

**RDA MEETING
PACKET**

DATE:

November 28, 2023

AGENDA
KANE COUNTY REDEVELOPMENT AGENCY/ CRA
MEETING TO BE HELD TUESDAY November 28, 2023, 1:30 p.m.
IN THE SCHOOL BOARD ROOM AT THE KANAB CENTER

WE WELCOME EVERYONE TO ATTEND ELECTRONICALLY BY PHONE.
CALL IN INFORMATION: Meeting call in # 435-676-9000 participant code 168030# (This is a local call within the South Central service area)

CONSENT AGENDA: Approval of July 11, 2023 RDA Minutes

REGULAR AGENDA:

1. Review/Vote on Contract with UAC for CRA Administrative Assistance

Closed Session

- Discussing an individual's character, professional competence, or physical or mental health.
- Strategy sessions to discuss collective bargaining, pending or reasonably imminent litigation, or the purchase, exchange lease or sale of real property.
- Discussions regarding security personnel, devices or systems.
- Investigative proceedings regarding allegations of criminal misconduct.

NOTICE OF SPECIAL ACCOMMODATION DURING PUBLIC MEETINGS:

In compliance with the Americans with Disabilities Act, individuals needing special accommodations (including auxiliary communicative aids and services) during this meeting should notify Chameill Lamb at (435) 644-2458.

Agenda items may be accelerated or taken out of order without notice as the Administration deems appropriate.

All items to be placed on the agenda must be submitted to the Clerk's office by noon Tuesday, prior to the meeting date.

CONSENT AGENDA

Minutes of:

RDA Meeting Minutes for July 11, 2023

**MINUTES OF THE
KANE COUNTY REDEVELOPMENT AGENCY/ CRA
MEETINGS TO BE HELD TUESDAY July 11, 2023 1:00 P.M.
IN THE SCHOOL BOARD ROOM AT THE KANAB CENTER**

PRESENT: Member Kubeja, Member Heaton (Absent), Member Meyeres, Attorney Van Dyke, Clerk/Auditor Chameill Lamb, Deputy Clerk/Auditor Candice Brown, Rhonda Gant

CALL MEETING TO ORDER & WELCOME: Member Kubeja

CONSENT AGENDA: Approval of May 2, 2023 RDA Minutes

Motion to approve the Consent Agenda, which includes May 2, 2023 RDA Minutes made by Board Member Meyeres and motion carried with all Board Members present voting in favor.

REGULAR AGENDA:

1. Public Hearing Related to the Glen Canyon Solar A CRA-Amended Project Area Plan and Amended Project Area Budget

Member Kubeja said back in December there was an approval of an RDA budget and project area. It has since been changed this is why we had to have another public hearing to receive any comment from the public.

No Public Comment.

2. Consideration of Resolution No. RDA-2023-1 Authorizing and Approving the Amended Project Area Plan as the Official Plan for the Glen Canyon Solar A CRA

Jason Burningham said with the project area plan they did amend a few minor elements to the amended plan based on additional feedback from the taxing entities. It had to do with the housing allocation dollars. Instead of the housing allocations, those monies will be remitted back to the taxing entities proportionally to the tax rates that they impose.

Motion to adopt Resolution RDA- 2023-1 authorizing and approving the amended Project Area Plan as the Official Plan for the Glen Canyon Solar A CRA made by Member Meyeres and motion carried with all Members present voting in favor.

Member Kubeja-aye
Member Meyeres-aye
Member Heaton-absent

3. Consideration of Resolution No. RDA-2023-2 Authorizing and Approving the Amended Project Area Budget for the Glen Canyon Solar A CRA

Jason Burningham said with the original budget it had 20 years at 60%. This was reduced to 50% after administration is covered after a 10% remittance is paid back to the taxing entities in it up to 50% that would be retained by the Redevelopment Agency who issued the project for up to 15 years. There are some modifications to the amended budget consistent with those terms changing and updating it for the School District participation and for the Water Conservancy District.

Motion to adopt Resolution No. RDA-2023-2 authorizing and approving the amended Project Area Budget for the Glen Canyon Solar A CRA made by Member Meyeres and motion carried with all Members present voting in favor.

