

SALT LAKE COUNTY RESOLUTION

RESOLUTION NO. _____, 2021

RESOLUTION APPROVING AN INTERLOCAL COOPERATION AGREEMENT BETWEEN SALT LAKE COUNTY AND THE COMMUNITY DEVELOPMENT AND RENEWAL AGENCY OF HERRIMAN SETTING FORTH THE COUNTY'S PARTICIPATION IN THE HERRIMAN INNOVATION DISTRICT COMMUNITY REINVESTMENT PROJECT AREA

RECITALS

WHEREAS, Salt Lake County and the Community Development and Renewal Agency of Herriman (the "Agency") are "public agencies" as defined by the Utah Interlocal Cooperation Act, UTAH CODE §§ 11-13-101 to -608, and are therefore authorized 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; and

WHEREAS, the Agency is a community reinvestment agency created and existing under the Limited Purpose Local Government Entities – Community Reinvestment Agency Act, UTAH CODE §§ 17C-1-101 to -5-406 (the "Act"). It is authorized under the Act to conduct urban renewal, economic development, community development, and community reinvestment activities within Herriman City (the "City"); and

WHEREAS, pursuant to Resolution No. R2019-09 adopted by the Agency on June 26, 2019 and Ordinance 2019-16 adopted by the Herriman City Council on June 26, 2019, the Herriman Innovation District Community Development Area Plan (the "Project Area Plan") has been approved; and

WHEREAS, under the Project Area Plan, the Agency desires to increase available job opportunities near population centers in the southwest area of the County; and

WHEREAS, § 17C-5-204 of the Act authorizes the County, as a taxing entity, to consent to the payment to the Agency of its share of tax increment (as defined in § 17C-1-102(61) of the Act) generated from the Project Area for the purposes set forth in the Project Area Plan; and

WHEREAS, the County and the Agency wish to enter into an Interlocal Cooperation Agreement to set forth the County's contribution of tax increment; and

WHEREAS, it has been determined that the best interests of the County and the general public will be served by execution of the attached Interlocal Cooperation Agreement.

NOW, THEREFORE, IT IS HEREBY RESOLVED by the Salt Lake County Council that the attached Interlocal Cooperation Agreement is hereby approved; and the Mayor is hereby

authorized to execute said agreement, a copy of which is attached as Attachment "A" and by this reference made a part of this Resolution.

APPROVED and ADOPTED this ____ day of _____, 2021.

SALT LAKE COUNTY COUNCIL

By: _____


Steve DeBry, Chair

Date: _____

ATTEST:

Sherrie Swensen
Salt Lake County Clerk

APPROVED AS TO FORM:



Adam Miller
Deputy District Attorney
Date: 21 July 2021

- Council Member Alvord voting _____
- Council Member Bradley voting _____
- Council Member Bradshaw voting _____
- Council Member DeBry voting _____
- Council Member Granato voting _____
- Council Member Newton voting _____
- Council Member Snelgrove voting _____
- Council Member Stringham voting _____
- Council Member Theodore voting _____

ATTACHMENT A

**Interlocal Cooperation Agreement Between Salt Lake County and the Community Development and
Renewal Agency of Herriman**

Herriman Innovation District Community Reinvestment Project Area

**INTERLOCAL COOPERATION AGREEMENT
BETWEEN SALT LAKE COUNTY AND
THE COMMUNITY DEVELOPMENT AND RENEWAL AGENCY OF HERRIMAN**

Herriman Innovation District Community Reinvestment Project Area

THIS INTERLOCAL COOPERATION AGREEMENT (this "Agreement") is entered into between **SALT LAKE COUNTY**, a body corporate and politic of the State of Utah (the "County"), and the **COMMUNITY DEVELOPMENT AND RENEWAL AGENCY OF HERRIMAN**, a public entity (the "Agency") (collectively, the "Parties").

