NOTICE OF REGULAR MEETING OF THE
NEIGHBORHOOD REDEVELOPMENT AGENCY
OF THE CITY OF ST. GEORGE,
WASHINGTON COUNTY, UTAH

Public Notice

Public notice is hereby given that the Neighborhood Redevelopment Agency of the City of St. George, Washington County, Utah, will hold a regular meeting in the City Council Chambers, 175 East 200 North, St. George, Utah, on Thursday, October 17, 2024, commencing at approximately 6:00 p.m.

The agenda for the meeting is as follows:

1. **Consider approval of Resolution No. RDA-2024-002R authorizing an Interfund Loan from the Transportation Improvement Fund (the "TIF") to the Tech Ridge CDA Fund related to the construction of the east access roadway to Tech Ridge.**

   BACKGROUND and RECOMMENDATION: The St. George Neighborhood Redevelopment Agency approved the construction of the East Access Roadway in the Fiscal Year 2024-25 budget and has decided to borrow the funds necessary from the City of St. George (the "City") for the construction and improvement costs of the Project for term and repayment schedule not to exceed 10 years or at such time the Tech Ridge CDA Fund has money available to pay off the Loan.

2. **Consider approval of the minutes from the meeting held on June 20, 2024.**

Brenda Hatch, Secretary   Date 10/11/2024

REASONABLE ACCOMMODATION: The City of St. George will make efforts to provide reasonable accommodations to disabled members of the public in accessing City programs. Please contact the City Human Resources Office, 627-4671, at least 24 hours in advance if you have special needs.

ADDENDUM TO THE NEIGHBORHOOD REDEVELOPMENT AGENCY AGENDA OF THE CITY OF ST. GEORGE, WASHINGTON COUNTY, UTAH

Public Notice

Public notice is hereby given that the Neighborhood Redevelopment Agency of the City of St. George, Washington County, Utah, will hold a regular meeting in the City Council Chambers, 175 East 200 North, St. George, Utah, on Thursday, October 17, 2024, commencing on or about 6:00 p.m.

The addendum to the agenda is as follows:

3. Consider approval of a Participation Agreement by and between the St. George Neighborhood Redevelopment Agency and Tech Ridge Public Infrastructure District and Tech Ridge Management, LLC, for the Tech Ridge Community Development Project Area.

BACKGROUND and RECOMMENDATION: The Tech Ridge Public Infrastructure District was created for the purpose of financing a portion of the public infrastructure required to support the Tech Ridge Community Development Project Area. The City Council approved the amended plan for the Tech Ridge Community Development Project Area in 2023. Staff recommends approval.

Christina Fernandez
Christina Fernandez, Secretary

October 15, 2024
Date

REASONABLE ACCOMMODATION: The City of St. George will make efforts to provide reasonable accommodations to disabled members of the public in accessing City programs. Please contact the City Human Resources Office, 627-4671, at least 24 hours in advance if you have special needs.

Agenda Date: 10/17/2024 **Agenda Item Number:** RD

Subject:

(RDA) Consider approval of Resolution No. RDA-2024-002R authorizing an Interfund Loan from the Transportation Improvement Fund (the TIF) to the Tech Ridge CDA Fund related to the construction of the east access roadway to Tech Ridge.

Item at-a-glance:

Staff Contact: Robert Myers

Applicant Name: City of St. George

Reference Number: na

Address/Location:

175 East 200 North

Item History (background/project status/public process):

The St. George Neighborhood Redevelopment Agency approved the construction of the East Access Roadway in the Fiscal Year 2024-25 budget and has decided to borrow the funds necessary from the City of St. George (the City) for the construction and improvement costs of the Project for term and repayment schedule not to exceed 10 years or at such time the Tech Ridge CDA Fund has money available to pay off the Loan.

Staff Narrative (need/purpose):

The RDA hereby authorizes an interfund loan from the City to the Tech Ridge CDA Fund, pursuant to a certain Interfund Loan and Agreement Between the Citys Transportation Improvement Fund and the Tech Ridge CDA Fund (the Loan), attached to this resolution and incorporated herein by this reference. (See Attachment A.) The total dollar amount of the Loan shall be in a not-to-exceed amount of Six million Dollars ($6,000,000). The Loan shall be repaid no later than ten (10) years from the date of the transfer, which will represent the effective date of the Loan. The terms, conditions and requirements are approved in accordance with this resolution and the Loan in compliance with Utah Code 10-6-132 (Loan between funds.)The Loan shall bear interest on the unpaid balance from the date of the transfer until repaid in full. If the term of the loan is one year or less, then the interest rate may not be less than the rate offered by the Public Treasurers Investment Fund (the PTIF) as defined in Section 51-7-3 of the State Code; or if the term of the loan is more than one year, then the interest rate may not be less than the greater of the rate offered by the PTIF or a United States Treasury note of a comparable term from the date of the transfer.The FY 2025 Budget was presented in a public hearing on June 13, 2024 and June 20, 2024 and adopted by City Council on June 20, 2024. These items can be found in the original budget document of FY2024/2025 on pages 37 (PW Capital Projects) and 402 (Transfers).

Name of Legal Dept approver: Ryan Dooley

Budget Impact:

Cost for the agenda item: $6,000,000

Amount approved in current FY budget for item: $5,750,000

If not approved in current FY budget or exceeds the budgeted amount, please explain funding source:

Loan will be funded by Transportation Improvement Fund (Fund 27), the East Access Roadway will be expensed to the Public Works Capital Project Fund (Fund 87), and the loan will be repaid by the Tech Ridge CDA Fund (Fund 33). The amount identified will reimburse for construction and design costs included in the FY 2025 budget and partially expended during FY 2024.

Description of funding source:

Loan will be funded by Transportation Improvement Fund (Fund 27), the East Access Roadway will be expensed to the Public Works Capital Project Fund (Fund 87), and the loan will be repaid by the Tech Ridge CDA Fund (Fund 33).

Recommendation (Include any conditions):

Staff recommends approval.

ST. GEORGENEIGHBORHOOD REDEVELOPMENT AGENCY
CITY OF ST. GEORGE, WASHINGTON COUNTY, UTAH

RESOLUTION NO. _______________

A RESOULTION OF THE ST. GEORGE NEIGHBORHOOD REDEVELOPMENT AGENCY, AUTHORIZING THE REPAYMENT OF AN INTERFUND LOAN WITH THE CITY OF ST. GEORGE AND TECH RIDGE CDA RELATED TO THE CONSTRUCTION OF THE EAST ACCESS ROADWAY TO TECH RIDGE.

WHEREAS, the St. George Neighborhood Redevelopment Agency (the "RDA") approved the construction of the East Access Roadway in the Fiscal Year 2024-25 budget (the "Project") and has decided to borrow the funds necessary from the City of St. George (the "City") for the construction and improvement costs of the Project for term and repayment schedule not to exceed 10 years or at such time the Tech Ridge CDA Fund has money available to pay off the Loan.

