

MIDVALE CITY, UTAH

RESOLUTION NO. 2020-R-44

A RESOLUTION APPROVING AND ADOPTING THE MAIN STREET COMMUNITY DEVELOPMENT TAX INCREMENT INTERLOCAL COOPERATION AGREEMENT BETWEEN MIDVALE CITY AND THE REDEVELOPMENT AGENCY OF MIDVALE CITY

WHEREAS, the Redevelopment Agency of Midvale City (the “Agency”) was created to transact the business and exercise the powers provided for in the Utah Redevelopment Agencies Act; and

WHEREAS, the Agency adopted Resolution No. 2020-12RDA in which the Agency approved, adopted, and entered into the Main Street Community Development Tax Increment Interlocal Cooperation Agreement (the “Agreement”) with the City (**Exhibit A**) pursuant to Utah Code Annotated (“UCA”) § 17C-4-201; and

WHEREAS, on November 15, 2015, Midvale City (the “City”) adopted the Main Street Community Development Area’s Project Area Plan (**Exhibit B**) through Ordinance No. 2015-O-14 pursuant to UCA § 17C-4-105, and fulfilled all public hearing and noticing requirements associated with adopting a community development area plan outlined in UCA § 17C-4-401 and 17C-4-107; and

WHEREAS, the Redevelopment Agency of Midvale City (“Agency”) revised and adopted a Main Street Community Development Area Budget (**Exhibit C**) through Resolution No. 2020-11RDA pursuant to UCA § 17C-4-204 and which Budget illustrates that the City will receive a net fiscal benefit and enjoy significant economic and social impacts, and

WHEREAS, the Agency is seeking public support from the local taxing entities, including Midvale City (the “City”) by securing funding through pledged property tax increment through an interlocal cooperation agreement (**Exhibit A**); and

WHEREAS, the meeting in which this Resolution was adopted and in which the Agency’s related Resolution was adopted were both conducted in open and public meetings pursuant to UCA § 17C-4-202; and

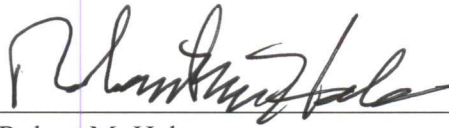
WHEREAS, the City and Agency have supported the creation of the Small Area Plan and the form-based code and, with the support from the Main Street CDA, will aid in the redevelopment of the historic Main Street Area (the “Area”).

This Resolution shall become effective once notice is published in a newspaper of general circulation in accordance with UCA § 17C-4-202(3) and may be contested for 30 days after the effective date pursuant to UCA § 17C-4-202(4).

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF MIDVALE CITY, UTAH AS FOLLOWS:

1. The City Council of Midvale City hereby agrees to and enters into the Main Street Community Development Tax Increment Interlocal Cooperation Agreement (**Exhibit A**) with the Redevelopment Agency of Midvale City for the Main Street Community Development Area.
2. Pursuant to UCA § 17C-4-201, the Interlocal Cooperation Agreement specifies that:
 - 2.1. The Agency will be provided with tax increment, and tax increment will be calculated using the Tax Year 2019 value of the Area. The TY2019 value of the Area is estimated to be \$58,774,598, though this figure may be amended if the Salt Lake County Assessor's Office finds to TY2019 value to differ from the estimated value of \$58,774,598.
 - 2.2. The collection period of project area funds is no more than 20 years or until a cap amount is reached, whichever comes first. The Agency will trigger the Project Area for collection no later than March 1, 2024.
 - 2.3. The Agency is permitted to collect 100% of the property tax increment from the City. The Agency will then remit 40% of the property tax increment back to the City.
 - 2.4. There are two possible maximum cumulative dollar amounts ("cap amount[s]" or "cap[s]") of tax increment from the City that the Agency will be paid. The first cap amount is for the Primary Budget and limits the Agency to collect and retain \$15,500,000. The second cap is for the Contingency Budget, which is automatically triggered once a single, nonresidential project is completed with an assessed taxable value of \$60,000,000 or higher. The cap under the Contingency Budget would increase to \$27,000,000 collected and retained property tax increment.
 - 2.5. The Agreement does not contemplate any participation involving incremental sales tax revenues.
3. The Agency will be responsible for all noticing and filing requirements, including publishing notice in the newspaper (UCA § 17C-4-202[3]) and filing a copy of the Agreement with each required party and entity pursuant to UCA § 17C-4-203(1).
4. Pursuant to UCA § 17C-4-201(7)(a), the City and Agency may amend the Agreement from time to time.

