

**RESOLUTION NO. 2021-12RDA**

**A RESOLUTION APPROVING AND ADOPTING THE MAIN STREET COMMUNITY DEVELOPMENT TAX INCREMENT INTERLOCAL COOPERATION AGREEMENT BETWEEN JORDAN VALLEY WATER CONSERVANCY DISTRICT 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 wishes to consider this Resolution, in which the Agency would approve, adopt, and enter into the Interlocal Cooperation Agreement (the “Agreement”) with Jordan Valley Water Conservancy District (the “District”) (**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. 2020-12RDA pursuant to UCA § 17C-4-204 and which Budget illustrates that the District 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 the District 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 REDEVELOPMENT AGENCY OF MIDVALE CITY AS FOLLOWS:**

1. The Jordan Valley Water Conservancy District Board of Trustees 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.
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 District. The Agency will then remit 40% of the property tax increment back to the District.
- 2.4. There are two possible maximum cumulative dollar amounts ("cap amount[s]" or "cap[s]") of tax increment from the District that the Agency will be paid. The first cap amount is for the Primary Budget and limits the Agency to collect and retain \$471,000. 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 \$820,500 collected and retained property tax increment.
- 2.5. The Agreement does not contemplate any participation involving incremental sales tax revenues.
3. The Agency may not collect and retain the District's property tax increment until Midvale City adopts water efficiency standards approved of by the District.
4. 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).
5. Pursuant to UCA § 17C-4-201(7)(a), the District and Agency may amend the Agreement from time to time.

**PASSED AND ADOPTED BY THE REDEVELOPMENT AGENCY OF MIDVALE CITY BOARD OF DIRECTORS ON THIS 15<sup>TH</sup> DAY OF JUNE 2021 BY THE FOLLOWING VOTE:**



Robert M. Hale  
Chief Administrative Officer

Matt Dahl  
Executive Director

ATTEST:

Rori L. Andreason, MMC  
Secretary

**Voting by the Board:**

	"Aye"	"Nay"
Bryant Brown	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Paul Glover	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Quinn Sperry	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Heidi Robinson	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Dustin Gettel	<input checked="" type="checkbox"/>	<input type="checkbox"/>

ATTACHMENT

**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 15<sup>th</sup> day of June, 2021, by and between the **REDEVELOPMENT AGENCY OF MIDVALE CITY** (the “**Agency**”), a community reinvestment agency and political subdivision of the State of Utah, and **JORDAN VALLEY WATER CONSERVANCY DISTRICT** (the “**DISTRICT**”), a Utah local district (together, the “**Parties**”), 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 Midvale City (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 would substantially benefit the City and the District, creating economic benefits, and improving the public health, safety and welfare of its citizens; and

B. **WHEREAS**, the City desires to redevelop the historic Main Street corridor and the surrounding area (as defined below, the “Project Area”) in a way that celebrates its history, promotes and enhances the arts, and cultivates a sense of place for the City; and

C. **WHEREAS**, the Project Area faces several impediments to redevelopment, including insufficient and poorly located parking spaces, poorly located and outdated overhead powerlines, infrastructure limitations and the lack of certain improvements, and the Project Area would benefit greatly from redevelopment efforts focused to overcome these impediments to development, which efforts can be substantially facilitated by the use of Tax Increment (as defined below), generated from the Project Area; and

D. **WHEREAS**, the Agency created the Main Street Community Development Project Area described in Exhibit A (the “Project Area”) 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-4-406 and 17C-4-107; and

E. **WHEREAS**, the Agency has adopted a 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 the Project Area, a copy of which is included in the Draft Project Area Budget attached as Exhibit C; 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, the District, Central Utah Water Conservancy District, Unified Fire Service Area, Salt Lake County Library, and Jordan/Canyons School District Debt Service Area (collectively, the “Taxing Entities”); and

G. **WHEREAS**, upon full development as contemplated in the Project Area Budget, Tax Increment produced by the Project Area for the City, the County, the School District, and other Taxing Entities are

projected to total approximately \$1,539,672 (Primary Budget with Main Street Focus) and \$2,504,392 (Contingency Budget which includes the proposed office building) annually; and

H. **WHEREAS**, the Agency has requested that the City, the County, the School District, the District, and the other Taxing Entities to 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 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 District to remit such payments to the Agency to permit the Agency to leverage private development of the Project Area; and

J. **WHEREAS**, UCA § 17C-4-201(1) authorizes the District to agree to payment to the Agency of a portion of its share of Tax Increment generated from the Project Area for the purposes set forth therein; and

K. **WHEREAS**, Section 215 of the Interlocal Cooperation Act (UCA Title 11, Chapter 13) (the "Cooperation Act") further authorizes the District to share its tax and other revenues with the Agency; and