WHEREAS, the RDA desires to authorize and interfund Loan between the City and the Tech Ridge CDA Fund in order to pay for the cost of the Project; and

WHEREAS, the RDA intends to use annual revenue in the Tech Ridge CDA Fund to repay the interfund loan to the City; and

WHEREAS, the RDA has determined that the interfund loan is the least costly option for such financing needs related to the Project;

WHEREAS, the original budget or a subsequent budget amendment was presented in a public hearing and previously approved by the St. George Neighborhood Redevelopment Agency for the current fiscal year.

NOW THEREFORE, BE IT RESOLVED by the St. George Neighborhood Redevelopment Agency, as follows:

Section 1. Findings. The RDA hereby finds that a need exists requiring the lending of monies from the TIF to the Tech Ridge CDA, as more fully described below:

Section 2. Authorization; Amount and Terms. The RDA hereby authorizes an interfund loan from the City to the Tech Ridge CDA Fund, pursuant to a certain Interfund Loan and Agreement Between the City's Transportation Improvement Fund and the Tech Ridge CDA Fund (the "Loan"), attached to this resolution and incorporated herein by this reference. (See Attachment A.) The total dollar amount of the Loan shall be in a not-to-exceed amount of Six million Dollars ($6,000,000). The Loan shall be repaid no later than ten (10) years from the date of the transfer, which will represent the effective date of the Loan. The terms, conditions and requirements are approved in accordance with this resolution and the Loan in compliance with Utah Code 10-6-132 (Loan between funds.)

Section 3. Interest Rate Terms. The Loan shall bear interest on the unpaid balance from the date of the transfer until repaid in full. If the term of the loan is one year or less, then the interest rate may not be less than the rate offered by the Public Treasurers' Investment Fund (the "PTIF") as defined in Section 51-7-3 of the State Code; or if the term of the loan is more than one year, then the interest rate may not be less than the greater of the rate offered by the PTIF or a United States Treasury note of a comparable term from the date of the transfer.

Section 4. Execution and Approval of Promissory Loan. The RDA hereby authorizes and approves the attached Loan (Attachment A) and authorizes the Chair to execute the Loan on behalf of the RDA. Upon execution of the Loan, the City shall be entitled to repayment of the loan based on the conditions, terms and requirements of the Loan.

Section 5. Reports. The financial reports of the RDA shall identify the interfund loan for as long as the Loan is outstanding.

PASSED AND ADOPTED IN A PUBLIC MEETING by the St. George Neighborhood Redevelopment Agency, on the _______ day of ______________ 2024.

____
Michele Randall, Chair

ATTEST AND COUNTERSIGN:

____
Christina Fernandez, City Recorder

APPROVED AS TO FORM:

____
Ryan Dooley, City Attorney

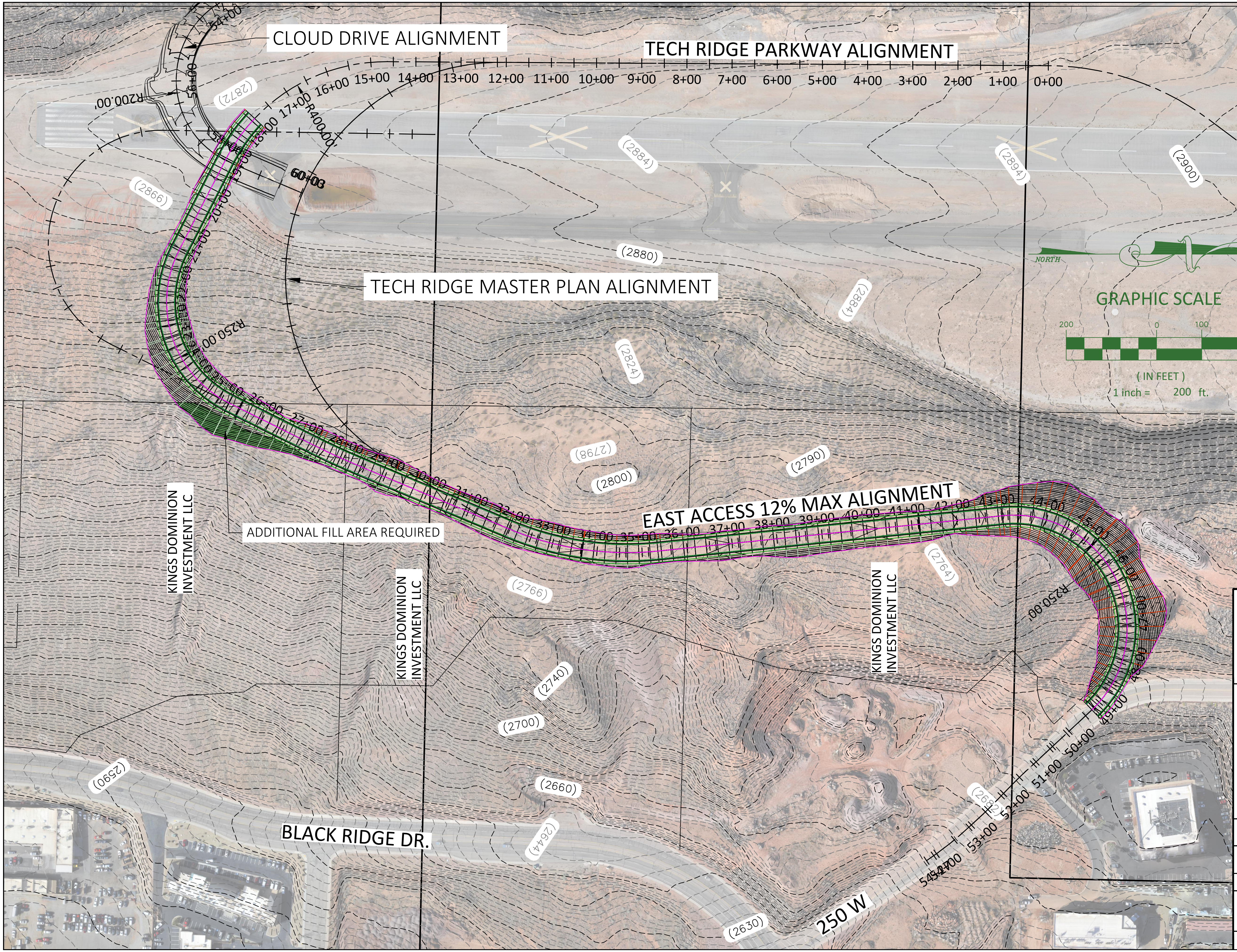
Attachment A

Loan Amortization Schedule

	Enter values	
Loan amount	$ 6,000,000.00	
Annual interest rate	5.324%	PTIF Rate for October 2024
Loan period in years	10	
Number of payments per year	1	
Start date of loan	1/1/2025	
Optional extra payments		