PASSED AND ADOPTED BY THE CITY COUNCIL OF MIDVALE CITY, UTAH ON THIS 6th DAY OF OCTOBER, 2020 BY THE FOLLOWING VOTE:



Robert M. Hale
Mayor

ATTEST:



Rori L. Andreason, MMC
Secretary



Voting:

Bryant Brown
Paul Glover
Quinn Sperry
Heidi Robinson
Dustin Gettel

"Aye"

✓
ABSENT
✓
✓
✓

"Nay"

**Exhibit A: Main Street Community Development Tax Increment Interlocal Agreement
Between the Agency and City**

Exhibit B: Main Street CDA Project Area Plan

Exhibit C: Main Street CDA Revised Project Area Budget

MAIN STREET COMMUNITY DEVELOPMENT TAX INCREMENT INTERLOCAL COOPERATION AGREEMENT

THIS MAIN STREET COMMUNITY DEVELOPMENT TAX INCREMENT INTERLOCAL COOPERATION AGREEMENT is made and entered into this 6th day of October, 2020, by and between the **REDEVELOPMENT AGENCY OF MIDVALE CITY** (the “**AGENCY**”), a community reinvestment agency and political subdivision of the State of Utah, and **MIDVALE CITY** (the “**City**”), a political subdivision of the State of Utah (the “**City**”) in contemplation of the following facts and circumstances:

- A. **WHEREAS**, the Agency was created and organized pursuant to the provisions of the Utah Neighborhood Development Act of the Utah Code Annotated (the “UCA”) and continues to operate under the provisions of its extant successor statute, the Limited Purpose Local Government Entities - Community Reinvestment Agency Act, Title 17C of the UCA (the “**Act**”), and is authorized and empowered under the Act to undertake, among other things, various community reinvestment activities pursuant to the Act, including, among other things, assisting the City in development activities that are likely to advance the policies, goals and objectives of the City’s general plan, contributing to capital improvements which substantially benefit the City, creating economic benefits to the City, and improving the public health, safety and welfare of its citizens; and
- B. **WHEREAS**, this Agreement is made pursuant to the provisions of the Act and the Interlocal Cooperation Act (UCA Title 11, Chapter 13) (the “Cooperation Act”); and
- C. **WHEREAS**, the Agency created the Main Street Community Development Project Area (the “Project Area”) described in Exhibit A, attached hereto and incorporated herein by this reference, on November 15, 2015 through the adoption of the Main Street Community Development Project Area Plan (the “Project Area Plan”), attached as Exhibit B, through Ordinance No. 2015-O-14 pursuant to UCA § 17C-4-105, and fulfilled all public hearing and noticing requirements associated with adopting a community development area plan outlined in UCA § 17C-4-401 and 17C-4-107; and
- D. **WHEREAS**, the Project Area contains the City’s historic Main Street corridor, which faces several impediments to redevelopment, including overhead powerlines, an untenable parking situation, and infrastructure limitations. The Area would benefit greatly from redevelopment efforts focused to overcome these impediments to development, which will provide certain conditions upon which the Project Area will be developed using, in part, Tax Increment (as that term is defined in the Act), generated from the Project Area; and
- E. **WHEREAS**, the City desires to redevelop the historic Main Street in a way that celebrates its history, promotes and enhances the arts, and cultivates a sense of place for the City; and
- F. **WHEREAS**, the Project Area has generated a total of \$800,863 in Tax Year 2019 in property taxes for the various taxing entities, including the City, Salt Lake County (the “County”), Canyons School District (the “School District”), South Salt Lake Valley Mosquito Abatement District, Jordan Valley Water Conservancy District, Central Utah Water Conservancy District, Unified Fire Service Area, Salt Lake County Library, and Jordan/Canyons School District Debt Service Area; and
- G. **WHEREAS**, upon full development as contemplated in the Project Area Budget, property tax increment produced by the Project Area for the City, the County, the School District, and other special districts are projected to total approximately \$1,539,672 per year under the Primary Budget and \$2,504,392 under the Contingency Budget; and
- H. **WHEREAS**, the Agency will request the City, the County, the School District, and the other taxing entities participate in the promotion of development in the Project Area by agreeing to remit to

