

City of
WASHINGTON TERRACE
Utah

Regular City Council Meeting

Tuesday, September 2, 2025

5249 South 400 East

Washington Terrace, UT 84405

801.393.8681

www.washingtonterrace.gov

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1. <u>WORK SESSION</u>	5:00 P.M.
Topic to include, but not limited to:	
• Washington Terrace Active Transportation Plan	
2. <u>ROLL CALL</u>	6:00 P.M.
3. <u>PLEDGE OF ALLEGIANCE</u>	
4. <u>WELCOME</u>	
5. <u>CONSENT ITEMS</u>	
5.1 APPROVAL OF AGENDA AND AUGUST 19, 2025, COUNCIL MEETING	
Any point of order or issue regarding items on the agenda or the order of the agenda needs to be addressed here prior to the approval of the agenda. Minutes approved in open meeting become the official record	
6. <u>CITIZEN COMMENTS</u>	
This is an opportunity to address the Council regarding your concerns or ideas that are not on the agenda as part of a public hearing. Please limit your comments to no more than 3 minutes. "Washington Terrace City is committed to civility. We strive to act and speak with dignity, courtesy, and respect at all times. All are asked to join us, and act and speak accordingly."	
7. <u>NEW BUSINESS</u>	
6.1 PRESENTATION: CODE ENFORCEMENT UPDATE	

In compliance with the Americans with Disabilities Act, persons who have need of special accommodation should contact the City Recorder at 801-395-8283.

CERTIFICATE OF POSTING

The undersigned, duly appointed City Recorder, does hereby certify that the above notice and agenda was posted in three public places within the City of Washington Terrace City limits and sent to the *Standard Examiner* at least 24 hours prior to the meeting. Amy Rodriguez, City Recorder.

6.2 DISCUSSION/MOTION: FORMAL APPROVAL OF PICKLEBALL PLAZA (PHASE 3) CHANGE ORDER

Council approved the change of scope to the project at an earlier meeting. The motion is to approve the contract change order due to the additional items.

8. COUNCIL COMMUNICATION WITH STAFF

This is a discussion item only. No final action will be taken.

9. ADMINISTRATION REPORTS

This is an opportunity for staff to address the Council pertaining to administrative items.

10. UPCOMING EVENTS

September 16th: City Council Meeting 6:00 p.m.

September 25th Planning Commission meeting (tentative)

October 1-2: ULCT Conference

October 2nd: City Emergency Preparedness Fair 6:00-8:00 p.m. (Fire Station)

October 7th: City Council Meeting 6:00 p.m.

October 21st: City Council Meeting 6:00 p.m.

October 30th: Planning Commission Meeting (tentative)

11. ADJOURN MEETING

12. ADJOURN INTO REDEVELOPMENT AGENCY MEETING (RDA Meeting will begin immediately following the regular meeting)

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City Council Staff Report

Author: Tom Hanson

Subject: Active Transportation Plan

Date: September 2, 2025

Type of Item: Work Session Future Action



Summary Recommendation:

The cities of Washington Terrace, Riverdale, and South Ogden collaborated to develop an integrated Active Transportation Plan. The Washington Terrace portion has been updated to include newly available usage data that was not accessible when the plan was originally drafted. The proposed recommendations reflect both current usage trends and priorities identified in the community survey conducted during the initial planning phase. Staff recommend reviewing the updated plan and considering its future adoption to promote active transportation and strengthen eligibility for potential grant funding for active transportation projects and community health.

Description:

- A. **Topic:** Discussion and future adoption of the Active Transportation Plan
- B. **Background:** The cities of Washington Terrace, South Ogden and Riverdale applied for and received a planning grant to help fund a collaborative Active Transportation Plan (ATP) that links the cities together in a way to encourage more active transportation and demonstrates an effort to work together for the collective good of all three cities.
- C. **Analysis:** The ATP serves as a planning tool and guideline to identify and secure grant opportunities that support the needs of individual communities and foster collective collaboration. It has been updated to better address the specific needs of Washington Terrace while strengthening the connections that unite the cities.
- D. **Fiscal Impact:** The fiscal impact will be determined by the projects that are adopted and implemented. The pricing provided in the document is out-of-date and will be updated as projects are considered for implementation.
- E. **Department Review:** The plan has been reviewed and updated to better conform with current use and data made available with tracking apps that identify rout usage. This technology was not as readily available at the time of the regional study.