RECITALS

WHEREAS, the County and the Agency are "public agencies" as defined by the Utah Interlocal Cooperation Act, Utah Code Ann. §§ 11-13-101 *et seq.* (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; and

WHEREAS, the Agency is a community reinvestment 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"). The Agency is authorized under the Act to conduct urban renewal, economic development, community development, and community reinvestment activities within Herriman City, Utah (the "City"); and

WHEREAS, pursuant to Resolution No. R2019-09 adopted by the Agency on June 26, 2019 and Ordinance 2019-16 adopted by the Herriman City Council on June 26, 2019, the Herriman Innovation District Community Development Area Plan (the "Project Area Plan") has been approved, a copy of which is attached hereto as **Exhibit A**, which includes the legal description and a map of Herriman Innovation District Community Development Area (the "Project Area"); and

WHEREAS, under the Project Area Plan, the Agency desires to increase available job opportunities near population centers in the southwest area of the County;

WHEREAS, the County, as a taxing entity, now desires to consent to the Agency receiving certain tax increment (as defined in 17C-1-102(61) of the Act) ("Tax Increment") created by development activities in the Project Area to assist in development as set forth in the Project Area Plan; and

WHEREAS, section 17C-5-204 of the Act authorizes the County to consent to the payment to the Agency of its share of Tax Increment generated from the Project Area for the purposes set forth in the Project Area Plan.

AGREEMENT

NOW, THEREFORE, for good and valuable consideration, the Parties agree as follows:

1. Base Year and Base Taxable Value. The calculation of the annual Tax Increment shall be made using the 2018 tax year (the "Base Tax Year") and the base taxable value shall be the assessed taxable value of all Property within the Project Area for the Base Tax Year, which is \$696,711 (the "Base Taxable Value").

2. Budget. Pursuant to Subsection 17C-5-204(6)(c) of the Act, the County's portion of tax increment in the Project Area budget is reflected in **Exhibit B**, which is attached hereto and incorporated by reference.

3. Payment of Tax Increment and Collection Period. The County hereby agrees and consents that the County shall pay 100% of the County's portion of the Tax Increment from the Project Area (the "County's Contribution"), subject to the Annual Mitigation Payment and the Contribution Cap defined below. The County's Contribution shall be paid for a term of fifteen (15) years beginning with the 2022 tax year. Pursuant to Subsection 17C-5-204(6)(d) of the Act, the County is prohibited from proportionately reducing the Tax Increment the County consents to pay to the Agency by the amount of any direct expenditures the County makes within the Project Area for the benefit of the Project Area or the Agency. This Agreement does not include a contribution of sales and use tax, and the Agency shall not seek a contribution of sales and use tax from the County with respect to the Project Area.

(a) Annual Mitigation Payment. Notwithstanding Section 3 of this Agreement, the Parties hereby agree that for each tax year during the collection period, the Agency shall transfer an amount equal to 25% of the County's Contribution back to the County (the "Annual Mitigation Payment"). The Agency's transfer of the Annual Mitigation Payment to the County each year shall occur no later than three months following the Agency's receipt of County's Contribution from the Salt Lake County Treasurer. The amount equal to the County's Contribution less the Annual Mitigation Payment is hereinafter referred to as the "Agency's Share." However, the Parties agree that if this Annual Mitigation Payment in this Subsection 3(a) is ever held to be invalid or unenforceable by a court of competent jurisdiction or as a result of legislative or administrative action, or if the County ever provides a written notice to the Agency calling for the elimination of the Annual Mitigation Payment in this Subsection (3)(a) from the Agreement for any other reason, then the Parties agree that, in lieu of the Annual Mitigation Payment under this Subsection 3(a) and starting with the next tax year for which County Tax Increment has not already been paid to the Agency, the County's Contribution under Section (3) will be reduced by 25% — in addition to any reduction for the County's administration and operations — and that the Salt Lake County Treasurer shall pay the remainder of County's Tax Increment directly to the County. Such reductions in the County's Contribution should be adjusted proportionally to any increases in the Agency's Share as provided under Sections 5 and 6 of this Agreement. Furthermore, if a reduction to the County's Contribution is triggered under this Subsection 3(a), the Agency agrees that

it will not seek repayment of and will waive any claim to any portion of the Annual Mitigation Payment that has already been paid to the County.