L. **WHEREAS**, this Agreement is made pursuant to the provisions of the Act; and

M. **WHEREAS**, the Parties desire to set forth in writing their agreements regarding the nature and timing of such assistance, which agreements need to be approved and adopted by resolutions considered at open and public meetings pursuant to UCA § 17C-4-202; and

N. **WHEREAS**, the Agency and the City entered into that certain Interlocal Cooperation Agreement dated as of October 6, 2020, pursuant to which the City consented to the payment of 60% of the City's portion of Tax Increment from the Project Area, to the Agency for use in connection with the Project Area according to the Project Area Budget;

NOW, THEREFORE, the Parties agree as follows:

1. **Additional Tax Revenue.** The Project Area Plan and Project Area Budget includes projections with respect to the generation of Tax Increment during the term of the Project Area Plan. 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 certain of the impediments to development. The term "Tax Increment" is defined by Section 17C-1-102 of the Act, and the term "Tax Increment" as used in this Agreement means "Tax Increment" as defined by the Act. Any change in the definition of "Tax Increment" under the Act will result in a corresponding change to the definition of "Tax Increment" under this Agreement.

2. **Offset Development Costs and Expenses.** The District has determined that it is in the best interests of its constituents to pay specified portions of its portion of Tax Increment to the Agency (a) 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 activities needed to serve the Project Area, to the extent permitted by the Act, the Project Area Plan, and the Project Area Budget and (b) to obtain the undertakings of the Agency regarding water conservation contained in Section 35 below.

3. **Base Year, Base Year Value, and Increment Calculation.** Pursuant to UCA § 17C-4-201, the Parties agree 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 in the manner provided by the Act or other applicable law as it exists, but in general by subtracting the Base Year Value from the current year's value and multiplying that by the applicable tax rate(s).

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 such agreement. Such agreement shall be consistent with the terms and conditions of this Agreement and other applicable law, 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 District to the Agency shall be determined by the Agency, but the Agency agrees to trigger the Project Area for collection no later than by March 1, 2024; this means that Year One will be no later than 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 each of the Taxing Entities.

6. **Total Payment to Agency.** Pursuant to UCA § 17C-4-201, this Agreement specifies that the District 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 Tax Increment generated from within the Project Area to which the District would otherwise be directly paid (the "District Tax Increment"), including real (*i.e.*, building, land, and fixtures), personal, and centrally assessed property within the Project Area. The Agency will remit 40% of the District Tax Increment back to the District. The Agency will collect and retain 60% of the District Tax Increment until and including Year Twenty or until the Agency has collected and retained from the District a total of \$471,000 (pursuant to the Primary Budget or if the Building Benchmark (as defined below) is not reached) or \$820,500 (pursuant to the Contingency Budget or if the Building Benchmark is met), whichever comes first. The Agency will remit the 40% back to the District in such manner as the District requests, *i.e.* wire transfer, check, etc., no later than thirty (30) days after the Agency receives funds from the County. Such payment shall be accompanied by a report from the Agency detailing, with respect to such tax year, the total taxable value of the Project Area, the amount of Tax Increment received from the County, the amount of the District's share of Tax Increment remitted to the District, and such additional information as the District may reasonably request. As mandated by UCA 17C-5-204(6), the District is prohibited from proportionately reducing the amount of project area funds the District consents to pay to the Agency by the amount of any direct expenditures the District makes within the Project Area for the benefit of the Project Area or the Agency; however, the parties clarify that the District has no obligation to make any such expenditures within the Project Area for the benefit of the Project Area or the Agency.

7. **Contingency Budget.** The Project Area has two budgets. The Primary Budget is entirely focused on Main Street revitalization, which includes a parking structure to serve small businesses, residents, and other visitors to Main Street. The Primary Budget also includes targeted infrastructure upgrades, powerline relocation, small business loans, an arts center, and other community enhancement programs. The Contingency Budget includes everything from the Primary Budget plus support for a "Large Office Building and adjacent Parking Structure". A developer is interested in constructing 300,000 square feet of Class A office space the estimated taxable value of which is at least \$60,000,000. If by March 1, 2025 (*i.e.* one year after the Agency must trigger the Project Area in order to begin collecting Tax Increment) the construction of a single non-residential project with an assessed value of at least \$60,000,000 has been commenced (the "Building Benchmark"), the cap on the Tax Increment that may be collected and retained from the District pursuant to

this Agreement is increased from \$471,000 to \$820,500 pursuant to the Contingency Budget (i.e. this increase shall not affect any other agreement made by the Agency with another Taxing Entity).

8. **Housing Funds.** The Agency's budgets (Primary and Contingency) both include 20% earmarked to support affordable housing. The Agency shall ensure that these affordable housing funds are used within the Project Area. The Agency shall provide the District with an annual accountability report, which shall contain detailed information on how and where the Agency has used the housing funds. The Agency shall satisfy the requirements of the accountability report by including the required information within the Agency Annual Report as found in UCA § 17C-4-603.