Striping Estimate

Ridgeline Dr. 5250 S- 300 W.	LF	Unit Price	Total \$
new 4" solid double yellow	4270	1	4270
New 4" solid white	8540	0.7	5978
Stop Bar striping	180	5	<u>900</u>
			11148
Ridgeline Dr. 300 W. - 5000 S.			
new 4" solid double yellow	3176	1	3176
New 4" solid white	6352	0.7	4446.4
Stop Bar striping	8	5	<u>40</u>
			7662.4
5600 S. 300 W. - Adams Ave			
new 4" solid double yellow	5703	1	5703
New 4" solid white	11406	0.7	7984.2
Stop Bar striping	8	5	<u>40</u>
			13727.2
5600 S. Adams Ave - S. O.			
new 4" solid double yellow	2411	1	2411
New 4" solid white	4822	0.7	3375.4
Stop Bar striping	5	5	<u>25</u>
			5811.4

City of Washington Terrace

Minutes of a Regular City Council meeting

Held on August 19, 2025

City Hall, 5249 South 400 East, Washington Terrace City, Utah

MAYOR, COUNCIL, AND STAFF MEMBERS PRESENT

Mayor Mark C. Allen

Council Member Jill Christiansen

Council Member Zunayid Z. Zishan – arrived at 5:34 p.m.

Council Member Cheryl Parkinson

Council Member Jeff West

Council Member Michael Thomas

Parks and Recreation Director Carlos Grava

City Recorder Amy Rodriguez

City Manager Tom Hanson

OTHERS PRESENT:

None

1. WORK SESSION

5:00 P.M.

TOPICS TO INCLUDE; BUT ARE NOT LIMITED TO:

- Terrace Days 2025 debrief and future planning

Grava shared some of the feedback from the Terrace Days debrief meeting that was held with staff and the Sheriff Office.

He stated that more signage will be added to the event. He stated that he will research a way for vendors to sign up online and reserve their spot before the event to make set up easier on staff and the vendors.

Grava stated that there were 30 vendors in attendance this year, along with 2 sponsors.

Grava stated that we received \$15,000 in sponsorships this year, in addition to RAMP funding (two separate grant awards).

Grava stated that the FY 2025 budget was \$29,400. He outlined how some of the levels in service decreased this past year, noting that the number of minutes were lessened for the fire works. He stated that the increase in level in services this year included the foam cannon, extra inflatables, and stated that the level of service increases the funding amount for the event. He stated that increases in services and level of service increases the budget. Grava stated that we could decrease the amount of inflatables to cut back on costs if all services are to remain. Grava stated that drone fireworks will cost around \$1500 a minute. Grava explained the services that make up the main part of the event, with their costs attached. He noted that every service had an increase in price from last year and the costs keep rising. He noted that the price of candy has increased dramatically since last year. He stated that he even cut back on the amount of candy to be handed out, and the price was still increased over budget.

Grava stated that we were over budget this year, with the final cost coming in at \$32,788. He stated that there will need to be a budget adjustment.

46

47 Grava showed the projected increases from the vendors for FY 2026. Grava stated that the projected cost
48 for next year's event is \$39,000. He stated that the band will be at least \$2000 more than it was this past
49 year. Grava stated that we are still under contract with our fireworks vendor, however, he noted that 98
50 percent of fireworks come from China. He stated that we will be paying the tariff cost on the fireworks,
51 increasing the amount of the cost if we want to keep the same show (length) as this past year.

52

53 Grava stated that there were not as many participants in the foam pit as anticipated. He stated that there
54 were more kids in attendance this year, however, he noted that they seemed older and went to the bull
55 riding area and the climbing walls. Mayor Allen stated that he does not want to charge for the activities for
56 the kids. He suggested cutting out the foam pit and save around \$1,000. Mayor Allen stated that he did not
57 hear one complaint about the shorter fireworks show, noting it was one of the best shows. Council
58 Member Thomas stated that gigsalad.com offers local bands who perform covers for a lower cost. Council
59 Member West stated that he feels that live music is a draw to the event.

