

AMENDMENT NO. 3
to the
TAX INCREMENT REIMBURSEMENT AGREEMENT
between
REDEVELOPMENT AGENCY OF SALT LAKE COUNTY
and
ARBOR PARK ASSOCIATES, L.C.

This Amendment No. 3 to the Tax Increment Reimbursement Agreement (“Amendment”), dated the 31st day of March, 2018, is entered into by and between the **REDEVELOPMENT AGENCY OF SALT LAKE COUNTY** (“Agency”) and **ARBOR PARK ASSOCIATES, L.C.** (“Owner”).

R E C I T A L S:

WHEREAS, the Agency and the Owner entered into that certain Tax Increment Reimbursement Agreement dated October 9, 2012 (as amended, the “Agreement”); and

WHEREAS, the Agency and the Owner entered into Amendment No. 1 to the Agreement dated April 20, 2017; and

WHEREAS, the Agency and the Owner entered into Amendment No. 2 to the Agreement dated September 12, 2017; and

WHEREAS, the Agency and the Owner now desire to further amend the terms of the Agreement to make clarifying changes and to redefine the term “Property Tax Increment” and make other changes so that Developer’s Tax Increment Share is calculated based on Tax Increment from all parcels within the Project Area instead of only certain parcels within the Project Area;

A M E N D M E N T:

NOW, THEREFORE, in consideration of the mutual promises set forth herein, the parties agree to amend that certain Agreement, referenced above, as follows:

1. Amendment to Section 2.26. Section 2.26, entitled “Property Tax Increment,” is hereby amended and restated in its entirety as follows:

“2.26a. Prior to the 2018 tax year, “Property Tax Increment” means the Tax Increment that is generated from the Property each tax year by the levies of the Taxing Entities and actually paid to the Agency from the Salt Lake County Treasurer. For the avoidance of doubt, Property Tax Increment includes any Tax Increment that is generated from personal property tied to the Property (in other

words, Tax Increment that is generated from any personal property accounts directly tied to the Property as determined by the Salt Lake County Assessor's Office), so long as such property tax revenues are actually paid to the Agency from the Salt Lake County Treasurer as Tax Increment."

2.26b. Starting with the 2018 tax year, "Property Tax Increment" means the Tax Increment that is generated from the Project Area each tax year by the levies of the Taxing Entities and actually paid to the Agency from the Salt Lake County Treasurer. For the avoidance of doubt, Property Tax Increment includes any Tax Increment that is generated from personal property tied to parcels within the Project Area (in other words, Tax Increment that is generated from any personal property accounts directly tied to parcels within the Project Area as determined by the Salt Lake County Assessor's Office), so long as such property tax revenues are actually paid to the Agency from the Salt Lake County Treasurer as Tax Increment."

2. Amendment to Section 2.42. Section 2.42, entitled "Tax Increment," is hereby amended and restated in its entirety as follows:

"2.42. "Tax Increment" means the same as that term is defined in the Act, as amended from time to time, but, in general, means the difference between the amount of property tax revenues generated each tax year by the Taxing Entities from property within the Project Area using the current year assessed value of such 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 such property

3. Amendment to Section 5. Section 5 of the Agreement, entitled "Calculation of Developer's Tax Increment Share," is hereby amended and restated in its entirety as follows:

"5. Calculation of Developer's Tax Increment Share. Developer shall be eligible to receive reimbursement of Developer Reimbursable Costs from Property Tax Increment. Reimbursement shall occur annually following receipt of Tax Increment by the Agency from the Salt Lake County Treasurer, up to a maximum cumulative reimbursement amount of Two Million Dollars (\$2,000,000) during the Reimbursement Term.:

5.1a. Prior to the 2018 tax year, the amount paid to the Developer for each tax year shall be calculated annually as follows: Current year assessed value of the Property, less the base taxable value of the Property in the amount of \$10,042,000, multiplied by the adjusted tax rate used by the Salt Lake County Auditor's Office to calculate the Agency's Tax Increment that year; less the pass through to the Taxing Entities (10% of annual Tax Increment for years one through five, 15% for years six through ten, and 20% for years eleven through fifteen, commencing from the first tax year Agency accepts Tax Increment from the Project Area); less 20 percent of annual Property Tax Increment for affordable housing; less 5 percent of annual Property Tax Increment for Agency

administration; less \$10,128 for Developer's annual share of water line replacement costs (with total costs estimated to be \$294,030 over 15 years), which amount equals the annual Developer's Tax Increment Share.

5.1b. Starting with the 2018 tax year, the amount paid to the Developer for each tax year shall be calculated annually as follows: Current year assessed value of the Project Area, less the base taxable value of the Project Area, multiplied by the adjusted tax rate used by the Salt Lake County Auditor's Office to calculate the Agency's Tax Increment that year; less the pass through to the Taxing Entities (10% of annual Tax Increment for years one through five, 15% for years six through ten, and 20% for years eleven through fifteen, commencing from the first tax year Agency accepts Tax Increment from the Project Area); less 20 percent of annual Property Tax Increment for affordable housing; less 5 percent of annual Property Tax Increment for Agency administration; less \$10,128 for Developer's annual share of water line replacement costs (with total costs estimated to be \$294,030 over 15 years), which amount equals the annual "Developer's Tax Increment Share."