9. **Amendment of Project Area Budget.** The Agency may use District Tax Increment solely for the purposes set forth in the Project Area Budget. The Agency may not amend the Project Area Budget without the District's prior consent, which may be withheld in the District's sole discretion.

10. **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 District and other local taxing entities. Without limiting the foregoing, this Agreement includes Tax Increment resulting from an increase in the tax rate of the District, 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.

11. **No Independent Duty.** The Parties recognize that the County will remit the Tax Increment directly to the Agency. Except as otherwise provided by applicable law, the County is not responsible or liable to remit uncollected Tax Increment to the Agency that is unpaid by property owners.

12. **Authority to Bind.** Each individual executing this Agreement is authorized to do so, and, upon executing this Agreement, this Agreement shall be binding and enforceable in accordance with its terms upon the Party.

13. **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.

14. **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 District:  
Jordan Valley Water Conservation District  
Attn: General Manager  
8215 South 1300 West  
West Jordan, UT 84088

If to Agency:  
Redevelopment Agency of Midvale City  
Attn: RDA Manager  
7505 Holden Street  
Midvale, Utah 84047

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.

15. **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. 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.

16. **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.

17. **Construction.** Headings at the beginning of each paragraph and subparagraph are solely for the convenience of the Parties. 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.

18. **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.

19. **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.

20. **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.

21. **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.

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

23. **Duration.** Unless earlier terminated as provided for herein, 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 Tax Increment. As a result of the foregoing and the maximum Payment Trigger date in Section 5, this Agreement shall terminate prior to March 1, 2044.

24. **Assignment.** Except for an assignment by the Agency made in connection with the issuance of bonds, 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. **Default.** In the event either Party (the “Notifying Party”) determines that the other Party (the “Defaulting Party”) is in default hereunder, the Notifying Party shall give written notice to the Defaulting Party and the Defaulting Party shall have sixty (60) days to cure such default. If the Agency expends District Tax Increment in a manner not consistent with the Project Area Budget, then the Agency must promptly repay such improperly spent funds to the District.

26. **Termination as a Result of Default.** Upon any termination of this Agreement resulting from the uncured default of any Party, the order of any court of competent jurisdiction or the enactment of any law requiring such termination, then any funds held by the Agency and for which the Agency shall not be required to disburse to (a) developers in accordance with the agreements which govern such disbursement, or (b) holders of bonds secured by such Tax Increment, then such funds shall be returned to the Party originally entitled to such funds, and upon such return this Agreement shall be deemed terminated and of no further force or effect.

27. **Other Taxing Entities.** Except as provided in Section 1 *above*, this Agreement shall be effective notwithstanding one or more other Taxing Entities do not execute agreements with the Agency with respect to the use of Tax Increment and notwithstanding any terms of any agreements with other Taxing Entities that are executed by the Agency vary from the terms of this Agreement.

28. **Due Diligence.** Each of the Parties acknowledges for itself that it has performed its own review, investigation, and due diligence regarding the relevant law and facts upon which this Agreement is based, and each Party relies upon its own understanding of the relevant law, facts, information, and representations, after having completed its own due diligence and investigation.

29. **Interlocal Cooperation Act.** In satisfaction of the requirements of the Cooperation Act, 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 *[we understand that the Act requires such a designation if no entity is formed but there is a joint or cooperative undertaking, which may include sharing of tax revenues, as per Section 11-13-202.5(1)(b)(vii)]*;
- e. 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-5-205 of Utah Code; and
- f. They are not creating an interlocal entity or any separate entity. Moreover, 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.



30. **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-5-205.

31. **Governmental Immunity.** Both Parties are governmental entities under the Governmental Immunity Act of Utah, §§ 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.

32. **Liability and Indemnification.** The District and the Agency agree to be liable for their own negligent acts or omissions, or those of their authorized employees, officers, and agents while engaged in the performance of the obligations under this Agreement, and neither the District nor the Agency will have any liability whatsoever for any negligent act or omission of the other Party, its employees, officers, or agents. However, the Agency shall indemnify, defend, and hold harmless the District, its officers, employees and agents (the "Indemnified Parties") from and against any and all actual or threatened claims, losses, damages, injuries, debts, and liabilities of, to, or by third parties, including demands for repayment or penalties, however allegedly caused, resulting directly or indirectly from, or arising out of: (i) the Agency's breach of this Agreement; (ii) any acts or omissions of or by the Agency, its agents, representatives, officers, employees, or subcontractors in connection with the performance of this Agreement; (iii) or the Agency's use of District Tax Increment. The Agency agrees that its duty to defend and indemnify the Indemnified Parties under this Agreement includes all attorney's fees, litigation and court costs, expert witness fees, and any sums expended by or assessed against the District for the defense of any claim or to satisfy any settlement, arbitration award, debt, penalty, or verdict paid or incurred on behalf of the District. The Parties agree that the requirements of this Paragraph shall survive the expiration or sooner termination of this Agreement.