60

61 Carlos explained that the city has to have a mass gathering permit from the county. He stated that they
62 come to the event and check on our restrooms, vendors, and water stations. He noted that the permit price
63 has increased.

64

65 Grava stated that it has been estimated that there were between 2500-3000 people in attendance.

66

67 Council Member Parkinson noted that our options to cut costs are to choose a different band option and
68 possibly cut down on fireworks or other options. She asked if the watermelon derby is worth continuing.
69 The Mayor and Grava stated that it is a very popular event. Grava stated that there are prizes bought for
70 this event. Council Member Christiansen stated that she feels that we could cut back on the candy amount.

71

72 Grava stated that if our consistent vendors donate next year, we should receive around \$7,000. He noted
73 that there are other vendors who have done work for the city who donated this year. He stated that we
74 cannot count on those vendors in future years. Mayor Allen stated that our RAMP grants were very
75 helpful.

76

77 Grava stated that we only sold 10 shirts online, however, people came to him during the event asking
78 about the t-shirts. He stated that the vendor had people asking him as well.

79 There was a discussion on having some on hand at the event.

80

81 Council Member West asked if we were able to hold some of our events (like Movie in the Park, or the
82 Easter Egg hunt) in smaller parks in the city. Grava stated that there may be traffic issues at some of the
83 smaller parks.

84

85 Council Member Parkinson asked if local vendors received a discount. Grava stated that there were only
86 three vendors from the city. He stated that there were 30 vendors this year. He stated that due to space
87 issues, this number cannot realistically be expanded.

88

89 Council Member Zishan suggested asking a Terrace Days feedback question on the next citizen survey. He
90 suggested questions like how important is it to have live music at the event? etc.

91

92
93 **MAYOR, COUNCIL, AND STAFF MEMBERS PRESENT**

94 Mayor Mark C. Allen
95 Council Member Jill Christiansen
96 Council Member Zunayid Z. Zishan
97 Council Member Cheryl Parkinson
98 Council Member Jeff West
99 Council Member Michael Thomas
100 Parks and Recreation Director Carlos Grava
101 City Recorder Amy Rodriguez
102 City Manager Tom Hanson
103 Lt. Sean Endsley, Weber County Sheriff Office
104

105 **OTHERS PRESENT:**

106 Jeremy Krause
107
108

109 2. **ROLL CALL** 6:00 P.M.
110

111 3. **PLEDGE OF ALLEGIANCE**
112

113 4. **WELCOME**
114

115 5. **CONSENT ITEMS**

116 5.1 **APPROVAL OF AGENDA AND AUGUST 5, 2025, COUNCIL MEETING**

117 Item 5.1 was approved by general consent.
118

119 6. **CITIZEN COMMENTS**
120

There were no citizen comments.
121

122 7. **COUNCIL COMMUNICATION WITH STAFF**
123

Council Member West gave condolences to our Sheriff Office for loss of fellow officers.
124

125 Council Member Parkinson agreed, stating that we appreciate all that law enforcement does.
126

127 Council Member Parkinson stated that there are still some corners in the city that need ADA ramps.
128 Hanson stated that he will check into how we can fund the projects. He stated that he will determine if
129 grants can be used.
130

131 Mayor Allen stated that the ribbon cutting at the new elementary school went very well. He stated that it is
132 a beautiful school and will be an incentive for many kids to want to go to school.
133 Council Member Parkinson stated that she was impressed with Larry Hadley, who gave a shout out to Jake
134 Meibos, stating that he was great to work with.
135

136 Mayor Allen stated that the city received a letter from the North View Fire District thanking our Fire
137 Department for their help and support during the Willard Peak fire. Mayor Allen stated that we are glad to

138 do it and noted that we do help other departments when we can just as other fire departments help us with
139 our fire events. Mayor Allen stated that he appreciates our fire department for going up there to help and
140 is glad everyone is safe up there.
141

142 **8. ADMINISTRATION REPORTS**
143

144 Hanson stated that the cooperative nature of this area is tremendous and was proud that our team was able
145 to go up there and help them. He stated that he appreciates the support that our department receives for our
146 fire events.

