and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

SIGNATURES ON FOLLOWING PAGE

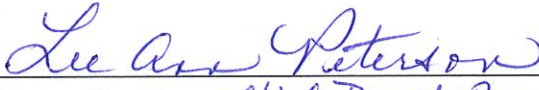
ENTERED into as of the Contract Date written above.

AGENCY:

OGDEN CITY REDEVELOPMENT AGENCY,
a body politic and political subdivision of the state of Utah


By: 
Michael P. Caldwell
Executive Director

ATTEST:


Agency Secretary - Chief Deputy Recorder



APPROVED AS TO FORM:


Agency Attorney

COUNTY:

WEBER COUNTY,

By: _____
Commission Chair

ATTEST: _____
County Recorder

APPROVED AS TO FORM:

County Attorney

EXHIBIT A to
Interlocal Agreement

Airport CRA Plan and Budget

