

**INTERLOCAL AGREEMENT BETWEEN
THE MORGAN COUNTY, UTAH
AND
PEAKS PUBLIC INFRASTRUCTURE DISTRICT**

THIS AGREEMENT is made and entered into as of this 20th day of February, 2024, by and between the MORGAN COUNTY, a political subdivision of the State of Utah (“County”), and PEAKS PUBLIC INFRASTRUCTURE DISTRICT, a political subdivision of the State of Utah (the “District”). The County and the District are collectively referred to as the Parties.

RECITALS

WHEREAS, the District was organized to provide to exercise powers as are more specifically set forth in the District’s Governing Document approved by the County on February 20, 2024 (“Governing Document”); and

WHEREAS, the Governing Document makes reference to the execution of an Interlocal Agreement between the County and the District; and

WHEREAS, the County and the District have determined it to be in the best interests of their respective taxpayers, residents and property owners to enter into this Interlocal Agreement (“Agreement”).

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

COVENANTS AND AGREEMENTS

1. Operations and Maintenance. The purpose of the District is to plan for, design, acquire, construct, install, relocate, redevelop and finance the Public Improvements. The District shall dedicate the Public Improvements to the County or other appropriate public entity or owners association in a manner consistent with the Approved Development Plan and other rules and regulations of the County and applicable provisions of the County Code. With prior written consent from the County, the District shall be authorized, but not obligated, to own trails, street improvements (including roads, curbs, gutters, culverts, sidewalks, paving, lighting, grading, landscaping, and other street improvements), and all necessary equipment and appurtenances incident thereto. The County, by authorizing the District to own the aforementioned street improvements, deems the street improvements within the District as Public Improvements which may be owned by the District. Any Public Improvements owned by the District shall be operated, maintained, and paid for by a homeowner’s association or other similar private entity for as long as the Bonds remain outstanding. The District may not impose the Maximum Mill Levy or Assessments for the payment of any operation and maintenance expenses.

2. Reserved.

3. Construction Standards. The District will ensure that the Public Improvements are designed and constructed in accordance with the standards and specifications of the County and of other governmental entities having proper jurisdiction, as applicable. The District will obtain the County's approval of civil engineering plans and will obtain applicable permits for construction and installation of Public Improvements prior to performing such work.

4. Issuance of Privately Placed Debt. Prior to the issuance of any privately placed Debt, the District shall obtain the certification of a Municipal Advisor substantially as follows:

We are [I am] a Municipal Advisor within the meaning of the District's Governing Document.

We [I] certify that (1) the net effective interest rate to be borne by [insert the designation of the Debt] does not exceed a reasonable current [tax-exempt] [taxable] interest rate, using criteria deemed appropriate by us [me] and based upon our [my] analysis of comparable high yield securities; and (2) the structure of [insert designation of the Debt], including maturities and early redemption provisions, is reasonable considering the financial circumstances of the District.

5. Annexation and Withdrawal Limitation.

(a) The District shall not include within any of their boundaries any property outside the District Area without the prior written consent of the County. By the Governing Document, the County has consented to the annexation of any area within the Annexation Area into or from the District Boundaries. Such area may only be annexed upon the District obtaining consent of all property owners and registered voters, if any, within the area proposed to be annexed and the passage of a resolution of the Board approving such annexation.

(b) The County, by approval of the Governing Document, has consented to the withdrawal of any area within the District Boundaries from the District. Such area may only be withdrawn upon the District obtaining consents of property owners and/or registered voters within the area proposed to be withdrawn as may be required by the PID Act and the passage of a resolution of the Board approving such withdrawal.

(c) Any annexation or withdrawal shall be in accordance with the requirements of the PID Act.

(d) Upon any annexation or withdrawal, the District shall provide the County a description of the revised District Boundaries

(e) Annexation or withdrawal of any area in accordance with Sections V.A.6(a) and (b) of the Governing Document shall not constitute an amendment of the Governing Document.

6. Overlap Limitation. Without the written consent of the County, the District shall not consent to the organization of any other public infrastructure district organized under the PID Act within the District Area which will overlap the boundaries of the District.

