

INTERLOCAL AGREEMENT FOR TAX INCREMENT

THIS INTERLOCAL AGREEMENT FOR TAX INCREMENT (this “**Agreement**”) is entered into as of the ____ day of _____ 2019, by and between the REDEVELOPMENT AGENCY OF THE CITY OF LOGAN, a community development and renewal agency and political subdivision of the State of Utah (the “**Agency**”), and the LOGAN CITY SCHOOL DISTRICT, a political subdivision of the State of Utah (the “**District**”). The Agency and the District are sometimes referred to herein individually as a “**Party**” and collectively as the “**Parties**.”

RECITALS

WHEREAS, the Agency was created and organized pursuant to the provisions of Utah law and currently continues to operate under the provisions of the Limited Purpose Local Government Entities – Community Reinvestment Agency Act, Utah Code Ann. Title 17C Chapters 1 through 5, as amended (the “**Development Act**”), and is authorized and empowered thereunder to undertake various activities and actions pursuant to the Development Act; and

WHEREAS, pursuant to the Development Act, the Agency on October 2, 2018, and the City of Logan (the “**City**”) on October 16, 2018, established the South Main River Community Reinvestment Project Area (the “**Project Area**”), which is described in the documents attached as Exhibit A, through adoption of the South Main River Community Reinvestment Project Area Plan, dated August 31, 2018 (the “**Plan**”), which is described the documents attached as Exhibit B, and which provides for the South Main River Community Reinvestment Project Area Budget (the “**Project Area Budget**”), which is described in the documents attached as Exhibit C; the Project Area, the Plan, and the Project Area Budget are incorporated herein by this reference, and

WHEREAS, pursuant to interlocal agreements with taxing entities the Development Act authorizes funding of community development project areas and plans, such as the Project Area and the Plan, with property tax increment and sales tax proceeds; and

WHEREAS, the Agency is willing to use a certain property tax increment from the Project Area attributable to the District’s tax levy, and the District is willing to consent that such property tax increment from the Project Area attributable to the District’s tax levy be used to fund the Plan; and

WHEREAS, Utah Code Ann. §17C-5-204 of the Development Act authorizes a taxing entity to “consent to the Agency receiving the taxing entity’s tax increment or sales tax revenues, or both, for the purpose of providing funds to carry out a proposed or adopted community reinvestment project area plan;” and

WHEREAS, Utah Code Ann. §11-13-215 of the “Interlocal Cooperation Act” (Utah Code Ann. Title 11, Chapter 13, as amended) also authorizes a taxing entity to share its tax and

other revenues with other governmental agencies; and

WHEREAS, this Agreement is entered into by the Parties pursuant to the authority of applicable State law, including the Development Act, and the Interlocal 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, the Parties hereby agree as follows:

AGREEMENT

1. Additional Tax Revenue. It has been determined that additional property tax revenue will likely be generated by development within the Project Area as described in further detail in the Plan (see Exhibit B). Defined by statute in Utah Code Ann. §17C-1-102(60), the “tax increment” generally includes the additional property tax revenue generated by the development in the Project Area as proposed in the Plan. Consequently, and for purposes of this Agreement, the Parties agree that the “**Tax Increment**,” for purposes of determining the portion of the tax revenues that will be paid to the Agency for the term identified in paragraph 5 below, includes only the increase in the cumulative real and personal property tax revenues attributable to the development contemplated and accomplished by the Agency pursuant to the Plan. In other words, the Parties agree that there shall be no participation of any tax increment outside of the Tax Increment agreed to in this Agreement (*e.g.*, from future development that might occur within the Project Area not identified in the Plan), unless such is separately approved in writing by the District in a separate interlocal agreement.

2. Offset of Development Costs and Expenses. The District has determined that it is in its interest to pay a specified portion of the Tax Increment to the Agency in order for the Agency to offset costs and expenses which will be incurred by the Agency in the construction and installation of infrastructure improvements in the Project Area as described in the Plan.

3. Base Year and Base Taxable Value. The base year, for purposes of calculating the “**Base Taxable Value**” (as defined in Utah Code Ann. §17C-1-102(6)), shall be 2018; meaning that the Base Taxable Value shall, to the extent and in the manner defined by the Development Act, be equal to the equalized taxable value shown on the 2018 Cache County assessment rolls for all real and personal property located within the Project Area, which is \$17,940,570.