147 Hanson stated that the water line on 5350 South has been installed, and the lines are being tested.

148 Hanson stated that the water valve repair and replacement project is wrapping up for the season.

149 Hanson recommended that the fall cleaning collection should be open every day of the week from 7:00 am
150 -3:30 pm and each Saturday from 8:00 am to 4:00 pm. He noted that the late day option was only used 3
151 times. Council Member West stated that he likes the idea of the extended Saturday hours.

152 Hanson stated that the Emergency Preparedness Open House will be held on October 2nd at the Fire Station
153 at 6:00-8:00 p.m. Hanson stated that the United Methodist Church has agreed to be the primary evacuation
154 location once approved by the Red Cross. Hanson stated that he will be working with the LDS church as
155 well.

156
157

158 **9. UPCOMING EVENTS**
159

160 August 28th: Planning Commission Meeting (cancelled)
161 September 1st: City Offices Closed for Labor Day
162 September 2nd: City Council Meeting 6:00 p.m.
163 September 16th: City Council Meeting 6:00 p.m.
164 September 25th Planning Commission meeting (tentative)
October 1-2: ULCT Conference

165
166 **10. ADJOURN MEETING**
167

168 **Motion by Council Member Thomas**
169 **Seconded by Council Member West**
170 **To adjourn the meeting**
171 **Approved unanimously (5-0)**
172 **Time: 6:20 p.m.**
173

174 **11. ADJOURN INTO REDEVELOPMENT AGENCY MEETING**
175

176 Council Adjourned into RDA meeting immediately after the regular meeting.
177
178

179 **Date approved**

City Recorder

City Council Staff Report

Author: Jake Meibos

Subject: Pickleball Plaza Phase 3 Change Order

Date: 7/9/2025

Type of Item: Discussion and Motion

City of
WASHINGTON TERRACE
Utah

Summary Recommendation: Approve the change order for the 2025 RAMP Pickleball Plaza Phase 3 project.

Description:

- A. **Topic:** City Council approval is requested for the change order for the 2025 RAMP Pickleball Plaza Project.
The additional scope of the project consists of:
 - Trail system
 - South entrance improvements, sidewalk and crosswalks
 - Rock retaining walls
 - Tree wells and irrigation
- B. **Background:** The Pickleball Plaza has been developed in phases to maximize the RAMP funding and city funds. The funding for phase 3 has capacity to add additional improvements. Staff met with the park planning committee for recommendation and direction for the additional improvements.
- C. **Analysis:** The change order from MSCI for the additional improvements is \$
- D. **Fiscal Impact:**

Original Contractor bid	224,255.00
Change Order #1	187,640.96
Irrigation (Chris)	12,210.00
Encumbrance	290,521.46
Balance Amount	714,627.42
Budgeted amount	921,777

- E. **Department Review:** Public works, Recreation/Leisure Services, Finance, City Manager

Alternatives:

- A. **Approve the Request:** Allow the approval of change order #1 and Irrigation for 2025 RAMP Pickleball Plaza Phase 3 to MSCI for the total contract amount of **411,895.96** and

Wilkinson Landscape for \$12,210 and authorize the staff to execute all applicable contract documents.

- B. Deny The Request:** Deny the request will prolong the completion of the project and may forfeit the RAMP funds.

City of **WASHINGTON TERRACE** *Utah*

**City of Washington Terrace
Redevelopment Agency Meeting
Tuesday, September 2, 2025
following the Regular City Council Meeting
City Hall Council Chambers
5249 South 400 East, Washington Terrace City**

As a public service, Council and Redevelopment Meetings are streamed on the City of Washington Terrace YouTube channel: www.youtube.com@WashingtonTerraceCity

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1. ROLL CALL

2. INTRODUCTION OF GUESTS

3. CONSENT ITEMS

Any point of order or issue regarding items on the Agenda or the order of the agenda need to be addressed here prior to the approval of the agenda.