7. Initial Debt. On or before the effective date of approval by the County of an Approved Development Plan (as defined in the Governing Document), the District shall not: (a) issue any Debt; nor (b) impose and collect any Assessments used for the purpose of repayment of Debt.

8. Total Debt Issuance. The District shall not issue Assessment Debt in excess of Four Million Dollars (\$4,000,000.00). This amount excludes any portion of Bonds issued to refund a prior issuance of debt by the District and C-PACE Bonds issued by the District. Any C-PACE Debt does not count against the foregoing limitation.

9. Bankruptcy. All of the limitations contained in this Governing Document, including, but not limited to, those pertaining to the Maximum Mill Levy and Maximum Bond Term have been established under the authority of the County to approve a Governing Document with conditions pursuant to Section 17D-4-201(5), Utah Code. It is expressly intended that such limitations:

(a) Shall not be subject to set-aside for any reason or by any court of competent jurisdiction, absent a Governing Document Amendment; and

(b) Are, together with all other requirements of Utah law, included in the "political or governmental powers" reserved to the State under the U.S. Bankruptcy Code (11 U.S.C.) Section 903, and are also included in the "regulatory or electoral approval necessary under applicable nonbankruptcy law" as required for confirmation of a Chapter 9 Bankruptcy Plan under Bankruptcy Code Section 943(b)(6).

Any Debt, issued with a pledge or which results in a pledge, that exceeds the Maximum Bond Term, shall be deemed a material modification of this Governing Document and shall not be an authorized issuance of Debt unless and until such material modification has been approved by the County as part of a Governing Document Amendment.

10. Dissolution. Upon an independent determination of each District Board that the purposes for which such District was created have been accomplished, the District shall file petitions for dissolution, pursuant to the applicable State statutes. In no event shall a dissolution occur until the District has provided for the payment or discharge of all of their outstanding indebtedness and other financial obligations as required pursuant to State statutes and disbursed of all assets of such District.

11. Disclosure to Purchasers. Within thirty (30) days of the Office of the Lieutenant Governor of the State of Utah issuing a certificate of creation for the District, the Board shall record a notice with the recorder of Morgan County. Such notice shall (a) contain a description of the boundaries of the District, (b) state that a copy of this Governing Document is on file at the office of the County, (c) state that the District may finance and repay infrastructure and other improvements through the imposition of Assessments; and (d) state that the District is authorized to impose upon the taxable property within the District a Maximum Mill Levy of 0.001 per dollar

of taxable value of taxable property in the District for administrative purposes. Such notice shall further be filled with the County.

In addition, the Applicant and the Board shall ensure that the Applicant, homebuilders, commercial developers, and commercial lessors, as applicable, disclose the following information to initial resident homeowners, renters, commercial property owners, and/or commercial tenants:

- (1) All of the information in the first paragraph of this Section 11;
- (2) Such disclosures shall be contained on a separate colored page of the applicable closing or lease documents, shall include the contact information of the District's Chair or General Counsel, and shall require a signature of such end user acknowledging the foregoing.

12. Governing Document Amendment Requirement. Actions of the District which violate the limitations set forth in Sections V.A.1-10 or VIII.B-G of the Governing Document shall be deemed to be material modifications to the Governing Document and the County shall be entitled to all remedies available under State and local law to enjoin such actions of the District.

13. Annual Report. The District shall be responsible for submitting an annual report to the County Commission no later than 210 days after the close of the District's fiscal year, commencing fiscal year 2024, containing the information set forth in Section IX of the Governing Document.

14. Regional Improvements. The District shall be authorized to provide for the planning, design, acquisition, construction, installation, relocation and/or redevelopment and a contribution to the funding of the Regional Improvements and fund the administration and overhead costs related to the provisions of the Regional Improvements.

15. Maximum Mill Levy. The Maximum Mill Levy shall be the maximum mill levy the District is permitted to impose upon the taxable property within the District shall be 0.001 per dollar of taxable value of taxable property in the District; provided that such levy shall be subject to adjustment as provided in Section 17D-4-301(8), Utah Code. Such Maximum Mill Levy may be imposed by the District for reasonable and actual administrative costs incurred by the District but may not be imposed for the repayment of Debt or operation and maintenance expenses.