the Agency for a specified period of time specified portions of the increased property tax (i.e., Tax Increment,) which will be generated by the Project Area; and

I. **WHEREAS**, it is in the best interest of the residents of the City for the City to remit such payments to the Agency to permit the Agency to leverage private development of the Project Area; and

J. **WHEREAS**, the Agency has adopted a revised Project Area Budget through Resolution No. 2020-11RDA pursuant to UCA § 17C-4-204 and created an accompanying impact analysis regarding the need and justification for investment of Tax Increment revenues from and within the Project Area. A copy of the report is included in the Draft Project Area Budget attached as Exhibit C; and

K. **WHEREAS**, the parties desire to set forth in writing their agreements regarding the nature and timing of such assistance and that the meeting in which the Resolutions are to be considered that adopt this Agreement are conducted in open and public meetings pursuant to UCA § 17C-4-202; and;

NOW, THEREFORE, the parties agree as follows:

1. **Additional Tax Revenue.** The City has determined that Tax Increment will likely be generated by the redevelopment of the Project Area as described in further detail in the Project Area Plan and Project Area Budget. Each of the parties acknowledge, however, that the development activity required for the generation of the Tax Increment is not likely to occur within the foreseeable future or to the degree possible or desired without Tax Increment participation in order to enable development activity by removing barriers to development.

2. **Offset Development Costs and Expenses.** The City has determined that it is in the best interests of its residents to pay specified portions of its portion of Tax Increment to the Agency in order for the Agency to offset costs and expenses which will be incurred by Agency or participants or developers in Project Area development, including, without limitation, the construction of parking structures, the relocation of overhead powerlines, the upgrading of infrastructure to facilitate higher density, and improvements and other development related costs needed to serve the Project Area, to the extent permitted by the Act, the Project Area Plan, and the Project Area Budget, each as adopted and amended from time to time.

3. **Base Year, Base Year Value, and Increment Calculation.** Pursuant to UCA § 17C-4-201, this Agreement specifies that the base year, for purposes of calculation of the Base Taxable Value (as that term is defined in the Act), shall be Tax Year 2019, meaning the Base Taxable Value shall, to the extent and in the manner defined by the Act, be equal to the equalized taxable value shown on the 2019 Salt Lake County assessment rolls for all property located within the Project Area (which is currently estimated to be \$58,774,598, but is subject to final adjustment and verification by the County and Agency). The amount of tax increment shall be calculated by subtracting the Base Year Value from the current year's value and multiplying that by the tax rate.

4. **Agreement(s) with Developer(s).** The Agency is authorized to enter into one or more participation or development agreements with one or more participants or developers which may provide for the payment of certain amounts of Tax Increment (to the extent such Tax Increment is actually paid to and received by the Agency from year to year) to the participant(s) conditional upon the participant(s)'s meeting of certain performance measures as outlined in said agreement. Such agreement shall be consistent with the terms and conditions of this Agreement, shall require as a condition of the payment to the participant(s) that the respective participant or its approved successors in title as owners of all current and subsequent parcels within the Project Area shall pay any and all taxes and assessments which shall be assessed against their respective parcels in accordance with levies made by applicable municipal entities in accordance with the laws of the state of Utah applicable to such levies, and such other performance measures as the Agency may deem appropriate.