3.1 APPROVAL OF AGENDA

3.2 APPROVAL OF MEETING MINUTES FROM AUGUST 19, 2025

4. NEW BUSINESS

**4.1 MOTION: APPORVAL OF ALLOCATION OF TAX INVESTMENT FUNDS
FROM THE SOUTH POINTE REINVESTMENT PROJECT AREA FOR
REPAYMENT OF GOLDENWEST CREDIT UNION INCENTIVES**

5. ADJOURN MEETING

CERTIFICATE OF POSTING

I, Amy Rodriguez, The undersigned duly appointed City Recorder of the City of Washington Terrace do hereby certify that the above agenda was posted in three public places within the City limits and sent to the *Standard Examiner* at least 24 hours prior to the meeting.

For Packet Information, please visit our website at www.washingtonterracecity.org

City of Washington Terrace
Minutes of a Redevelopment Meeting
Held on Tuesday, August 19, 2025
Following the Regular City Council Meeting
City Hall, 5249 South 400 East, Washington Terrace City, Utah

BOARD MEMBERS AND STAFF MEMBERS PRESENT

Chair Mark C. Allen
Board Member Jill Christiansen
Board Member Zunayid Z. Zishan
Board Member Cheryl Parkinson
Vice Chair West
Board Member Michael Thomas
City Recorder Amy Rodriguez
City Manager Tom Hanson
Weber County Sheriff Lt. Sean Endsley

Others Present

Jeremy Krause

1. ROLL CALL

2. INTRODUCTION OF GUESTS

3. CONSENT ITEMS

3.1 APPROVAL OF AGENDA

3.2 APPROVAL OF MEETING MINUTES FROM JULY 1, 2025

3.2 APPROVAL OF MEETING MINUTES

4. NEW BUSINESS

4.1 MOTION/RESOLUTION 25-17: A RESOLUTION OF THE CITY OF WASHINGTON TERRACE, UTAH, ACTING AS THE WASHINGTON TERRACE REDEVELOPMENT AGENCY AND ACCEPTING THE REQUEST FOR A 30-DAY EXTENSION FROM KANYON CONSTRUCTION, LLC

Hanson introduced Jeremy Krause who has been working with the city on the 5580 S. Adams Ave. project for some time. Hanson stated that the developers have been very responsive and have been getting their items in on time. Hanson stated that there is a deadline of September 1, 2025, for the project to begin or forfeit the incentive offered by the RDA.

Krause stated that they have resubmitted plans to the engineer and that a budget meeting is to be held tomorrow. He stated that the excavation has been scheduled for two weeks, just missing the deadline date by three days.

Hanson stated that staff are recommending approving the extension of the deadline by 30 days.

MEMORANDUM

TO: Redevelopment Agency (RDA) Board

FROM: Tom Hanson

DATE: September 2, 2025

RE: Allocation of Tax Increment Funds from the South Pointe Reinvestment Project Area for Repayment of Goldenwest Credit Union Incentives

Purpose

This memorandum provides a staff recommendation regarding the allocation of tax increment revenues—permitted under existing Interlocal Cooperative Agreements—from the South Pointe Reinvestment Project Area to partially reimburse previously paid incentives related to the Goldenwest Credit Union (GWCU) development.

Background

Further review with our RDA legal representative determined that the payback agreement does not limit the payback amount to anything less than the \$1.2M. The Agency previously entered into an incentive agreement with Goldenwest Credit Union for a total of **\$1,200,000** to support development within the Southeast Project Area (Building 1). The agreement included a performance-based condition requiring the construction and completion of **Building 2** before any additional tax increment would be distributed for incentives tied to that phase.

Goldenwest Credit Union did not proceed with the construction of Building 2, and as a result, the performance condition was not fulfilled. Consequently, the Agency was not authorized to distribute additional tax increment associated with that phase.

However, under the provisions of the existing Interlocal Cooperative Agreements, the Agency is permitted to allocate future tax increment funds to recover a portion of the previously disbursed \$1,200,000 incentive. Staff recommend allocating **up to \$1,200,000** in eligible tax increment from the **South Pointe Reinvestment Project Area** to the **Southeast Project Area** to reimburse the incentive payment.