4. Agreements with Developers. The Agency is authorized to enter into one or more agreements with developers which may provide for the payment of certain amounts of the Tax Increment to the developer on the basis of the developer meeting certain performance measures as outlined in an agreement between the developer and the Agency. Such agreement shall be consistent with the terms of this Agreement and shall require, as a condition of payment to the developer, that the developer, or its approved successor or assign, shall pay any and all taxes and assessments which shall be assessed against the developer for property within the Project Area in

accordance with levies made by applicable municipal entities in accordance with the laws of the State of Utah.

5. Years for Payment. The District agrees to pay the Agency the portion of the Tax Increment as outlined in this Agreement, for a period of fifteen (15) years. The first year of payment shall be determined by the Agency but may not begin before 2020 and may begin no later than 2021. The Agency's election shall be evidenced by a written notice to the District and to the Cache County Auditor.

6. District's Consent to Remittance of Tax Increment to Agency and Related Provisions.

a. The District, pursuant to Utah Code Ann. §17C-5-204 and §§11-13-202.5 and 11-13-215, hereby authorizes and instructs Cache County to pay seventy percent (70%) of the Tax Increment annually directly to the Agency for the period described in paragraph 5 of this Agreement, for the purpose of providing funds to the Agency to carry out the Plan.

b. The District further consents that the Agency may use for the Agency's administrative purposes up to five percent (5%) of the portion of the Tax Increment payable to the Agency.

c. During the period described in paragraph 5 of this Agreement, the remaining 30% of the Tax Increment shall continue to be paid by Cache County to the District. Further, all Tax Increment within the Project Area for all years beyond the period described in paragraph 5 of this Agreement shall be paid by Cache County to the District.

d. The calculation of the annual Tax Increment to be paid by Cache County to the Agency shall be made as required by the Development Act using the then current tax levy rate, and the base year and Base Taxable Value as described paragraph 3 of this Agreement.

7. 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 and in accordance with the terms of this Agreement.

8. 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, the Plan, the Project Area Budget, 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.

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

a. This Agreement shall be authorized by a resolution of the legislative body of each Party pursuant to an in accordance with the provisions of Utah Code Ann. §11-13-202.5;

b. This Agreement shall be reviewed as to proper form and compliance with applicable law by a duly authorized attorney on behalf of each Party pursuant to and in accordance with Utah Code Ann. § 11-13-202.5;

c. A duly executed original counterpart of this Agreement shall be filed immediately with the keeper of records of each Party pursuant to Utah Code Ann. §11-13-209;

d. After approval required by law and full execution of this Agreement by the Parties, the term of this Agreement shall commence on the effective date as provided in paragraph 14 below and continue through the date that is 180 days after the last payment of the portion of the Tax Increment owed to the Agency pursuant to the terms and provisions of this Agreement. After satisfaction of all obligations of the Agency to pay to others the funds to be received by the Agency under this Agreement, this Agreement may be terminated before the end of the above-stated term by the mutual written agreement of the Parties.

e. There will be no jointly held or jointly owned property and each Party will be responsible for acquiring, holding and disposing of its own property. Except as described in paragraph 21 below as relates to termination of this Agreement and the return of certain funds held by the Agency to the District, the Parties do not anticipate the need to dispose of property upon early termination of this Agreement or otherwise, and therefore no further provision regarding the disposition of property is included in this Agreement.

f. The Agency will solely be responsible for budgeting all required funding for the Plan and the District will solely be responsible for budgeting for its activities.

g. Immediately after execution of this Agreement by the Parties, the Agency shall cause to be published a notice regarding authorization of this Agreement, as provided and allowed pursuant to Utah Code Ann. §17C-5-205 and §11-13- 219. The District agrees that the Agency may cause such publication of notice to be made on the District's behalf and at the Agency's expense, in a joint publication.

10. 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 may be required by law.

11. 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.

12. Entire Agreement. This Agreement and its exhibits constitute the entire agreement between the Parties hereto 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.