33. **Water Efficiency Standards.** As a condition to retaining 60% of the property tax increment revenue participation from the District, Midvale City (the "City") must first adopt the Water Efficiency Standards attached as Exhibit D within all zones contained within the Main Street CDA Project Area's boundaries. As of the date of this Agreement, there are four zones within the Project Area boundaries ("Project Area Zones"). If the Agency begins collecting property tax increment prior to the Project Area Zones adopting the Water Efficiency Standards, the Agency shall remit back to the District 100% of its property tax increment. Once the Water Efficiency Standards have been adopted within the Project Area Zones, the Agency shall notify the District and only be required to remit 40% of the District's property tax increment back to the District. The Agency may not recoup any property tax increment revenue from the District that was generated between when the Agency began collecting tax increment from the Area and when the Water Efficiency Standards become adopted within the Project Area Zones. This Agreement in no way obligates the City to adopt any standards. The Agreement only makes the Agency's retention of a portion of the District's tax increment contingent upon the City's adoption of the Water Efficiency Standards.

- a. The Agency agrees that, prior to retaining tax increment from the District, all development and construction within the Project Area shall meet and comply with the Water Efficiency Standards attached as Exhibit D, as they, or similar standards approved of by the District, will be adopted into the zoning requirements within the Project Area. The Agency will obtain from any property owner or developer, as applicable, as written agreement to meet and comply with the Water Efficiency Standards.
- b. At such time as the City is considering adoption of water efficiency standards, and from time-to-time thereafter following the adoption of such standards, the Agency may propose to the District modifications to the standards specified in Exhibit D, and the District shall not unreasonably withhold its approval of such modifications if they do not materially and adversely affect the benefits of the standards to the community.
- c. Notwithstanding anything to the contrary in this Agreement, the Project Area Plan, the Act, or the Cooperation Act, none of the Tax Increment paid by the District shall be used for



environmental cleanup or remediation of water or aquifers or for the purchase or development of municipal and/or industrial water, including, but not limited to the purchase, treatment, storage, or conveyance of that water, excepting infrastructure owned and used by the City in its delivery of water to the Project Area.

- d.** As a condition to any incentive or other payment offered to a developer or property owner within the Project Area pursuant to a written participation agreement as contemplated by Utah Code Section 17C-1-409(1)(a)(iii)(C), the Agency shall require that the Project Area conform to the water efficiency standards attached as Exhibit D.
- e.** For new landscaping planned as part of the Project Area Plan, the Agency shall submit landscaping and irrigation plans to the District for its review and feedback prior to landscaping installation.
- f.** Section 33, above, shall not impose any requirement that would violate the City ordinances, City approval requirements, or existing vested rights, and any failure to impose such requirements shall not constitute a breach of this Agreement.

*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.

Entity: JORDAN VALLEY WATER CONSERVANCY DISTRICT

Attest:

By: \_\_\_\_\_

General Manager/CEO

\_\_\_\_\_  
Executive Assistant

Approved as to form:

\_\_\_\_\_  
Attorney for Jordan Valley Water Conservancy District

Agency:

MIDVALE CITY REDEVELOPMENT AGENCY

Attest:

By: Robert M. Hale

Its: Chair

Ron L. Anderson  
Secretary

Approved as to form:

\_\_\_\_\_  
Attorney for Agency



## EXHIBIT A

### Map of Project Area



## **EXHIBIT B**

Project Area Plan

## **EXHIBIT C**

### **Project Area Budget**



## **EXHIBIT D**

### Water Efficiency Standards

ATTACHMENT

**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 15<sup>th</sup> day of June, 2021, by and between the **REDEVELOPMENT AGENCY OF MIDVALE CITY** (the “Agency”), a community reinvestment agency and political subdivision of the State of Utah, and **JORDAN VALLEY WATER CONSERVANCY DISTRICT** (the “DISTRICT”), a Utah local district (together, the “Parties”), 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 Midvale City (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 would substantially benefit the City and the District, creating economic benefits, and improving the public health, safety and welfare of its citizens; and

B. **WHEREAS**, the City desires to redevelop the historic Main Street corridor and the surrounding area (as defined below, the “Project Area”) in a way that celebrates its history, promotes and enhances the arts, and cultivates a sense of place for the City; and

C. **WHEREAS**, the Project Area faces several impediments to redevelopment, including insufficient and poorly located parking spaces, poorly located and outdated overhead powerlines, infrastructure limitations and the lack of certain improvements, and the Project Area would benefit greatly from redevelopment efforts focused to overcome these impediments to development, which efforts can be substantially facilitated by the use of Tax Increment (as defined below), generated from the Project Area; and