Member Kubeja-aye
Member Meyeres-aye
Member Heaton-absent

4. Diversion of Property Taxes for the Glen Canyon Solar A Community Reinvestment Area-Resolution No. RDA-2023-3 a Resolution Authorizing the Kane County Redevelopment Agency to Enter into Interlocal Agreements Between the Agency and Each of the County, the School District, and the Water Conservancy District

Motion to adopt Resolution No. RDA-2023-3 a resolution authorizing the Kane County Redevelopment Agency to enter into Interlocal Agreements between the Agency and each of the County, the School District, and the Water Conservancy District made by Member Meyeres and motion carried with all Members present voting in favor.

Member Kubeja-aye
Member Meyeres-aye
Member Heaton-absent

5. Consideration of Resolution No. RDA-2023-4 a Resolution Authorizing the Kane County Redevelopment Agency to Approve a Tax Increment Participation Agreement Between the Agency and Glen Canyon Solar A LLC

Jason Burningham clarified that with Resolution RDA-2023-3 it is authorizing the Redevelopment Agency to enter into those Interlocal Agreement and that it is important to know that the Interlocal Agreements are the agreements between those entities to basically approve the budget. In essence they are approving the Diversion of Incremental Property Taxes that will arise from the construction, development, and implementation of the solar project that is being proposed and will be built. Tax Increment will only be what is incrementally created above and beyond what currently is the base year value that is very little, because it is on State Institutional Trust Lands. The Interlocal Agreement does allow now for each of the County, School District, and Water Conservancy District to pass those property taxes, which is tax increment through to the agency. This is the next step, which is the agency entering into an agreement with the Glen Canyon Solar A LLC, which is the company that will be building, constructing, equipping and financing the solar project. It stipulates what requirements they have in terms of value of construction, value of personal property that they intend to put in place. Timing of when they intend to construct it and then their willingness to continue to make the property tax payments. It is a governing document that says the agency receives these monies in order for the

company to receive the benefit of that they have to meet certain standards, and that is what a Tax Increment Participation Agreement is. It is in the best interest of all the taxing entities to ensure that the company has an obligation by which they are required to build, construct, maintain, and operate, so that we do get the true benefit of what we have envisioned in the plan and budget.

Motion to adopt Resolution RDA-2023-4 a Resolution authorizing the Kane County Redevelopment Agency to Approve a Tax Increment Participation Agreement between the Agency and Glen Canyon Solar A LLC made by Member Meyeres and motion carried with all Members present voting in favor.

Member Kubeja-aye
Member Meyeres-aye
Member Heaton-absent

Motion to adjourn made by Member Meyeres and motion carried with all Members present voting in favor.

WHEREUPON MEETING ADJOURNED

Chairman Patty Kubeja

Secretary Chameill Lamb

AGENDA ITEMS

ITEM # 1

Review/Vote on Contract with UAC for CRA
Administrative Assistance

COMMUNITY REINVESTMENT SERVICES AGREEMENT

THIS COMMUNITY REINVESTMENT SERVICES AGREEMENT (the “**Agreement**”) is entered into this _____ day of November, 2023, (the “**Effective Date**”) by and between the Utah Association of Counties (“**UAC**”) whose address is 5397 South Vine Street, Murray, Utah 84107, and Kane County Community Reinvestment Agency, (the “**Agency**”), whose corporate address is 76 N Main Street, Kanab, Utah 84741. UAC and the Agency are sometimes referred to collectively as the “**Parties**” and individually as a “**Party**”.

The Parties agree that the following Recitals are true and accurate to the best of their knowledge.