Lender name: City of St. George TIF Fund

Pmt. No.	Payment Date	Beginning Balance	Scheduled Payment	Extra Payment	Total Payment	Principal	Interest	Ending Balance	Cumulative Interest
1	1/1/2026	$ 6,000,000.00	$ 130,506.00	$ -	$ 130,506.00	$ (188,940.81)	$ 319,446.81	$ 6,188,940.81	$ 319,446.81
2	1/1/2027	$ 6,188,940.81	$ 179,356.00	$ -	$ 179,356.00	$ (150,150.24)	$ 329,506.24	$ 6,339,091.05	$ 648,953.05
3	1/1/2028	$ 6,339,091.05	$ 488,002.00	$ -	$ 488,002.00	$ 150,501.59	$ 337,500.41	$ 6,188,589.46	$ 986,453.46
4	1/1/2029	$ 6,188,589.46	$ 734,305.00	$ -	$ 734,305.00	$ 404,817.47	$ 329,487.53	$ 5,783,771.99	$ 1,315,940.99
5	1/1/2030	$ 5,783,771.99	$ 779,433.00	$ -	$ 779,433.00	$ 471,498.41	$ 307,934.59	$ 5,312,273.58	$ 1,623,875.58
6	1/1/2031	$ 5,312,273.58	$ 1,043,572.00	$ -	$ 1,043,572.00	$ 760,740.52	$ 282,831.48	$ 4,551,533.06	$ 1,906,707.06
7	1/1/2032	$ 4,551,533.06	$ 1,213,401.00	$ -	$ 1,213,401.00	$ 971,072.21	$ 242,328.79	$ 3,580,460.85	$ 2,149,035.85
8	1/1/2033	$ 3,580,460.85	$ 1,304,361.00	$ -	$ 1,304,361.00	$ 1,113,733.20	$ 190,627.80	$ 2,466,727.65	$ 2,339,663.65
9	1/1/2034	$ 2,466,727.65	$ 1,516,324.00	$ -	$ 1,516,324.00	$ 1,384,992.62	$ 131,331.38	$ 1,081,735.03	$ 2,470,995.03
10	1/1/2035	$ 1,081,735.03	$ 1,139,327.83	$ -	$ 1,139,327.83	$ 1,081,735.03	$ 57,592.80	$ -	$ 2,528,587.83



ALLIANCE CONSULTING

A PLANNING AND ENGINEERING FIRM

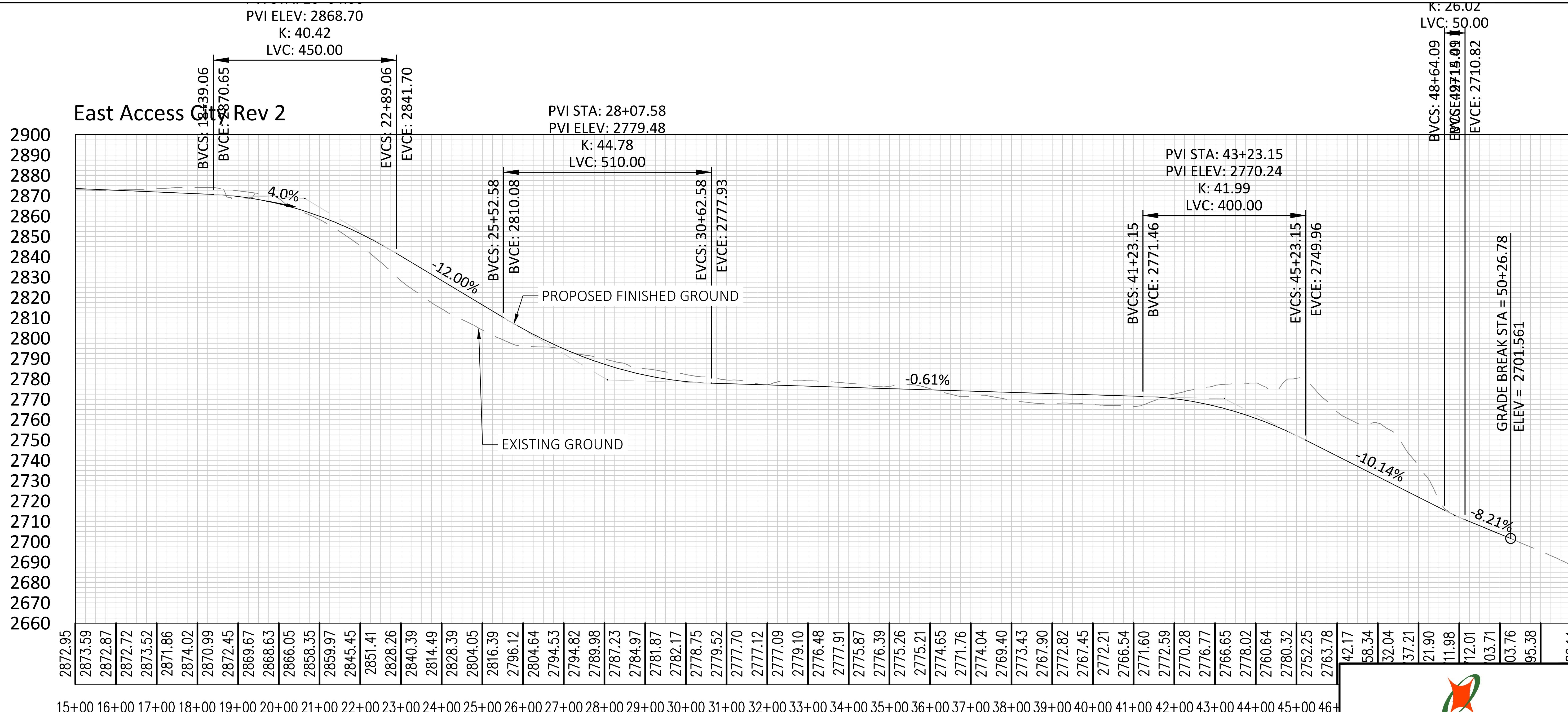
EAST ACCESS ROAD
ALIGNMENT EXHIBIT

FOR

CITY OF ST GEORGE

LOCATED IN SECTION 36
TOWNSHIP 42 SOUTH RANGE 16 WEST
CITY OF ST GEORGE, WASHINGTON COUNTY, UTAH

Drawn By: CJA	Date: 3-18-22
Client No. 4568	Project No. 4568
File Name: East Access.dwg	
Drawing Sheet 1	
Sheet 1 of 1 Sheets	



ALLIANCE CONSULTING

A PLANNING AND ENGINEERING FIRM

EAST ACCESS ROAD
PROFILE EXHIBIT

FOR

CITY OF ST GEORGE

LOCATED IN SECTION 36

TOWNSHIP 42 SOUTH RANGE 16 WEST

CITY OF ST GEORGE, WASHINGTON COUNTY, UTAH

Drawn By: CJA	Date: 3-18-22
Client No. 4568	Project No. 4568
File Name: East Access.dwg	
Drawing Sheet 2	
Sheet 1 of 1 Sheets	

NEIGHBORHOOD REDEVELOPMENT AGENCY MINUTES
REGULAR MEETING
JUNE 20, 2024, 5:00 P.M.
CITY COUNCIL CHAMBERS

PRESENT:
Chairwoman Michele Randall
Agency Member Jimmie Hughes
Agency Member Dannielle Larkin
Agency Member Natalie Larsen
Agency Member Michelle Tanner
Agency Member Steve Kemp

STAFF MEMBERS PRESENT:
City Manager John Willis
City Attorney Ryan Dooley
City Recorder Christina Fernandez
Budget and Financial Planning Director Robert Myers
Assistant Budget Director Chad Moultrie

Link to Chairwoman Randall calling the meeting to order: 00:00:00

PUBLIC HEARING/ADOPT FY 2024-2025 BUDGET/RESOLUTION:
Public hearing to receive input and consideration of a resolution to adopt the Fiscal Year 2024-2025 budget for the St. George Neighborhood Redevelopment Agency (RDA).