D. **WHEREAS**, the Agency created the Main Street Community Development Project Area described in Exhibit A (the “Project Area”) 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-4-406 and 17C-4-107; and

E. **WHEREAS**, the Agency has adopted a 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 the Project Area, a copy of which is included in the Draft Project Area Budget attached as Exhibit C; 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, the District, Central Utah Water Conservancy District, Unified Fire Service Area, Salt Lake County Library, and Jordan/Canyons School District Debt Service Area (collectively, the “Taxing Entities”); and

G. **WHEREAS**, upon full development as contemplated in the Project Area Budget, Tax Increment produced by the Project Area for the City, the County, the School District, and other Taxing Entities are

projected to total approximately \$1,539,672 (Primary Budget with Main Street Focus) and \$2,504,392 (Contingency Budget which includes the proposed office building) annually; and

H. **WHEREAS**, the Agency has requested that the City, the County, the School District, the District, and the other Taxing Entities to 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 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 District to remit such payments to the Agency to permit the Agency to leverage private development of the Project Area; and

J. **WHEREAS**, UCA § 17C-4-201(1) authorizes the District to agree to payment to the Agency of a portion of its share of Tax Increment generated from the Project Area for the purposes set forth therein; and

K. **WHEREAS**, Section 215 of the Interlocal Cooperation Act (UCA Title 11, Chapter 13) (the "Cooperation Act") further authorizes the District to share its tax and other revenues with the Agency; and

L. **WHEREAS**, this Agreement is made pursuant to the provisions of the Act; and

M. **WHEREAS**, the Parties desire to set forth in writing their agreements regarding the nature and timing of such assistance, which agreements need to be approved and adopted by resolutions considered at open and public meetings pursuant to UCA § 17C-4-202; and

N. **WHEREAS**, the Agency and the City entered into that certain Interlocal Cooperation Agreement dated as of October 6, 2020, pursuant to which the City consented to the payment of 60% of the City's portion of Tax Increment from the Project Area, to the Agency for use in connection with the Project Area according to the Project Area Budget;

NOW, THEREFORE, the Parties agree as follows:

1. **Additional Tax Revenue.** The Project Area Plan and Project Area Budget includes projections with respect to the generation of Tax Increment during the term of the Project Area Plan. 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 certain of the impediments to development. The term "Tax Increment" is defined by Section 17C-1-102 of the Act, and the term "Tax Increment" as used in this Agreement means "Tax Increment" as defined by the Act. Any change in the definition of "Tax Increment" under the Act will result in a corresponding change to the definition of "Tax Increment" under this Agreement.

2. **Offset Development Costs and Expenses.** The District has determined that it is in the best interests of its constituents to pay specified portions of its portion of Tax Increment to the Agency (a) 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 activities needed to serve the Project Area, to the extent permitted by the Act, the Project Area Plan, and the Project Area Budget and (b) to obtain the undertakings of the Agency regarding water conservation contained in Section 35 below.

3. **Base Year, Base Year Value, and Increment Calculation.** Pursuant to UCA § 17C-4-201, the Parties agree 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 in the manner provided by the Act or other applicable law as it exists, but in general by subtracting the Base Year Value from the current year's value and multiplying that by the applicable tax rate(s).

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 such agreement. Such agreement shall be consistent with the terms and conditions of this Agreement and other applicable law, 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 District to the Agency shall be determined by the Agency, but the Agency agrees to trigger the Project Area for collection no later than by March 1, 2024; this means that Year One will be no later than 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 each of the Taxing Entities.

6. **Total Payment to Agency.** Pursuant to UCA § 17C-4-201, this Agreement specifies that the District 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 Tax Increment generated from within the Project Area to which the District would otherwise be directly paid (the "District Tax Increment"), including real (*i.e.*, building, land, and fixtures), personal, and centrally assessed property within the Project Area. The Agency will remit 40% of the District Tax Increment back to the District. The Agency will collect and retain 60% of the District Tax Increment until and including Year Twenty or until the Agency has collected and retained from the District a total of \$471,000 (pursuant to the Primary Budget or if the Building Benchmark (as defined below) is not reached) or \$820,500 (pursuant to the Contingency Budget or if the Building Benchmark is met), whichever comes first. The Agency will remit the 40% back to the District in such manner as the District requests, *i.e.* wire transfer, check, etc., no later than thirty (30) days after the Agency receives funds from the County. Such payment shall be accompanied by a report from the Agency detailing, with respect to such tax year, the total taxable value of the Project Area, the amount of Tax Increment received from the County, the amount of the District's share of Tax Increment remitted to the District, and such additional information as the District may reasonably request. As mandated by UCA 17C-5-204(6), the District is prohibited from proportionately reducing the amount of project area funds the District consents to pay to the Agency by the amount of any direct expenditures the District makes within the Project Area for the benefit of the Project Area or the Agency; however, the parties clarify that the District has no obligation to make any such expenditures within the Project Area for the benefit of the Project Area or the Agency.