RECITALS

- A. UAC is a Utah non-profit corporation organized and operated pursuant to the Utah Nonprofit Corporation Act and the Cooperative Association Act. UAC is a nonprofit entity pursuant to section 501(c)(4) of the Internal Revenue Code. The primary purpose of UAC is to promote social welfare through better county government and, through cooperative and mutual efforts, maintain counties as an essential part of the government structure. Another purpose of UAC is to provide administrative support to counties in delivering services required by law and to pool resources for counties to provide such services where there is a benefit to doing so.
- B. The Kane County Community Reinvestment Agency was created by Kane County (the “**County**”) (a body corporate and politic of the State of Utah) pursuant to the provisions of, and the Agency continues to operate under Title 17C of the Utah Code, the Limited Purpose Local Government Entities-Community Reinvestment Agency Act and its predecessor statutes (the “**Act**”) for the purposes of conducting urban renewal, economic development, community development, and community reinvestment activities, as contemplated by the Act.
- C. As a UAC member in good standing, Kane County and the Agency are eligible to utilize the UAC Community Reinvestment Services. The Officers of UAC are elected officials from member counties, including the County itself. The Directors of UAC are officials employed by Utah counties, including perhaps the County or Agency itself.
- D. The Parties recognize that the Community Reinvestment Services that are subject of this Agreement fall within the purpose of UAC, and that having such services provided by UAC to the Agency would promote social welfare, improve county government, and be economically advantageous for the County and citizens.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual promises contained herein, and for other good and valuable consideration, the receipt sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. **Community Reinvestment Services to Be Provided by UAC to the Agency.** During the term of this Agreement, UAC shall provide (or cause to be provided) the following community reinvestment services ("CRA Services") to the Agency:
 - A. Management of the Agency's existing project areas, including annual reporting, preparing financial reports, negotiating new terms of taxing entity participation and negotiating with the developer/developers.
 - B. Assisting with Stakeholder Engagement. Identify and engage key stakeholders. Facilitate public meetings and workshops to gather input and address concerns.
 - C. Assist the various elected offices of Kane County with their responsibilities as it relates to the calculation of tax rates and reporting requirements associated with project areas.
 - D. Managing the creation of new economic development project areas, including drafting the plan and budget for new project areas, assisting in the negotiations with taxing entities, assisting with document creation, meeting facilitation, and finalizing the project area. (Additional fees may apply if UAC and the Agency are able to negotiate successfully with a potential developer for a cost-reimbursement agreement.)

UAC has no obligations to provide services that are outside the reasonable scope of the CRA Services outlined above.

2. **Fees.** In return for the services rendered, the Agency shall pay UAC a base fee of \$4,000, plus \$1,500 per project area, annually. Additional fees may apply in accordance with Item 1. D. All payments shall be made via check or electronic transfer (with transfer instructions to be provided by UAC) to the "Utah Association of Counties."
3. **Unforeseen Expenses.** The Agency shall reimburse UAC, as follows, for unforeseen expenses it incurs in providing the CRA Services.
 - A. An Unforeseen expense is an expense that is incurred due to actions or activities that are necessary to complete the services described in this

contract as agreed by the parties but lies outside the ordinary scope of services that is reasonably expected under the services described in Section 1. Examples may include: 1) the need to consult with additional experts to resolve a unique and extraordinary issue that may arise in providing CRA Services; 2) excess requests from Agency for UAC staff to travel to Kane County; 3) other unexpected items that both parties agree are extraordinary but necessary for UAC to provide CRA Services.

- B. Any unforeseen expenses must be approved by the Agency in writing in advance. Any unforeseen expense that is incurred by UAC and expended by UAC prior to approval by the Agency will not be reimbursed.
- C. When an unforeseen expense has been approved by the Agency, UAC will submit a bill to the agency for reimbursement within a reasonable time after the expenses have been incurred. Once an expense has been submitted to the Agency, it shall have 30 days to pay the amount requested. Requests for reimbursement will not be accepted by the Agency more than 30 days after the termination of the Agreement. Failure by the Agency to pay for unforeseen expenses as set forth in this section shall constitute a material breach of this Agreement.

4. Term, Termination and Breach of the Agreement.

- A. Term. The term ("Term") of this Agreement shall be November 1, 2023, through October 31, 2025.
- B. Renewal. The agreement may be renewed at the options of the Parties, but neither shall have any obligation to renew the Agreement or otherwise negotiate a new agreement.
- C. Termination. This Agreement shall terminate automatically, unless renewed by the Parties in writing, at the end of the Term. During the Term, either Party may terminate the Agreement, with or without cause, upon thirty (30) days written notice. If either party terminates this Agreement before the end of the Term without cause, UAC shall refund the Agency a prorated portion of the Annual Fee that has been paid, based on the number of remaining months left in the Term. For purposes of this paragraph, "without cause" means that the non-terminating Party has not materially breached the Agreement, or, if it has, it timely cured the breach as provided herein.
- D. Breach. If either Party believe the other has materially breached its obligations under this Agreement, it shall provide written notice to the other Party of the alleged breach and allow that Party ten days from the date of the written notice to cure the breach. If the other Party does not cure the breach

within ten days, the non-breaching Party may terminate this Agreement immediately through written notice to the other Party. If any legal proceedings occur as a result of an alleged breach by one of the Parties, the prevailing Party is entitled to an award of all reasonable expenses and fees (including reasonable attorney fees) it incurred as a result of the breach or the allegation of breach. If Agency terminates this Agreement for cause under this paragraph, UAC shall refund the Agency a prorated portion of the Annual Fee that has been paid, based on the number of remaining months left in the term.