Link to introduction from City Manager John Willis and presentation from Budget and Financial Planning Manager Robert Myers: 00:00:04

Agenda Packet [Page 2]

Link to public hearing; no comments were provided: 00:01:00

Link to motion: 00:01:17

MOTION:
A motion was made by Agency Member Larkin to approve the resolution to adopt the Fiscal Year 2024-2025 budget for the St. George Neighborhood Redevelopment Agency.
SECOND:
The motion was seconded by Agency Member Kemp.
VOTE:
Chairwoman Randall called for a roll call vote, as follows:

Agency Member Hughes – aye
Agency Member Larkin – aye
Agency Member Larsen – aye
Agency Member Tanner – aye
Agency Member Kemp – aye

The vote was unanimous and the motion carried.

APPROVAL OF MINUTES:

Consider approval of the minutes from the meeting held on November 9, 2023.

Agenda Packet [Page 18]

Link to motion: 00:01:46

MOTION:
A motion was made by Agency Member Hughes to approve the minutes as presented.
SECOND:
The motion was seconded by Agency Member Kemp.
VOTE:
Chairwoman Randall called for a vote, as follows:

Agency Member Hughes – aye
Agency Member Larkin – aye
Agency Member Larsen – aye
Agency Member Tanner – aye
Agency Member Kemp – aye

The vote was unanimous and the motion carried.

ADJOURN:
Link to motion: 00:02:06

MOTION:
A motion was made by Agency Member Larkin to adjourn.
SECOND:
The motion was seconded by Agency Member Kemp.
VOTE:
Chairwoman Randall called for a vote, as follows:

Agency Member Hughes – aye
Agency Member Larkin – aye
Agency Member Larsen – aye
Agency Member Tanner – aye
Agency Member Kemp – aye

The vote was unanimous and the motion carried.

____
Christina Fernandez, Secretary

Agenda Date: 10/17/2024 **Agenda Item Number:** RD

Subject:

(RDA) Consider approval of Participation Agreement by and between the St. George Neighborhood Redevelopment Agency and Tech Ridge Public Infrastructure District and Tech Ridge Management, LLC, for the Tech Ridge Community Development Project Area.

Item at-a-glance:

Staff Contact: Chad Thomas

Applicant Name: City of St. George

Reference Number: N/A

Address/Location:

175 East 200 North

Item History (background/project status/public process):

The Tech Ridge Public Infrastructure District was created for the purpose of financing a portion of the public infrastructure required to support the Tech Ridge Community Development Project Area. The City Council approved the amended plan for the Tech Ridge Community Development Project Area in 2023.

Staff Narrative (need/purpose):

The purpose of this Participation Agreement is to carry out in part the Project Area Plan, as amended in the Plan for the Tech Ridge Community Development Project Area to entice help developing vacant land within the Project Area into the Tech Ridge Master Planned Community,

Name of Legal Dept approver: Jami Brackin

Budget Impact: No Impact

Recommendation (Include any conditions):

Staff recommends approval

PARTICIPATION AGREEMENT
By and Between
ST. GEORGE NEIGHBORHOOD REDEVELOPMENT AGENCY
And
TECH RIDGE PUBLIC INFRASTRUCTURE DISTRICT
And
TECH RIDGE MANAGEMENT, LLC
for the
TECH RIDGE COMMUNITY DEVELOPMENT PROJECT AREA

This Participation Agreement (the "**Agreement**") is made and entered into as of this ____ day of _____________, 2024 (the "**Effective Date**"), by and among the ST. GEORGE NEIGHBORHOOD REDEVELOPMENT AGENCY (the "**Agency**"), a political subdivision of the State of Utah operating under the Utah Community Reinvestment Agency Act (the "**Act**"; § 17C-1-101 *et seq.*, or its predecessor statutes); TECH RIDGE PUBLIC INFRASTRUCTURE DISTRICT, a political subdivision of the State of Utah (the "**District**"); and TECH RIDGE MANAGEMENT, LLC, a Utah limited liability company ("**Participant**"). Participant and the Agency may from time to time hereinafter be referred to individually as a "**Party**" and collectively as the "**Parties**."

1. SUBJECT OF AGREEMENT

1.1. Purpose of the Agreement

The purpose of this Participation Agreement (the "**Agreement**") is to carry out in part the Project Area Plan, as amended (the "**Plan**") for the Tech Ridge Community Development Project Area (the "**Project Area**") by providing for incentives to entice Participant to develop vacant land within the Project Area into the Tech Ridge Master Planned Community, which includes a variety of land uses including mixed-use, commercial, and residential uses, consistent with the Plan (the "**Participant Project**"), and to specify the terms and conditions pursuant to which the Agency and Participant will cooperate in bringing about such development, including funds the Agency will provide to support Participant's development of the Participant Project, which will benefit the Project Area and the City as a whole.

1.2. Agreement in the Best Interests of the City and Residents

This Agreement is in the vital and best interests of St. George, Utah (the "**City**"), and the health, safety and welfare of its residents, and in accord with public purposes. This Agreement is carried out pursuant to the Act.

1.3. Description of the Project Area

The Project Area established by the Agency is located within the boundaries of the City and contains of approximately 355 total acres. The Project Area includes the former location of the municipal airport and related improvements, several buildings associated with Dixie Technical College, several buildings owned by Participant, including one renovated hangar leased to the City, the Black Ridge Cove residential development, and open space areas. The Participant has purchased a portion of the Project Area from the City, and has another portion under contract to purchase, for the Participant Project. The exact boundaries of the Project Area are specifically and legally described in the Plan.

1.4. Description of the Participant Project

The Participant Project is shown in detail on the site map, attached hereto as **Exhibit A**. The Participant Project consists of approximately 180 acres within the larger Project Area, proposed to be developed a master-planned mixed use residential and commercial community, along with infrastructure improvements necessary for such development. Participant anticipates that its investment in public improvement costs in the Participant Project is anticipated to exceed $98,000,000.00 (the "**Investment**"). The Participant Project will include approximately 1,000,000 SF of commercial space, 2,400 residential units (townhomes and multifamily), retail, entertainment, and hospitality uses. The Participant Project lies entirely within the boundary of the Project Area.

1.5. Description of the Role of the District

The District has been created with the approval of the City of St. George, for the purpose of financing a portion of the public infrastructure required to support the Participant Project. The District is not the developer but is an independent local entity empowered by applicable state law to fulfill these purposes. The District is anticipated to issue bonds secured by a pledge of (1) special assessments to be made by the District pursuant to the Utah Assessment Area Act, and (2) the Incentive granted by the Agency through this Agreement.