(b) Contribution Cap. The County's Contribution shall not exceed the greater of \$437,901 or the combined contribution of Herriman City and the Herriman City Safety Enforcement Area, but in no event shall the amount exceed \$832,352 ("Contribution Cap").

(c) Administrative Fees. The administrative fee paid to the Agency is limited to 2.9% of the County's Contribution. Three percent of the County's Contribution shall be paid annually to the County's Office of Regional Development for costs associated with evaluating the County's participation in the Project Area and ongoing administration related to this Agreement.

(d) Allowable Uses. The County's Contribution may only be for improvements to the sewer line found within the Project Area, the County's Administrative Fee, the Agency's administrative costs directly related to the administration of the Project Area, and for the Housing Set Aside as set forth herein.

4. Representations. To induce the County to execute and perform this Agreement, the Agency hereby represents to the County as follows:

(a) Local Community Contribution. The Agency and the City have entered into an interlocal cooperation agreement wherein the City has agreed to contribute 100% of its Tax Increment generated in the Project Area to the Agency for the duration of the collection period.

(b) Sufficiency of Tax Increment. To the best of the Agency's knowledge, the amount of Tax Increment that the Agency expects to receive from the County is sufficient to carry out and accomplish some of the objectives of the Project Area Plan.

(c) Legal Requirements. To the best of the Agency's knowledge, the Agency is not in violation of any legal requirements pursuant to this Agreement and no violation of legal requirements exist with respect to the establishment of the Project Area.

(d) No Violation of Other Agreements. To the best of the Agency's knowledge, the consummation of the transactions contemplated by this Agreement and the performance of this Agreement will not result in any breach of, or constitute a default under, any agreement or other instrument pertaining to this Project Area.

5. Effect of Disbursement of County's Contribution to Agency. The Agency agrees that its receipt of the County's Contribution under this Agreement each year during the collection period, constitutes an affirmation that the representations of this Section remain true and correct as of the date thereof, unless the County is notified to the contrary prior to the Agency's receipt of County Contribution.

6. Affordable Housing Set Aside – Agency Obligation. Agency agrees to set aside at least 10% of the Agency Share for affordable housing. The Agency agrees to encumber its affordable housing set-aside increment received from the County, within a reasonable amount of time but in no case any later than 7 years after receipt, for projects that satisfy Section 17C-1-412 of the Act. The objective of this provision is to use the County's Contribution to create an increase in affordable housing within the Project Area and not to replace affordable housing already available.

7. 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 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 Interlocal Act.

(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 the Section 11-13-202.5(3) of the Interlocal Act.

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

(d) 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 Interlocal Act.

(e) No separate legal entity is created by the terms of this Agreement. The Executive Director of the Agency is hereby designated the administrator for all purposes of the Interlocal Act, pursuant to Section 11-13-207 of the Interlocal Act.

(f) Following the execution of this Agreement by each of the Parties, each Party shall cause a notice regarding this Agreement to be published in accordance with Section 11-13-219 of the Interlocal Act.

(g) No real or personal property shall be acquired jointly by the Parties as a result of this Agreement. To the extent a Party acquires, holds, or disposes of any real or personal property for use in the joint or cooperative undertaking contemplated by this Agreement, such Party shall do so in the same manner that it deals with other property of such Party.

(h) The cooperative undertaking set forth in this Agreement shall be administered by the Agency's Executive Director and the County's Director of Economic Development, who may delegate the administration of this Agreement to the extent allowed by law and the rules and regulations of their respective organizations.