16. Maximum Bond Term. Each Bond issued by the District shall mature within thirty-one (31) years from the date of issuance of such Bond (the "Maximum Bond Term").

17. Governing Document Controls. In the event of any conflict between the terms of this Interlocal Agreement and the Governing Document, the Governing Document shall control.

18. Notices. All notices, demands, requests or other communications to be sent by one party to the other hereunder or required by law shall be in writing and shall be deemed to have been validly given or served by delivery of same in person to the address or by courier delivery, via United Parcel Service or other nationally recognized overnight air courier service, or by depositing same in the United States mail, postage prepaid, addressed as follows:

To the District: Peaks Public Infrastructure District
6468 Hwy 39 #84
Huntsville, Utah 84317
Attn: Blair Gardner
gardnerproperties@gmail.com
(801) 628-6363

To the County: Morgan County
P.O. Box 886
Morgan, UT 84050
Attn: Director Planning and Development
Phone: (801) 829-6811

All notices, demands, requests or other communications shall be effective upon such personal delivery or one (1) business day after being deposited with United Parcel Service or other nationally recognized overnight air courier service or three (3) business days after deposit in the United States mail. By giving the other party hereto at least ten (10) days written notice thereof in accordance with the provisions hereof, each of the Parties shall have the right from time to time to change its address.

19. Amendment. This Agreement may be amended, modified, changed, or terminated in whole or in part only by a written agreement duly authorized and executed by the Parties hereto and without amendment to the Governing Document.

20. Assignment. Neither Party hereto shall assign any of its rights nor delegate any of its duties hereunder to any person or entity without having first obtained the prior written consent of the other Party, which consent will not be unreasonably withheld. Any purported assignment or delegation in violation of the provisions hereof shall be void and ineffectual.

21. Default/Remedies. In the event of a breach or default of this Agreement by any Party, the non-defaulting Party shall be entitled to exercise all remedies available at law or in equity, specifically including suits for specific performance and/or monetary damages. In the event of any proceeding to enforce the terms, covenants or conditions hereof, the prevailing Party in such proceeding shall be entitled to obtain as part of its judgment or award its reasonable attorneys' fees.

22. Term. This Agreement shall terminate upon the earlier to occur of dissolution of the District or fifty (50) years from the date hereof.

23. Governing Law and Venue. This Agreement shall be governed and construed under the laws of the State of Utah.

24. Inurement. Each of the terms, covenants and conditions hereof shall be binding upon and inure to the benefit of the Parties hereto and their respective successors and assigns.

25. Integration. This Agreement constitutes the entire agreement between the Parties with respect to the matters addressed herein. All prior discussions and negotiations regarding the subject matter hereof are merged herein.

26. Parties Interested Herein. Nothing expressed or implied in this Agreement is intended or shall be construed to confer upon, or to give to, any person other than the District and the County any right, remedy, or claim under or by reason of this Agreement or any covenants, terms, conditions, or provisions thereof, and all the covenants, terms, conditions, and provisions in this Agreement by and on behalf of the District and the County shall be for the sole and exclusive benefit of the District and the County.

27. Severability. If any covenant, term, condition, or provision under this Agreement shall, for any reason, be held to be invalid or unenforceable, the invalidity or unenforceability of such covenant, term, condition, or provision shall not affect any other provision contained herein, the intention being that such provisions are severable.

28. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall constitute an original and all of which shall constitute one and the same document.

29. Paragraph Headings. Paragraph headings are inserted for convenience of reference only.

30. Defined Terms. Capitalized terms used herein and not otherwise defined shall have the meanings ascribed to them in the Governing Document.

[SIGNATURE PAGE TO INTERLOCAL AGREEMENT]

PEAKS PUBLIC INFRASTRUCTURE
DISTRICT

By: _____
Chair

Attest:

Secretary

APPROVED AS TO FORM: _____

MORGAN COUNTY, UTAH

By: Michael
Chair

Attest:

By: Leshie A Hyde
Its: Clerk / Auditor

APPROVED AS TO FORM: Garrett J. Smith