1.6. Interlocal Agreements

Subject to the terms of the interlocal agreements, as amended (collectively, the "**Interlocal Agreements**") with the various Taxing Entities (as defined in the Plan), the Agency is entitled to receive a portion of the Taxing Entities' property tax revenues generated by the properties within the Project Area (the "**Agency Share**"), which Agency Share is to be determined as agreed between the Agency and the Taxing Entities, and as set forth in the Plan and the Interlocal Agreements. For clarity, the Agency Share for purposes of this Agreement consists of only those funds that are received by the Agency pursuant to the Interlocal Agreements; the Agency Share does not include any funds received by the Agency pursuant to the Interlocal Agreement due to development outside of the Project Area, funds currently held by the Agency, or funds received by the Agency from any other sources.

1.7. The Incentive

1.7.1. Definitions

a. "**Commencement Date**" means January 1, 2025, or the date on which the Agency commences to collect the Agency Share from any Agency, as set forth in the Interlocal Agreements.

b. "**Incentive**" means an annual payment from the Agency in an amount equal to an Agreed Percentage (defined below) of the Agency Share, beginning with the Commencement Date and ending upon the date on which the Incentive payments made to the District and Participant in aggregate total Thirty Million Dollars ($30,000,000.00) in net present value, at a discount rate of six percent (6%) per annum (the "**Maximum Incentive**").

i. "**Agreed Percentage**" means, for the first ten (10) years of Incentive payments made hereunder, fifty-five percent (55%) of the Agency Share. After the payment of ten years of Incentive Payments, then Agreed Percentage shall mean eighty percent

(80%) of the Agency Share, until such time as the Maximum Incentive is paid hereunder.

ii. The calculation of each Incentive payment, prior to discounting, will be based upon the entire amount of the Agency Share received by Agency, and shall not be reduced by the Agency's own costs to administer the Incentive, which may be covered by the portion of the Agency Share remaining after each Incentive is paid.

iii. At the time each Incentive payment is made to Participant, such Incentive payment shall be discounted to its net present value as of the date of this Agreement, using the discount rate, and such discounted Incentive payment amount shall be the amount considered, with all other discounted Incentive payment amounts, to determine when the Maximum Incentive is reached. It is understood by the parties, and it is their express intent, that the actual aggregate amount of all Incentive payments made to participant will be greater than the Maximum Incentive as a result of such discounting.

iv. Once the amount of discounted Incentive payments paid to Participant equals the Maximum Incentive, then the Agency's obligation to pay further Incentive to Participant shall cease and Agency's obligation hereunder shall be deemed satisfied in full.

1.6.2 **Maximum Duration of Agreement to Pay Incentive**

The Agency agrees to pay Participant the Incentive commencing on the Commencement Date but in no case beyond December 31, 2055, subject to compliance with the terms and conditions of this Agreement.

1.8. Parties to the Agreement

1.8.1. **The Agency**

The address of the Agency for purposes of this Agreement is:

St. George Neighborhood Redevelopment Agency
175 East 200 North
St. George, Utah 84770
Attn: _______________
Email: _______________
With a copy to:
____
____
____
Attn: _______________
Email: _______________

1.8.2. **The District**

The District's address for purposes of this Agreement is:

Tech Ridge Public Infrastructure District
c/o Snow Jensen & Reece, PC
912 West 1600 South, Ste. B200
St. George, Utah 84770
Attn: Matthew J. Ence
Email: mence@snowjensen.com

1.8.3. The Participant

Participant's address for purposes of this Agreement is:

Tech Ridge Management, LLC
475 S. Donlee Drive
St. George, Utah 84770
Attn: Isaac Barlow
Email: isaac@techridge.com

With a copy to:

____
____
____
____

1.9. Prohibition against Certain Changes

1.9.1. Representation by Agency

Agency represents that the qualifications and identity of Participant are of particular concern, and that in reliance on Participant's qualifications and identity the Agency is entering into this Agreement. Accordingly, the transfer restrictions of this Section 1.8 represent a material inducement for Agency to enter into this Agreement.

1.9.2. Representation as to Development Intent

Participant represents and agrees that its Investment in and use of the Project, and Participant's other undertakings reflected in this Agreement are and shall only be for the purpose of Participant's development of the Participant Project and not for speculation in land holding or otherwise.

1.9.3. Assignment or Transfer of Agreement

Participant represents and agrees for itself and its successors and assigns that neither District nor Participant will assign or transfer or attempt to assign or transfer all or any part of this Agreement, or any rights herein or obligations hereunder, during the term of this Agreement except as explicitly allowed herein or as agreed to in a writing signed by the Parties. The Agency's approval of any assignment of this Agreement by Participant shall not be unreasonably withheld.

The foregoing notwithstanding, Participant may transfer its rights and obligations under this Agreement to any of its subsidiaries or affiliates without the Agency's prior written approval during the term of this Agreement; provided, however, that Participant must provide notice of the intended transfer to the Agency at least sixty (60) days in advance of the actual transfer.

The attempted or actual assignment or delegation of this Agreement in violation of the above provisions is a material Default that shall be subject to the provisions of Article 5 of this Agreement.

Notwithstanding anything to the contrary contained in this Agreement, it is understood that District anticipates pledging its rights hereunder for purposes of securing an assessment bond or bonds which the District is authorized to issue pursuant to its Governing Document. The District's granting, pledging or otherwise transferring an interest in this Agreement, the payment of the Incentive as contemplated by this Agreement, the Project Area, or the Participant Project or any portion thereof as collateral or security in connection with such bond issuance, shall not constitute an assignment or transfer and shall not otherwise require the consent of the Agency.

1.9.4. Continuing Obligations

A permitted assignment of this Agreement shall not relieve Participant from any and all obligations under this Agreement unless specifically agreed to in writing by the Agency. Except as otherwise provided herein, all of the terms, covenants, and conditions of this Agreement are and will remain binding upon District, Participant, and their Agency-approved transferee or assignee until the expiration or termination of this Agreement. Any obligation of District hereunder will terminate upon the satisfaction of the District's bonds and the associated release of any pledge of this Agreement or the Incentive by District; however, Participant's obligations hereunder shall continue for as long as this Agreement are in effect, unless otherwise released pursuant to this paragraph.

2. OBLIGATIONS OF THE PARTIES

2.1. Payment of Incentive

2.1.1. Payment Obligation

So long as District and Participant fulfill all of their respective obligations under this Agreement, the Agency will pay first to District, and then to Participant, the Incentive, up to the Maximum Incentive. The Incentive payment for any given year shall not exceed the total amount of the Agency Share generated for that year. The Agency shall pay the Incentive to District or Participant based upon all of the Agency Share received for the preceding tax year, not later than March 31 of the year following that tax year, provided all of the conditions precedent as described in Section 2.3 are met. District's right to receive payment of the Incentive hereunder will terminate upon the satisfaction of the District's bonds and the associated release of any pledge of this Agreement or the Incentive by District, and thereafter Participant shall remain the sole party entitled to receipt of payment hereunder.

2.2. Sole Source of Funding for the Incentive

The entirety of District's and Participant's Incentive contemplated in this Agreement will be funded solely by the Agency Share received by the Agency pursuant to the Interlocal Agreements generated solely by taxable sales occurring within the Project Area. Neither District nor Participant are, or shall be, entitled to any other funds collected by the Agency for the Project Area or any other funds held by the Agency.