7. **Contingency Budget.** The Project Area has two budgets. The Primary Budget is entirely focused on Main Street revitalization, which includes a parking structure to serve small businesses, residents, and other visitors to Main Street. The Primary Budget also includes targeted infrastructure upgrades, powerline relocation, small business loans, an arts center, and other community enhancement programs. The Contingency Budget includes everything from the Primary Budget plus support for a "Large Office Building and adjacent Parking Structure". A developer is interested in constructing 300,000 square feet of Class A office space the estimated taxable value of which is at least \$60,000,000. If by March 1, 2025 (*i.e.* one year after the Agency must trigger the Project Area in order to begin collecting Tax Increment) the construction of a single non-residential project with an assessed value of at least \$60,000,000 has been commenced (the "Building Benchmark"), the cap on the Tax Increment that may be collected and retained from the District pursuant to

this Agreement is increased from \$471,000 to \$820,500 pursuant to the Contingency Budget (i.e. this increase shall not affect any other agreement made by the Agency with another Taxing Entity).

8. **Housing Funds.** The Agency's budgets (Primary and Contingency) both include 20% earmarked to support affordable housing. The Agency shall ensure that these affordable housing funds are used within the Project Area. The Agency shall provide the District with an annual accountability report, which shall contain detailed information on how and where the Agency has used the housing funds. The Agency shall satisfy the requirements of the accountability report by including the required information within the Agency Annual Report as found in UCA § 17C-4-603.

9. **Amendment of Project Area Budget.** The Agency may use District Tax Increment solely for the purposes set forth in the Project Area Budget. The Agency may not amend the Project Area Budget without the District's prior consent, which may be withheld in the District's sole discretion.

10. **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 District and other local taxing entities. Without limiting the foregoing, this Agreement includes Tax Increment resulting from an increase in the tax rate of the District, 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.

11. **No Independent Duty.** The Parties recognize that the County will remit the Tax Increment directly to the Agency. Except as otherwise provided by applicable law, the County is not responsible or liable to remit uncollected Tax Increment to the Agency that is unpaid by property owners.

12. **Authority to Bind.** Each individual executing this Agreement is authorized to do so, and, upon executing this Agreement, this Agreement shall be binding and enforceable in accordance with its terms upon the Party.

13. **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.

14. **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 District:  
Jordan Valley Water Conservation District  
Attn: General Manager  
8215 South 1300 West  
West Jordan, UT 84088

If to Agency:  
Redevelopment Agency of Midvale City  
Attn: RDA Manager  
7505 Holden Street  
Midvale, Utah 84047

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.

15. **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. 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.

16. **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.

17. **Construction.** Headings at the beginning of each paragraph and subparagraph are solely for the convenience of the Parties. 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.

18. **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.

19. **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.

20. **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.

21. **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.

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

23. **Duration.** Unless earlier terminated as provided for herein, 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 Tax Increment. As a result of the foregoing and the maximum Payment Trigger date in Section 5, this Agreement shall terminate prior to March 1, 2044.

24. **Assignment.** Except for an assignment by the Agency made in connection with the issuance of bonds, 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. **Default.** In the event either Party (the “Notifying Party”) determines that the other Party (the “Defaulting Party”) is in default hereunder, the Notifying Party shall give written notice to the Defaulting Party and the Defaulting Party shall have sixty (60) days to cure such default. If the Agency expends District Tax Increment in a manner not consistent with the Project Area Budget, then the Agency must promptly repay such improperly spent funds to the District.

26. **Termination as a Result of Default.** Upon any termination of this Agreement resulting from the uncured default of any Party, the order of any court of competent jurisdiction or the enactment of any law requiring such termination, then any funds held by the Agency and for which the Agency shall not be required to disburse to (a) developers in accordance with the agreements which govern such disbursement, or (b) holders of bonds secured by such Tax Increment, then such funds shall be returned to the Party originally entitled to such funds, and upon such return this Agreement shall be deemed terminated and of no further force or effect.

27. **Other Taxing Entities.** Except as provided in Section 1 *above*, this Agreement shall be effective notwithstanding one or more other Taxing Entities do not execute agreements with the Agency with respect to the use of Tax Increment and notwithstanding any terms of any agreements with other Taxing Entities that are executed by the Agency vary from the terms of this Agreement.

28. **Due Diligence.** Each of the Parties acknowledges for itself that it has performed its own review, investigation, and due diligence regarding the relevant law and facts upon which this Agreement is based, and each Party relies upon its own understanding of the relevant law, facts, information, and representations, after having completed its own due diligence and investigation.