5.2. The total cumulative reimbursement of \$2,000,000 is based on Agency's expectation that there will be enough new assessed value on the Property or in the Project Area. In the event that non-taxable or residential uses are developed on the Property or in the Project Area, the total Developer's Tax Increment Share may be reduced as a result of less Tax Increment being generated from the Property or the Project Area. In no event shall Agency be required to pay an amount exceeding the Tax Increment generated by the Property (with respect to Tax Increment generated prior to the 2018 tax year) or the Project Area (with respect to Tax Increment generated during or after the 2018 tax year) and paid to Agency by the Salt Lake County Treasurer (which the parties acknowledge is net of pass through to the taxing entities) net of affordable housing, administration, and water line replacement amounts as provided in the definition of "Developer's Tax Increment Share."

5.3. The Parties agree that if the Owner fails to make any payment of principal and interest to the Agency pursuant to the Loan Agreement and Note (or any other indebtedness under the Loan Agreement and Note) on or before expiration of a fifteen (15)-day period commencing on the date the payment or indebtedness is due, then any Property Tax Increment from the Project Area that would have been paid to the Owner pursuant to this Agreement—in other words, the Developer's Tax Increment Share—shall be retained by the Agency to resolve the unpaid principal and interest payment or indebtedness. Furthermore, the Parties agree that if the Tax Increment from the Project Area that would have been paid to the Owner pursuant to this Agreement—in other words, the Developer's Tax Increment Share—is used to resolve all or a portion of the unpaid loan payment, then the Developer's Total Reimbursable Amount under this Agreement will be decreased by an equivalent amount and the

Borrower will not be entitled to interest on any expenses/invoices that are deferred from reimbursement as a result.

5.4. Notwithstanding Section 5.1, the Agency agrees to proportionally reduce the \$10,128 water line deduction to the extent the Agency is relieved from the obligation to reimburse Magna Water District for up to \$294,030 under the project area budget adopted by the Agency for the Project Area. In other words, since the Developer's share of the water line replacement cost over 15 years is \$151,920 (i.e., \$10,128 x 15), or 51.67% of the total waterline replacement cost, the Agency agrees to reduce the Developer's share of the water line replacement by \$0.5167 for every one dollar (\$1.00) reduction to the Agency's obligation to reimburse Magna Water District (as reasonably determined by the Agency).

5.5. Notwithstanding anything to the contrary in this Reimbursement Agreement and subject to Section 5.4, payment of Owner's Tax Increment reimbursement shall be subordinate to:

- 5.5.1. Pass through to the Taxing Entities (10% of annual Property Tax Increment for years one through five, 15% for years six through ten, and 20% for years eleven through fifteen, commencing from the first tax year Agency accepts Tax Increment from the Project Area);
- 5.5.2. Agency's administrative costs of five percent (5%);
- 5.5.3. Agency's twenty percent (20%) affordable housing allocation;
- 5.5.4. Agency's annual allocation of proposed waterline improvement of \$10,128 per year (to the extent the Agency is not relieved from the obligation to reimburse Magna Water District for up to \$294,030 under the project area budget adopted by the Agency for the Project Area);
- 5.5.5. Any delinquent Owner fees or Owner costs associated with the Magna/Arbor Park Project such as permit fees or costs associated with any offsite public utility improvements as referenced in the Master Development Agreement; and
- 5.5.6. Any amount retained by the Agency to resolve all or a portion of any unpaid principal and interest payment or other indebtedness pursuant to Section 5.3 above."

4. Entire Amendment and Defined Terms. This Amendment embodies the entire agreement between the Agency and the Owner with respect to the amendment of the Agreement. In the event of any conflict or inconsistency between this Amendment and the provisions of the Agreement or a prior amendment, the provisions of this Amendment shall control and govern. Except as provided in this Amendment, all terms used in this Amendment that are not otherwise defined shall have the respective meanings ascribed to such terms in the Agreement.

5. All Other Terms Remain In Effect; Effective Date. Except as specifically modified and amended herein, all of the terms, provisions, requirements and specifications contained in the Agreement remain in full force and effect. This Amendment shall be effective as of and relate back to the effective date of the Agreement (the "Effective Date").

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

IN WITNESS WHEREOF, each Party hereby executes this Amendment on the date written by each Party on the signature pages attached hereto.

[Intentionally Left Blank – Signature pages follow]

AMENDMENT NO. 3 -- SIGNATURE PAGE FOR AGENCY

**REDEVELOPMENT AGENCY OF
SALT LAKE COUNTY:**

By _____
Arlyn Bradshaw, Chair

Dated: _____, 20____

Approved by:

By _____
Stuart Clason
Acting Executive Director

Dated: _____, 20____

Approved as to Form and Legality:

SALT LAKE COUNTY DISTRICT ATTORNEY

By _____
Ryan W. Lambert
Deputy District Attorney

[Signatures continue on next page.]

AMENDMENT NO. 3 -- SIGNATURE PAGE FOR OWNER

ARBOR PARK ASSOCIATES, L.C.:

By _____

Name: _____

Title: _____

Dated: _____, 20____

By _____

Name: _____

Title: _____

Dated: _____, 20____

The individual(s) signing above hereby represents and warrants that s/he is duly authorized to execute and deliver this Amendment No. 3 to the Reimbursement Agreement on behalf of the Borrower by authority of law and that this Amendment No. 3 is binding upon the Borrower.