2.3. Conditions Precedent to the Payment of the Incentive to District or Participant

In addition to other provisions in this Agreement, the Agency has no obligation to remit to District or Participant the Incentive unless and until all the following conditions precedent (each a "**Condition Precedent**" and together "**Conditions Precedent**"), as detailed in the following subsections, are satisfied:

2.3.1. Agency is Entitled to Receive the Agency Share

The Agency is not obligated to pay to the District or Participant the Incentive unless the Agency is legally entitled to receive the Agency Share pursuant to the Interlocal Agreements. The Agency agrees not to amend the Interlocal Agreements in a way that would reduce, or would potentially reduce, the Agency Share available to pay the Incentive without the prior written consent of Participant.

2.3.2. Agency has Actually Received the Agency Share Payment

The Agency is obligated to pay to District or Participant the Incentive only to the extent the Agency has actually received the Agency Share payment(s) from the City for the particular calendar year.

2.4. Effect of Failure to Meet Conditions Precedent to Payment of Incentive

In the event that the conditions precedent as described in Section 2.3 are not fully met by March 31 of the year following the year for which the Incentive is sought, and the District or Participant is thus not entitled to receive the Incentive attributable to that tax year, such failure shall not be a breach of this Agreement. Notwithstanding anything to the contrary or otherwise stated herein, in no event will the District or Participant be subject to a clawback or repayment of any portion of the Incentive that has already been paid to the District or Participant, unless in the event of an administrative or clerical error that resulted in an overpayment to the District or Participant, in which event the overpayment shall be accounted for through a reduction of future Incentive in an equal amount, and not through clawback or repayment.

2.5. Reduction or Elimination of Incentive

The Parties agree that District and Participant assume and accept the risk of possible alteration of federal or state statute, regulation, or adjudication rendering unlawful or impractical the collection, receipt, disbursement, or application of the Incentive as contemplated in and by this Agreement. If the provisions of Utah law which govern the payment of the Incentive are changed or amended so as to reduce or eliminate the amount paid to the Agency under the Interlocal Agreement, the Agency's obligation to pay the District or Participant the Incentive, as applicable, will be proportionately reduced or eliminated, but only to the extent necessary to comply with the changes in such law. The District and Participant agree and acknowledge that they have made such investigations as necessary and assume all risk as to whether the Project Area, the Plan, the Budget, and the Interlocal Agreement were properly approved, adopted, and made effective. Notwithstanding any change in law, the District and Participant specifically reserve and do not waive any right they may have to challenge, at District's or Participant's sole cost and expense, the constitutionality of any law change(s) that would reduce or eliminate the payment of the Incentive to the District or Participant, and nothing herein shall be construed as an estoppel, waiver or consent to reduce or eliminate payment of the Incentive to the District and Participant. The District and Participant acknowledge, understand, and agree that the Agency is under no obligation to challenge the validity, enforceability, or constitutionality of a change in law that reduces or eliminates the payment of Incentive to the District or Participant, or to otherwise indemnify or reimburse the District or Participant for its actions to independently do so.

2.6. Declaration of Invalidity

In the event any legal action is filed in a court of competent jurisdiction that seeks to invalidate the Project Area, the Plan, or this Agreement or that otherwise seeks to or would have the possible result of reducing or eliminating the payment of the Incentive to the District or Participant, the Agency shall provide written notice of such legal action to the District and Participant. In the event such an action is filed, the Agency shall have no obligation to challenge that action or defend itself against such action but agrees not to enter into any settlement, consent, decree, or other resolution without first providing the District and Participant a reasonable opportunity to intervene and defend their rights and privileges provided under this Agreement. If requested by the District or Participant, the Agency may, at its sole discretion, take such actions as may be reasonably required to defend such legal action and to address the grounds for any causes of action that could result in the reduction or elimination of the Incentive. The District and Participant specifically reserve and do not waive any right they may have to intervene, at the District's or Participant's cost and expense, in any such legal action and challenge the basis for any causes of action or any remedy sought that would reduce or eliminate the payment of the Incentive to the District or Participant, and nothing herein shall be construed as an estoppel, waiver or consent to reduce or eliminate payment of the Incentive to the District or Participant. In the event that the court declares that the Agency cannot pay the Incentive, invalidates the Project Area or the Plan, the Interlocal Agreement, or this Agreement, or takes any other action which eliminates or reduces the amount of Incentive, and the grounds for the legal determination cannot reasonably be addressed by the Agency, the Agency's obligation to pay to the District or Participant the Incentive in accordance with this Agreement will be reduced or eliminated to the extent required by law.

2.7. Dispute over Receipt of Payment of the Incentive

In the event a dispute arises as to the person or entity entitled to receive the Incentive under this Agreement due to a claimed assignment of this Agreement by Participant or claimed successor-in-interest to this Agreement and successor-in-title to the Project, the Agency may withhold payment of the Incentive from Participant (but not from the District) and may refrain from taking any other action required of it by this Agreement until the dispute is resolved either by agreement or by a court of competent jurisdiction and sufficient evidence of such resolution is provided to the Agency. The Agency shall be entitled to deduct from its payment of the Incentive any costs or expenses, including reasonable attorney fees, incurred by the Agency due to the dispute.

2.8. Nature of Participant's Obligations and Limitation

The Agency shall have no right to compel the District or Participant to install any necessary improvements or otherwise develop or construct the Participant Project.

2.9. Development of the Project

Participant shall continuously develop the Participant Project in the Project Area during the Term of this Agreement, until the Participant Project has been completed consistent with the development entitlements obtained for the Participant Project by Participant. For purposes of this Section, Participant shall be deemed to have continuously developed the Participant Project if Participant in good faith makes reasonable and measurable progress toward financing and completion of development, notwithstanding temporary cessation of development for inspection, maintenance, repair, replacement, and/or as a result of market conditions of *force majeure* or destruction which are outside of Participant's control.

2.10. Commencement of Development

Development of the Participant Project as described in Section 2.9 shall begin no later than January 1, 2025. If Participant fails to commence development of the Participant Project as required by this Section for any reason other than events outside of Participant's control as described in Section 2.9, the Agency shall have the right to terminate this Agreement upon written notice to the District and Participant, subject, however, to any notice and cure periods set forth in Article 5.

2.11. Funding Responsibility

The Parties understand and agree that funding for the Investment comes entirely from Participant's internal capital or from financing obtained by Participant, including the creation and issuance of bonds by the District. The Agency shall not be liable or responsible for providing, obtaining, or guaranteeing such financing.

3. ADDITIONAL TERMS

3.1. Investment

Participant will at all times be responsible for its Investment in the Project Area. Recognizing the level of Investment by Participant, the Agency has determined that it is in the best interests of the residents of the City to provide the Incentive to the District and Participant as an incentive to develop the Project and undertake the continued development requirements as contemplated in this Agreement.

3.2. Responsibility for Development Plans and Permits

The Agency shall not have any responsibility to obtain permits, licenses, or other approvals for any development within or relating to the Project Area, provided, however, Agency will reasonably cooperate in providing any consents or acknowledgments as may be required to obtain the same.

3.3. Other Terms

3.3.1. City Land Use Authority

Participant acknowledges that nothing in this Agreement shall be deemed to supersede, waive, or replace the City's authority over land use, zoning, and permitting within the City.