5. **UAC as an Independent Contractor.** The relationship of UAC to the Agency under this Agreement shall be that of an independent contractor. No agent, employee or servant of UAC or the Agency shall be deemed to be an employee, agent, or servant of the other Party as a result of this Agreement. None of the benefits provided by each Party to its employees, including but not limited to worker's compensation insurance, health insurance and unemployment insurance, are available to the employees, agents, or servants of the other party by virtue of this Agreement. UAC and the Agency shall each be solely and entirely responsible for its acts and for the acts of its agents, employees, and servants during the performance of this Agreement. UAC and the Agency shall each make reasonable efforts, where appropriate, to inform third parties that UAC is acting as an independent contractor. Nothing herein shall create a partnership or joint venture relationship between the Parties.
6. **Conflicts of Interest.** The Parties acknowledge, as noted above, that officials from the County or Agency (either elected officials and/or employees) may also serve as officers and/or directors of UAC. In addition, officials from the County or Agency may serve on committees of UAC. As long as such County or Agency officials fully disclose their involvement with the County or Agency to UAC, and their involvement with UAC to the County or Agency, the fact that such individuals are serving in multiple roles shall not, in and of itself, give rise to a conflict of interest that would, in any way, impede the enforceability of this Agreement. If either Party believes that an agent of the County or Agency is involved in a UAC role (i.e., board member, committee member, etc.), such that his or her role with UAC created a conflict of interest that materially jeopardizes either Party's performance of its obligations under this Agreement, that Party shall promptly provide written notice of such conflict of interest to the other Party.
7. **Miscellaneous Provisions**
 - A. Each person signing below represents and warrants (a) that he/she is authorized to execute this Agreement for and on behalf of the Party for

whom he/she is signing, (b) that such Party shall be bound in all respects hereby, and (c) that such execution presents no conflict with any other agreement of such Party.

- B. This Agreement constitutes the entire agreement between the Parties relative to the subject matter hereof, and there are no representations, warranties, or agreements, or any conditions or contingencies, whether express or implied, or oral or written, except as set forth herein. This Agreement may be modified only in writing executed by the Parties.
- C. No assignment or delegation of this Agreement or of any of the rights or obligations hereunder by any Party hereto shall be valid without the prior written consent of the other Party or Parties.
- D. This Agreement shall be governed by the laws of the State of Utah.
- E. This agreement shall be constructed as if equally drafted by the Parties, and no rules of strict construction against any Party shall be applied.
- F. In case any one or more of the provisions of this Agreement shall, for any reason, be held to be invalid, illegal, or unenforceable in any respect, such invalid, illegal, or unenforceable provision(s) shall be limited or eliminated only to the extent necessary to remove such invalidity, illegality, or unenforceability, and the other provisions of this Agreement shall not be affected thereby.
- G. All written notices or communications required or permitted to be given under this Agreement shall be sufficient if delivered personally, via email, or mailed postage prepaid by first class, registered or certified mail posted in the United States and addressed as identified in the opening paragraph of the Agreement. Such notices or communications shall be treated as being effective when delivered, if delivered personally, or by email. If sent by mail, they shall be treated as being effective at the earlier of actual receipt or seventy-two (72) hours after the same has been deposited in a regularly maintained receptacle for the deposit of United States mail.

Notice to UAC shall be delivered to:

Utah Association of Counties
Attn: Brandy Grace
5397 South Vine Street
Murray, Utah 84107

Notice to the Agency shall be delivered to:

**Kane County Community Reinvestment Agency
c/o Kane County Clerk
76 North Main Street
Kanab, Utah 84741**

IN WITNESS WHEREOF, the Parties have voluntarily executed this Agreement as of the day and year stated above.

UTAH ASSOCIATION OF COUNTIES, INC.

Brandy Grace, CEO

KANE COUNTY COMMUNITY REINVESTMENT AGENCY

**Patty Kubeja
KANE COUNTY COMMUNITY REINVESTMENT AGENCY, Chair**