29. **Interlocal Cooperation Act.** In satisfaction of the requirements of the Cooperation Act, 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 *[we understand that the Act requires such a designation if no entity is formed but there is a joint or cooperative undertaking, which may include sharing of tax revenues, as per Section 11-13-202.5(1)(b)(vii)]*;
- e. 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-5-205 of Utah Code; and
- f. They are not creating an interlocal entity or any separate entity. Moreover, 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.

30. **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-5-205.

31. **Governmental Immunity.** Both Parties are governmental entities under the Governmental Immunity Act of Utah, §§ 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.

32. **Liability and Indemnification.** The District and the Agency agree to be liable for their own negligent acts or omissions, or those of their authorized employees, officers, and agents while engaged in the performance of the obligations under this Agreement, and neither the District nor the Agency will have any liability whatsoever for any negligent act or omission of the other Party, its employees, officers, or agents. However, the Agency shall indemnify, defend, and hold harmless the District, its officers, employees and agents (the "Indemnified Parties") from and against any and all actual or threatened claims, losses, damages, injuries, debts, and liabilities of, to, or by third parties, including demands for repayment or penalties, however allegedly caused, resulting directly or indirectly from, or arising out of: (i) the Agency's breach of this Agreement; (ii) any acts or omissions of or by the Agency, its agents, representatives, officers, employees, or subcontractors in connection with the performance of this Agreement; (iii) or the Agency's use of District Tax Increment. The Agency agrees that its duty to defend and indemnify the Indemnified Parties under this Agreement includes all attorney's fees, litigation and court costs, expert witness fees, and any sums expended by or assessed against the District for the defense of any claim or to satisfy any settlement, arbitration award, debt, penalty, or verdict paid or incurred on behalf of the District. The Parties agree that the requirements of this Paragraph shall survive the expiration or sooner termination of this Agreement.

33. **Water Efficiency Standards.** As a condition to retaining 60% of the property tax increment revenue participation from the District, Midvale City (the "City") must first adopt the Water Efficiency Standards attached as Exhibit D within all zones contained within the Main Street CDA Project Area's boundaries. As of the date of this Agreement, there are four zones within the Project Area boundaries ("Project Area Zones"). If the Agency begins collecting property tax increment prior to the Project Area Zones adopting the Water Efficiency Standards, the Agency shall remit back to the District 100% of its property tax increment. Once the Water Efficiency Standards have been adopted within the Project Area Zones, the Agency shall notify the District and only be required to remit 40% of the District's property tax increment back to the District. The Agency may not recoup any property tax increment revenue from the District that was generated between when the Agency began collecting tax increment from the Area and when the Water Efficiency Standards become adopted within the Project Area Zones. This Agreement in no way obligates the City to adopt any standards. The Agreement only makes the Agency's retention of a portion of the District's tax increment contingent upon the City's adoption of the Water Efficiency Standards.

- a. The Agency agrees that, prior to retaining tax increment from the District, all development and construction within the Project Area shall meet and comply with the Water Efficiency Standards attached as Exhibit D, as they, or similar standards approved of by the District, will be adopted into the zoning requirements within the Project Area. The Agency will obtain from any property owner or developer, as applicable, as written agreement to meet and comply with the Water Efficiency Standards.
- b. At such time as the City is considering adoption of water efficiency standards, and from time-to-time thereafter following the adoption of such standards, the Agency may propose to the District modifications to the standards specified in Exhibit D, and the District shall not unreasonably withhold its approval of such modifications if they do not materially and adversely affect the benefits of the standards to the community.
- c. Notwithstanding anything to the contrary in this Agreement, the Project Area Plan, the Act, or the Cooperation Act, none of the Tax Increment paid by the District shall be used for

environmental cleanup or remediation of water or aquifers or for the purchase or development of municipal and/or industrial water, including, but not limited to the purchase, treatment, storage, or conveyance of that water, excepting infrastructure owned and used by the City in its delivery of water to the Project Area.

- d. As a condition to any incentive or other payment offered to a developer or property owner within the Project Area pursuant to a written participation agreement as contemplated by Utah Code Section 17C-1-409(1)(a)(iii)(C), the Agency shall require that the Project Area conform to the water efficiency standards attached as Exhibit D.
- e. For new landscaping planned as part of the Project Area Plan, the Agency shall submit landscaping and irrigation plans to the District for its review and feedback prior to landscaping installation.
- f. Section 33, above, shall not impose any requirement that would violate the City ordinances, City approval requirements, or existing vested rights, and any failure to impose such requirements shall not constitute a breach of this Agreement.

*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.