3.3.2. Restriction Against Parcel Splitting

During the Term, Participant shall not, without the prior written approval of the Agency subdivide the Project Area or consolidate the Project Area with other real property in such a way that any portion thereof would extend outside of the boundaries of the Project Area. Participant understands and acknowledges that these requirements are intended to avoid the creation by the Washington County Assessor of tax identification parcels that extent beyond the boundaries of the Project Area.

3.3.3. Deannexation

Participant agrees that it will not vote or petition to remove, deannex, disconnect, or disincorporate the Project Area or any portion thereof from the City during the Term of this Agreement. In the event that the Participant Project or a portion thereof is disconnected, deannexed, disincorporated, or otherwise removed from the municipal boundaries of the City, the Agency's obligations to pay the Incentive shall immediately cease. Further, Participant shall not seek to nor support any legislation that would (i) restrict or eliminate the City's land use authority over any portion of the Project Area or (ii) allow for any portion of the funds that comprise Agency Share to be paid to any other person or entity.

3.3.4. **Limits on Liability**

In no event shall one Party be liable to the other(s) for consequential, special, incidental, indirect, exemplary, or punitive damages of any kind (including, but not limited to, loss of profits, loss of reputation, or loss of current or prospective business advantage, even where such losses are characterized as direct damages) arising out of or in any way related to the relationship or dealings between Participant and the Agency, regardless of whether the claim under which damages are sought is based upon contract, tort, negligence (of any kind), willful misconduct, strict liability or otherwise, and regardless of whether the parties have been advised of the possibility of such damages at the time of contracting or otherwise.

3.3.5. **Local, State, and Federal Laws**

Each Party shall act in conformity with all applicable laws; provided, however, that unless otherwise addressed elsewhere in this Agreement, nothing herein shall limit the right of the District or Participant to properly challenge any such law or the applicability of such law.

3.3.6. **Rights of Access**

Representatives of the Agency shall have the right of reasonable access to the Project Area for purposes of inspecting Participant's compliance with this Agreement, with reasonable and prior written notice (but in no event less than 24 hours prior), and without charges or fees, during normal business hours or as otherwise agreed to in writing by Participant, subject, however, to the rules, regulations, security protocols and other access limitations for safety and security purposes as required by Participant.

3.3.7. **Responsibility of the Agency**

The Agency shall not have any obligation under this Agreement other than those specifically provided for herein. Except as expressly provided for in this Agreement, nothing herein shall be construed as requiring the Agency to pre-approve or prejudge any matter, or as otherwise binding the Agency's discretion or judgment on any issue prior to an appropriate hearing (if required), review, or compliance with any other requirement.

3.3.8. **Non-waiver of Governmental Immunity**

Nothing in this Agreement shall be construed as a waiver of any immunity, protection, or rights granted to the Agency under the Governmental Immunity Act of Utah, Utah Code § 63G-7-101, *et seq*.

4. EFFECT AND DURATION OF COVENANTS; TERM OF AGREEMENT

The covenants, including but not limited to conformance with federal, local, and state laws, established in this Agreement shall, without regard to technical classification and designation, be binding on the

Parties and any successors-in-interest during the term of this Agreement, which shall terminate (1) with respect to the District, on the date that is one hundred eighty (180) days after the final payment is made to the District pursuant to the Agreement, and (2) with respect to Participant, on the date that is one hundred eighty (180) days after the final payment is made to the Participant pursuant to the Agreement; unless earlier terminated by written agreement of the Parties or pursuant to the terms of Article 5 (the "**Term**"). All of the rights and benefits associated with this Agreement shall only inure to the benefit of the District, Participant and any Agency-approved transferee or assignee.

5. DEFAULTS, REMEDIES, AND TERMINATION

5.1. Default

If any of the Agency or District or Participant fails to perform or delays performance of any material obligation of this Agreement and fails to cure as provided for in this Article 5, such conduct constitutes a default of this Agreement ("**Default**"). The Party in default must immediately commence to cure, correct, or remedy such failure or delay and shall complete such cure, correction, or remedy within the periods provided in Section 5.3 hereof. If the Party in default is either the District or Participant, then for purposes of this Article 5, the responsibilities of the "non-defaulting Party" to give notice and so forth shall be the responsibility of the Agency. In the event that the Agency is the Party in default, then the responsibilities of the non-defaulting Party may be fulfilled by either the District, Participant, or both.

5.2. Notice

If a Default under this Agreement occurs, the non-defaulting Party shall give written notice (a "**Default Notice**") of the Default to the defaulting Party, specifying the nature of the Default. Failure or delay in giving such notice shall not constitute a waiver of any Default, nor shall it change the time of Default, nor shall it operate as a waiver of any rights or remedies of the non-defaulting Party; but the non-defaulting Party shall have no right to exercise any remedy hereunder without delivering the Default Notice as provided herein. Delays by either Party in asserting any of its rights and remedies shall not deprive the other Party of its right to institute and maintain any actions or proceedings which it may deem necessary to protect, assert, or enforce any such rights or remedies.

5.3. Cure Period

The non-defaulting Party shall have no right to exercise a right or remedy hereunder unless the subject Default continues uncured for a period of thirty (30) days after delivery of the Default Notice with respect thereto, or, where the default is of a nature which cannot be cured within such thirty (30) day period, the defaulting Party fails to commence such cure within thirty (30) days and to diligently proceed to complete the same. A Default which can be cured by the payment of money is understood and agreed to be among the types of defaults which can be cured within thirty (30) days. If the Default is not cured, or commenced to be cured if such default is of a nature which cannot be cured within thirty (30) days, by such Party within thirty (30) days of delivery of the Default Notice, such failure to cure shall be an Event of Default ("**Event of Default**"), and the non-defaulting Party may pursue such other rights and remedies as it may have, except, however, if Participant fails to commence or continue development as required by Sections 2.9 and 2.10 above, then in such case Agency shall be entitled to, as its sole remedy, immediately terminate this Agreement (for clarity, Agency may not commence an action against Participant for specific performance to commence or continue development). Further, in Event of Default by the District or Participant, Agency's sole remedy shall be to terminate this Agreement upon payment of any amounts that may be due from the District or Participant to the Agency under this Agreement.

5.3.1. Rights and Remedies

Upon the occurrence of an Event of Default, the non-defaulting Party shall have all remedies provided for in this Agreement and shall have the right to obtain specific performance, unless otherwise limited by the express remedies set forth in this Agreement. Such remedies are cumulative, and the exercise of one or more of such rights or remedies shall not preclude the exercise, at the same or different times, of any other rights or remedies for the same Default or any other Default by the defaulting Party.

Notwithstanding to foregoing, the Agency shall not have to right to compel, through a remedy of specific performance or otherwise, the District or Participant to make any investment within the Project Area or to develop the Participant Project as contemplated by this Agreement.

5.3.2. Legal Actions

5.3.2.1. Venue

All legal actions between the Parties, arising under this Agreement, shall be conducted exclusively in the District Court for the State of Utah located in Washington County, Utah, unless they involve a case with federal jurisdiction, in which case they shall be conducted exclusively in the Federal District Court for the District of Utah.