13. Waivers. No waiver of any breach of any covenant or provision herein contained shall be deemed a waiver of any preceding or succeeding breach thereof or of any other covenant or provision herein contained. 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.

14. Assignment. No Party may assign its rights, duties or obligations under this Agreement without the prior written consent of all Parties.

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

16. Construction. Headings at the beginning of each paragraph and subparagraph are solely for the convenience of the Parties and are not a part of the Agreement. Whenever required by the context of this Agreement, the singular shall include the plural and the masculine shall include the feminine and vice versa. Unless otherwise indicated, all references to paragraphs and subparagraphs are to this Agreement. In the event the date on which any of the Parties is required to take any action under the terms of this Agreement is not a business day, the action shall be taken on the next succeeding business day.

17. Partial Invalidity. If any term or provision of this Agreement or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each such term and provision of this Agreement shall be valid and shall be enforced to the fullest extent permitted by law.

18. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute but one and the same instrument.

19. Declaration of Invalidity. In the event that (i) a court of competent jurisdiction declares that Cache County cannot pay and/or that the Agency cannot receive payments of the

portion of the Tax Increment described herein, (ii) declares the Agency cannot pay proceeds from the portion of the Tax Increment that it receives pursuant to this Agreement to developers, (iii) takes any other action which has the effect of eliminating or reducing the payments from the portion of the Tax Increment identified herein as payable to the Agency, or (iv) the Agency's obligation to pay proceeds from those payments to developers is reduced or eliminated, the Agency and the District shall take such steps as are reasonably necessary to not permit the payment and/or receipt of the identified-portion (*i.e.*, 70%) of the Tax Increment to be declared invalid.

20. No Separate Legal Entity. No separate legal entity is created by this Agreement.

21. Termination. Upon any termination of this Agreement resulting from (i) the uncured default of any Party, (ii) the order of any court of competent jurisdiction, or (iii) termination as a result of any legislative action requiring such termination, any funds held by the Agency and for which the Agency shall not be required to disburse to developers in accordance with the agreements which govern such disbursement, then such funds shall be remitted to the District (*i.e.*, the Party originally authorizing the payment of such funds to the Agency) and upon such remittance this Agreement shall be deemed terminated and of no further force or effect.

22. Governing Law and Venue. This Agreement shall be governed by, construed and interpreted in accordance with, the laws of the State of Utah. In the event of any dispute hereunder, it is agreed that the sole and exclusive venue shall be a court of competent jurisdiction in Cache County, Utah, and the Parties agree to submit to the jurisdiction of such court.

23. Authority to Bind. Each individual executing this Agreement represents and warrants that such person is authorized to do so, and, that upon executing this Agreement, this Agreement shall be binding and enforceable in accordance with its terms upon the Party for whom such person is acting.

24. Effective Date. This Agreement shall be effective upon the publication of the summary of this Agreement as provided and required by Utah Code Ann. §17C-5-205 and §11-13-219.

[Remainder of page intentionally left blank, signature page follows.]

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

REDEVELOPMENT AGENCY OF LOGAN CITY

By: _____
Jeannie Simmonds, Chairperson

By: _____
Holly H. Daines, Chief Administrative Officer

Attorney review for Redevelopment Agency: The undersigned, as counsel for the Redevelopment Agency of Logan City, has reviewed the foregoing Interlocal Agreement for Tax Increment and finds it to be in proper form and in compliance with applicable state law and certifies that the Agency and the taxing entity (*i.e.*, the District), each signed hereto, followed all legal requirements relating to the adoption of this Interlocal Agreement for Tax Increment.

Kymber Housley, Counsel for Agency

BOARD OF EDUCATION OF LOGAN CITY SCHOOL DISTRICT

LOGAN CITY SCHOOL DISTRICT

By: _____
Kristie Cooley
President
Board of Education of Logan City School District

By: _____
Jeff Barben
Business Administrator
Logan City School District

Attorney review for Logan City School District: The undersigned, as counsel for the Logan City School District, has reviewed the foregoing Interlocal Agreement for Tax Increment and finds it to be in proper form and in compliance with applicable law.

Counsel for Logan City School District

EXHIBIT A

EXHIBIT B

EXHIBIT C