5. **Payment Trigger.** The first year ("Year One") of payment of Tax Increment from the City to the Agency shall be determined by the Agency, but the Agency will trigger the Project Area for collection no later than by March 1, 2024. Each subsequent year, beginning with the first year after Year One, shall be defined in sequence as Year Two through Year Twenty. The Agency may trigger the collection of Tax Increment by timely delivering a letter or other written request to the Salt Lake County Auditor's office and providing notice of intent to trigger collection of tax increment to the taxing entities.
6. **Total Payment to Agency.** Pursuant to UCA § 17C-4-201, this Agreement specifies that the City shall authorize the County to remit to the Agency, beginning with property tax receipts in Year One, and continuing through Year Twenty, 100% of the annual Property Tax Increment generated from within the Project Area, including the real (*i.e.*, building, land, and fixtures), personal, and centrally assessed property within the Project Area. The Agency will remit 40% of the property tax increment back to the City. The Agency will collect and retain 60% of the property tax increment for twenty years or until the Agency has collected and retained a total of \$15,500,000 from the Project Area (Primary Budget) or \$27,000,000 (Contingency Budget), whichever comes first.
7. **Contingency Budget.** The Agency will proceed with all initiatives, plans, and projects outlined in the Primary Budget. Transitioning from the Primary Budget to the Contingency Budget occurs automatically once a single nonresidential project is developed with an incremental tax value of over \$60,000,000. The main difference between the Primary Budget and the Contingency Budget is the total cap on tax increment revenues collected and retained. The Primary Budget caps revenues collected and retained at \$15,500,000 while the Contingency Budget caps revenues at \$27,000,000.
8. **Property Tax Increase.** This Agreement provides for the payment of the increase in real, personal property, and centrally assessed property taxes collected from the Project Area by the County acting as the tax collection agency for the City. Without limiting the foregoing, this Agreement includes Tax Increment resulting from an increase in the tax rate of the City, which is hereby expressly approved as being included in Tax Increment as required by Section 17C-1-407 of the Act. It is expressly understood that the Property Taxes which are the subject of this Agreement are only those Property Taxes collected by the County from the Project Area.
9. **No Independent Duty.** The parties recognize that the County will remit the Tax Increment directly to the Agency. The City does not have an independent duty to pay any amount to the Agency directly, nor is it responsible or liable for any failure of the County to remit Tax Increment to the Agency correctly.
10. **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.
11. **Further Documents and Acts.** Each of the parties hereto agrees to cooperate in good faith with the others, and 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 transactions contemplated under this Agreement.
12. **Notices.** Any notice, request, demand, consent, approval or other communication required or permitted hereunder or by law shall be validly given or made only if in writing and delivered to an officer or duly authorized representative of the other party in person or by Federal Express, private commercial delivery or courier service for next business day delivery, or by United States mail, duly certified or registered (return receipt requested), postage prepaid, and addressed to the party for whom intended, as follows:

If to City:
Midvale City
Attn: City Manager
7505 Holden Street
Midvale, Utah 84047
Phone: (801) 567-7200

If to Agency:
Redevelopment Agency of Midvale City
Attn: Executive Director
7505 Holden Street
Midvale, Utah 84047
Phone: (801) 567-7200

Any party may from time to time, by written notice to the others as provided above, designate a different address which shall be substituted for that specified above. Notice sent by mail shall be deemed served or delivered 72 hours after mailing. Notice by any other method shall be deemed served or delivered upon actual receipt at the address. Delivery of courtesy copies noted above shall be as a courtesy only and failure of any party to give or receive a courtesy copy shall not be deemed to be a failure to provide notice otherwise properly delivered to a party to this Agreement.

13. **Entire Agreement.** This Agreement is the final expression of and contains the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior understandings with respect thereto. This Agreement may not be modified, changed, supplemented or terminated (except as provided in this agreement), nor may any obligations hereunder be waived, except by written instrument signed by the party to be charged or by its agent duly authorized in writing or as otherwise expressly permitted herein. 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.

14. **No Third-Party Benefit.** The parties do not intend to confer any benefit hereunder on any person, firm or corporation other than the parties hereto. There are no intended third-party beneficiaries to this Agreement.

15. **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.

16. **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.