5.3.2.2. Service of Process

Service of process on the Agency shall be made by personal service upon the Chairman or Executive Director of the Agency or in such other manner as may be provided by law. Service of process on the District shall be made by personal service upon any Trustee of District's Board of Trustees or in such other manner as may be provided by law. Service of process on Participant shall be by personal service upon its Registered Agent, or in such other manner as may be provided by law, whether made within or without the State of Utah.

5.3.2.3. Applicable Law

The laws of the State of Utah shall govern the interpretation and enforcement of this Agreement.

6. GENERAL PROVISIONS

6.1. Authority

Each Party hereby represents and warrants to the other that the following statements are true, complete, and not misleading as regards to the representing and warranting party: (a) such Party has full authority to enter into this Agreement and to perform all of its obligations hereunder; (b) those executing this Agreement on behalf of each Party do so with the full authority of the Party each represents; (c) this Agreement constitutes a legal, valid, and binding obligation of each Party, enforceable in accordance with its terms, subject to: (i) the effect of applicable bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting the rights of creditors generally; and (ii) the effect of the exercise of judicial discretion in accordance with general principles of equity.

6.2. Notices, Demands, and Communications between the Parties

Formal notices, demands, and communications between the Agency on the one hand, and the District or Participant shall be sufficiently given if emailed and: (1) personally delivered; or (2) if dispatched by registered or certified mail, postage prepaid, return-receipt requested, to the principal offices of the Agency and Participant, as designated in Sections 1.9.1 and 1.9.2 hereof. Such written notices, demands, and communications may be sent in the same manner to such other addresses as either Party may from time to time designate by formal notice hereunder. Delivery of notice shall be complete upon making physical delivery or five days after mailing of the writing containing the notice.

6.3. Severability

In the event that any condition, covenant or other provision herein contained is held to be invalid or void by a court of competent jurisdiction, the same shall be deemed severable from the remainder of this Agreement and shall in no way affect any other covenant or condition herein contained unless such severance shall have a material effect on the terms of this Agreement. If such condition, covenant, or other provision shall be deemed invalid due to its scope, all other provisions shall be deemed valid to the extent of the scope or breadth permitted by law.

6.4. Nonliability of Officials and Employees

No director, officer, agent, employee, representative, contractor, attorney, or consultant of the Parties hereto shall be personally liable to any other Party hereto, or any successor-in-interest thereof, in the event of any Default or breach by a Party hereto or for any amount which may become due to a Party hereto or to its successor, or on any obligations under the terms of this Agreement.

6.5. Enforced Delay; Extension of Time and Performance

In addition to the specific provisions of this Agreement, performance by either Party hereunder shall not be deemed to be in default where a “force majeure” event has occurred, which shall mean and include delays or defaults due to war, insurrection, strikes, lock-outs, riots, floods, earthquakes, fires, casualties, acts of God, acts of a public enemy, terrorist activity, pandemics, quarantine restrictions, freight embargoes, lack of transportation, unusually severe weather, or any other causes beyond the reasonable control or without the fault of the Party claiming an extension of time to perform. An extension of time for any such cause shall be for the period of the enforced delay and shall commence to run from the time of the commencement of the cause, if notice by the Party claiming such extension is sent, whether on the part of the Agency’s Executive Director or its governing board or on the part of Participant, to the other Party within thirty (30) days of actual knowledge of the commencement of the cause. Time of performance under this Agreement may also be extended in writing by the Agency and Participant by mutual agreement.

6.6. Approvals

Whenever the consent or approval is required of any Party hereunder, except as otherwise herein specifically provided, such consent or approval shall not be unreasonably withheld or delayed.

6.7. Time of the Essence

Time shall be of the essence in the performance of this Agreement.

6.8. Attorney Fees

In the event of any litigation arising from or related to this Agreement, the prevailing Party shall be entitled to recover from the non-prevailing party all reasonable costs and attorney fees related to such litigation.

6.9. Interpretation

The Parties hereto agree that they intend by this Agreement to create only the contractual relationship established herein, and that no provision hereof, or act of either Party hereunder, shall be construed as creating the relationship of principal and agent, or a partnership, or a joint venture, or an enterprise between the Parties hereto.

6.10. No Third-Party Beneficiaries

It is understood and agreed that this Agreement shall not create for either Party any independent duties, liabilities, agreements, or rights to or with any third party, nor does this Agreement contemplate or intend that any benefits hereunder accrue to any third party.

6.11. Mediation

In the event a dispute arises between the parties with respect to the terms of this Agreement or the performance of any contractual obligation by one or both of the Parties, the Parties agree to submit the matter to formal and confidential non-binding mediation before any judicial action may be initiated, unless an immediate court order is needed or a statute of limitations period will run before mediation can be reasonably completed. A mediator will be selected by mutual agreement of the Parties. The parties must mediate in good faith to resolve the dispute in a timely manner. Each Party will be responsible for its own costs and one-half of the cost of the mediator. The place of mediation shall be Washington County, Utah.

6.12. Headings

Article and Section titles, headings or captions are inserted only as a matter of convenience and for reference and in no way define, limit, extend, or describe the scope of this Agreement or the intent of any provision hereof.

6.13. Contra Proferentum

This is an arm's-length Agreement: The Parties have read this Agreement and have executed it voluntarily after having been apprised of all relevant information and the risks involved and having had the opportunity to obtain legal counsel of their choice. Consequently, no provision of this Agreement shall be strictly construed against either Party.

6.14. Further Assurances

The Parties shall cooperate, take such additional actions, sign such additional documentation, and provide such additional information as reasonably necessary to accomplish the objectives set forth in this Agreement.

6.15. Incorporation of Recitals and Exhibits

All recitals and exhibits attached hereto are incorporated into this Agreement as if fully set forth herein.

7. DUPLICATION, INTEGRATION, WAIVERS, AND AMENDMENTS

7.1. Duplicate Originals

This Agreement may be executed in duplicate originals, each of which shall be deemed an original. Email transmission of pdf-format signatures shall be considered original signatures and pdf-format scans of original documents shall be treated as original documents.

7.2. Integration

This Agreement (including its exhibits) constitutes the entire understanding and agreement of the Parties regarding the subject matter thereof. When executed by the Parties, this Agreement integrates all of the terms and conditions mentioned herein or incidental hereto, and supersedes all negotiations or previous agreements between the Parties with respect to the subject matter thereof.

7.3. Waivers and Amendments

All waivers of the provisions of this Agreement must be in writing. This Agreement and any provisions hereof may be amended only by mutual written agreement between Participant and the Agency.

[Remainder of page intentionally left blank; signature pages to follow]

“Agency”

ST. GEORGE NEIGHBORHOOD
REDEVELOPMENT AGENCY

By: ____________________________________
Michelle Randall, Chair

ATTEST:

By: ___________________________
Christina Fernandez, Secretary

“District”

TECH RIDGE PUBLIC
INFRASTRUCTURE DISTRICT

By: ____________________________________
____________________, Chair

ATTEST:

By: ___________________________
____________________, Clerk/Secretary

“Participant”

TECH RIDGE, LLC

By: ____________________________
Isaac Barlow, Authorized Signer

Exhibit A
to Participation Agreement

Participant Project Map