Entity: JORDAN VALLEY WATER CONSERVANCY DISTRICT

Attest:

By: \_\_\_\_\_

General Manager/CEO

\_\_\_\_\_  
Executive Assistant

Approved as to form:

\_\_\_\_\_  
Attorney for Jordan Valley Water Conservancy District

Agency: MIDVALE CITY REDEVELOPMENT AGENCY

Attest:

By: Robert M. Hale

Its: Chair

Ron L Anderson  
Secretary

Approved as to form:

\_\_\_\_\_  
Attorney for Agency





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

Entity: JORDAN VALLEY WATER CONSERVANCY DISTRICT

Attest:

By: Barton G. Forsyth  
General Manager/CEO

Beverly M. Pamy  
Executive Assistant

Approved as to form:

[Signature]  
Attorney for Jordan Valley Water Conservancy District

Agency: MIDVALE CITY REDEVELOPMENT AGENCY

Attest:

By: \_\_\_\_\_  
Its: Chair

\_\_\_\_\_  
Secretary

Approved as to form:

DocuSigned by:  
Tom Berggren  
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Attorney for Agency

Map of Project Area

**EXHIBIT B**

Project Area Plan

**EXHIBIT C**

Project Area Budget

## **EXHIBIT D**

### Water Efficiency Standards

**EXHIBIT D**

Water Efficiency Standards

## WATER EFFICIENCY STANDARDS

1. **Purpose**  
The purpose of these Water Efficiency Standards is to conserve the public's water resources by establishing water conservation standards for indoor plumbing fixtures and outdoor landscaping.
2. **Applicability**  
The following standards shall be required for all developer/contractor installed residential, commercial, institutional, and industrial construction, as applicable. The Outdoor Landscaping Standards shall also be required for new landscaping construction installed by homeowners.
3. **Indoor Fixture Requirements**  
It is recommended and encouraged, but not mandated, that all new and future construction and future additions, remodels, or refurbishments install plumbing fixtures that have the WaterSense label, including: lavatory faucets, shower heads, sink faucets, water closets (tank and flushometer-valve toilets), and urinals, to the extent Utah law allows municipalities or local districts to require these fixtures.
4. **Outdoor Landscaping Standards**  
All new and rehabilitated landscaping for public agency projects, private development projects, developer-installed landscaping in multi-family and single-family residential projects within the front and side yards, and homeowner provided landscape improvements within the front and side yards of single and two-family dwellings shall comply with the landscaping standards below:

### Definitions

- A. **Activity Zones:** Portions of the landscape designed for recreation or function, such as storage areas, fire pits, vegetable gardens, and playgrounds.
- B. **Active Recreation Areas:** Areas of the landscape dedicated to active play where Lawn may be used as the playing surface (ex. sports fields and play areas).
- C. **Central Open Shape:** An unobstructed area that functions as the focal point of Localscapes and is designed in a shape that is geometric in nature.
- D. **Gathering Areas:** Portions of the landscape that are dedicated to congregating, such as patios, gazebos, decks, and other seating areas.
- E. **Hardscape:** Durable landscape materials, such as concrete, wood, pavers, stone, or compacted inorganic mulch.



- F. Lawn shall not be installed in Park Strips, Paths, or on slopes greater than 25% or 4:1 grade, and be less than 8 feet wide at its narrowest point. To the extent reasonably practicable, Lawn shall be free from obstructions (trees, signs, posts, valve boxes, etc.).
- G. In residential landscapes, the landscaping shall adhere to the following Localscapes requirements:
- i. If size permits, the landscaped areas of the front yard and back yard shall include a designed Central Open Shape created by using Lawn, Hardscape, groundcover, gravel, or Mulch.
  - ii. Gathering Areas shall be constructed of Hardscape and placed outside of the Central Open Shape. In a landscape without Lawn, Gathering Areas may function as the Central Open Shape.
  - iii. Activity Zones shall be located outside of the Central Open Shape and shall be surfaced with materials other than Lawn.
  - iv. Paths shall be made with materials that do not include Lawn, such as Hardscape, Mulch, or other groundcover.
  - v. Lawn areas shall not exceed the greater of 250 square feet, or 35% of the Total Landscaped Area.
  - vi. Small residential lots, which have no back yards, which the Total Landscaped Area is less than 250 square feet, and which the front yard dimensions cannot accommodate the minimum 8 feet wide Lawn area requirement of the Landscaping Requirements in section F, are exempt from the 8 feet minimum width Lawn area requirement.
- H. In commercial, industrial, institutional, and multi-family development common area landscapes, Lawn areas shall not exceed 20% of the Total Landscaped Area, outside of Active Recreation Areas.
- I. Certain special purpose landscape areas (e.g. stormwater management areas, etc.) may receive exceptions from the slope limitations and other elements of the Landscaping Requirements (see Paragraph F, above). Applications to receive exceptions are to be considered on a case-by-case basis.
- J. These outdoor standards are not intended to be in conflict with other landscaping requirements as defined by Utah law, including stormwater retention requirements and low-impact development guidelines. Notwithstanding these outdoor standards, whenever any requirement may be in conflict with Utah law, such conflicting requirements shall not apply.