17. **Amendments.** Pursuant to UCA § 17C-4-201(7)(a), the City and Agency may amend the Agreement from time to time, but no addition to or modification of any provision contained in this Agreement shall be effective unless fully set forth in writing executed by each of the parties hereto.

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. **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.

20. **Governing Law.** This Agreement and the exhibits attached hereto shall be governed by and construed under 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 in a court of competent jurisdiction in Salt Lake County, Utah, and the parties hereto agree to submit to the jurisdiction of such court.

21. **Declaration of Invalidity.** In the event that a court of competent jurisdiction declares that the County or the City cannot pay and/or that the Agency cannot receive payments of the Tax Increment, declares that the Agency cannot pay the Tax Increment to developers, or takes any other action which has the effect of eliminating or reducing the payments of Tax Increment received by the Agency, the Agency's obligation to pay the Tax Increment to developers shall be reduced or eliminated accordingly, the Agency, and the City shall take such steps as are reasonably required to not permit the payment and/or receipt of the Tax Increment to be declared invalid.

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

23. **Duration.** This Agreement shall terminate after the final payment of Tax Increment to the Agency for Year Twenty or after the Agency has collected and retained the cap amount of total property tax increment. As a result of the foregoing and the maximum Payment Trigger date in Section 5, this Agreement must terminate prior to March 1, 2044.

24. **Assignment.** No party may assign its rights, duties or obligations under this Agreement without the prior written consent first being obtained from all parties. Notwithstanding the foregoing, such consent shall not be unreasonably withheld or delayed so long as the assignee thereof shall be reasonably expected to be able to perform the duties and obligations being assigned.

25. **Termination.** Upon any termination of this Agreement resulting from the uncured default of any party, the order of any court of competent jurisdiction or termination as a result of any legislative action requiring such termination, then 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 returned to the party originally remitting same to the Agency and upon such return this Agreement shall be deemed terminated and of no further force or effect.

26. **Interlocal Cooperation Act.** In satisfaction of the requirements of the Cooperation 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 Cooperation 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 provisions of Section 11-13-202.5(3) 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 Chair of the Agency is hereby designated the administrator for all purposes of the Cooperation Act, pursuant to Section 11-13-207 of the Cooperation Act; and

- e. Should a party to this Agreement desire to terminate this Agreement, in part or in whole, each party to the Agreement must adopt, by resolution, an amended Agreement stating the reasons for such termination. Any such amended Agreement must be in harmony with any development/participation agreement(s) entered into by the Agency as described in this Agreement.
 - f. Immediately after execution of this Agreement by both Parties, the Agency shall, on behalf of both parties, cause to be published notice regarding this Agreement pursuant to Section 11-13-219, 17C-4-202(3), and 17C-4-203(1) of Utah Code.
 - g. This Agreement makes no provision for the parties acquiring, holding and disposing of real and personal property used in the joint undertaking as such action is not contemplated as part of this Agreement nor part of the undertaking. Any such provision would be outside the parameters of the current undertaking. However, to the extent that this Agreement may be construed as providing for the acquisition, holding or disposing of real and/or personal property, all such property shall be owned by the Agency upon termination of this Agreement.
27. **Effective Date.** This Agreement shall become effective once notice is published in a newspaper of general circulation in accordance with UCA § 17C-4-202(3) and may be contested for 30 days after the effective date pursuant to UCA § 17C-4-202(4).

Signature Page to Follow

IN WITNESS WHEREOF, the parties have executed this Main Street Community Development Tax Increment Interlocal Cooperation Agreement on the day specified above.

City: MIDVALE CITY

Attest:

Rori L. Anderson
Recorder

Approved as to form:

[Signature]
Attorney for City

By:

[Signature]

Its: Mayor



Agency: MIDVALE CITY REDEVELOPMENT AGENCY

Attest:

Rori L. Anderson
Secretary

Approved as to form:

[Signature]
Attorney for Agency

By:

[Signature]

Its: Chair



EXHIBIT A

Map of Project Area



EXHIBIT B

Project Area Plan

EXHIBIT C

Project Area Budget