8. Notices. All notices, communications, requests, and waivers required under this Agreement must be in writing. All notices shall be given (i) by delivery in person, (ii) by a nationally recognized next day courier service; or (iii) by first class, registered or certified mail, postage prepaid. Notices may also be given by electronic mail, provided that any such communication is concurrently given by one of the methods set forth in the preceding sentence. All notices shall be addressed in each case as follows (or to such other address as either party may specify in writing from time to time):

To Agency: Herriman Community Development and Renewal Agency
Attn: Executive Director
5355 West Herriman Main Street
Herriman, Utah 84096

With a copy to: Herriman City Attorney's Office
Attn: Chase Andrizzi
5355 West Herriman Main Street
Herriman, Utah 84096

To County: Salt Lake County
Office of Regional Development
2001 South State Street, S2-100
PO Box 144575
Herriman City, Utah 84114-4575
Attn: Director

With a copy to: Office of the District Attorney
35 East 500 South
Herriman City, Utah 84111
Attn: Mr. Jason Rose

9. Event of Default. An "Event of Default" is the failure of a Party to comply with any of the material terms, conditions, covenants, or provisions of this Agreement, or any action or activity of the Agency using the County's Contribution within the Project Area that, materially deviates from the actions or activities contemplated by the Project Area Plan or the Project Area Budget, that is not fully cured by such Party on or before the expiration of a sixty (60) day period (or, if the other Party approves in writing—which approval shall not be unreasonably withheld, conditioned or delayed—such longer period as may be reasonably required to cure a matter which, due to its nature, cannot reasonably be cured within 60 days) commencing upon the non-defaulting Party's written notice to the defaulting Party of the occurrence thereof. Upon the occurrence of any Event of Default, the non-defaulting Party may, in its sole discretion, pursue all remedies conferred by law or equity or other provisions of this Agreement.

10. Liability. Both Parties are governmental entities under the Governmental Immunity Act of Utah, Utah Code Ann. §§ 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.

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

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, oral or written, express or implied, are hereby superseded by this Agreement.

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.

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

15. Agency. No officer, employee, or agent of the Agency or the County is intended to be an officer, employee, or agent of the other Party. None of the benefits provided by each Party to its employees including, but not limited to, workers' compensation insurance, health insurance and unemployment insurance, are available to the officers, employees, or agents of the other Party. The Agency and the County will each be solely and entirely responsible for its acts and for the acts of its officers, employees, or agents during the performance of this Agreement.

16. Assignment. No Party may assign its rights, duties or obligations under this Agreement without obtaining prior written consent from the other Party.

17. Governing Law and Venue. The laws of the State of Utah govern all matters arising out of this Agreement. Venue for any and all legal actions arising hereunder will lie in the District Court in and for the County of Salt Lake, State of Utah.

18. Severability. If any provision of this Agreement is found to be illegal or unenforceable in a judicial proceeding, such provision will be deemed inoperative and severable, and, provided that the fundamental terms and conditions of this Agreement remain legal and enforceable, the remainder of this Agreement shall remain operative and binding on the Parties.

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.

20. Further Assurance. Each of the Parties hereto agrees to cooperate in good faith with the other, 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.

21. 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.

This Agreement will become effective when all the Parties have signed it. The date this Agreement is signed by the last party to sign it (as indicated by the date stated under that party's signature) will be deemed the date of this agreement.

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

INTERLOCAL AGREEMENT -- SIGNATURE PAGE FOR AGENCY

**COMMUNITY DEVELOPMENT AND
RENEWAL AGENCY OF HERRIMAN**

David Watts, Executive Director

Dated: _____, 20__

Approved as to form:

Attorney for the Community Development
and Renewal Agency of Herriman

Chase A. Andrizzi

INTERLOCAL AGREEMENT -- SIGNATURE PAGE FOR COUNTY

SALT LAKE COUNTY:

Mayor Jennifer Wilson or Designee

Dated: _____, 20__

Approved by:

OFFICE OF REGIONAL DEVELOPMENT

By _____


Name: _____

Title: _____

Dated: _____, 20__

Approved as to Form and Legality:

SALT LAKE COUNTY DISTRICT ATTORNEY

By  _____
D. Adam Miller
Deputy District Attorney

Date 27 July 2021