Recommendation:

Staff recommends that the RDA Board formally authorize the allocation of tax increment funds—**not to exceed \$1,200,000**—from the South Pointe Reinvestment Project Area to

the Southeast Project Area. These funds will be used for the reimbursement of the previously paid GWCU incentive, aligning with the financial strategy discussed during project development.

Legal Opinion:

Recommendation:

The Agency is authorized by the Act to use funds within any project area, and with it the implicit authorization to transfer funds for such purposes. I suggest that the transfer of funds to repay the \$1.2 million borrowed from the Southeast RDA be documented in a resolution or in meeting minutes, and that such transfer be authorized or acknowledged by the Agency board. This authorization can refer to this transfer as essentially repaying a loan between project areas, even if the initial transfer was not structured as such.

Beyond the strictly legal considerations, the Agency should consider the relationships among the Agency and the taxing entities. In the event that the tax increment generated within the South Pointe CRA is in excess of (i) the amount needed to reimburse the Southeast RDA, potentially with interest, and (ii) the amount the Agency can reasonably use to fund other project area development activities within the South Pointe CRA, the Agency may have the opportunity to earn some goodwill with the taxing entities by returning some portion of the tax increment funds the Agency receives under the interlocal agreement. To be clear, the Agency is under no legal obligation to return these funds, but doing so may be politically expedient.

Action Requested

Approval from the RDA Board to proceed with the transfer and allocation of tax increment funds as outlined above totaling \$1.2 M



MEMO

To: Tom Hanson, Washington Terrace City Redevelopment Agency
From: Adam Long
Date: July 21, 2025
Re: Transfer of project area funds between project areas

You asked me about the Agency's ability to transfer funds between project areas. Specifically, whether the Agency can transfer funds generated by development within the South Pointe CRA to the Southeast RDA.

Background

The Agency created the Southeast Redevelopment Project Area ("Southeast RDA") in 1987. The Agency then created the South Pointe Community Reinvestment Project Area ("South Pointe CRA") in 2021, which overlapped the existing Southeast RDA. The Agency also adopted Resolution No. 21-07 to clarify the calculation and distribution of tax increment generated by development within the South Pointe CRA. That resolution states that the area within the South Pointe CRA is deemed removed from the Southeast RDA for purposes of tax increment calculation and distributions. The Agency executed interlocal agreements for the South Pointe CRA, as follows (the "Interlocal Agreements"):

- Entities: Washington Terrace, Weber County, Weber County School District, Weber County Mosquito Abatement District, Weber Basin Water Conservancy District, Central Weber Sewer Improvement District, Weber Area Dispatch 911 and Emergency Services District
- Base value: \$2,482,300
- Percentage: 50%
- Years: 16 years (1/1/2024 to 12/31/2039)

The Agency incentivized the development of a new office building within the South Pointe CRA with a \$1.2 million payment to the developer upon completion of the building (Building #1). This incentive was paid from accumulated tax increment funds generated within the Southeast RDA.

The Agency also signed a participation agreement for the development of a second office building within the South Pointe CRA (Building #2), contemplating a total incentive of \$1.9 million to be funded through tax increment funds received pursuant to the Interlocal Agreements.

Based on our conversation, (1) Building #1 is completed and the \$1.2 million incentive payment was made as contemplated by the Building #1 participation agreement and (2) Building #2 is no longer planned for development. If Building #2 is not developed as required by the Building #2 participation agreement, the Agency will not be obligated to pay the contemplated incentive and the Agency would like to use a portion of the tax increment it receives to reimburse the Southeast RDA for the initial \$1.2 million incentive payment.

Interlocal Agreement Terms

The Interlocal Agreements contain the following language as to the use of tax increment paid to the Agency:

2.5. Allowed Uses. The Agency may use Taxing Entity Tax Increment paid to the Agency under this Agreement to pay for any use authorized under the Act and the Plan, as determined by the Agency Board.

Neither the project area plan nor the project area budget for the South Pointe CRA specifically direct or restrict the use of tax increment funds beyond the mandatory 10 percent allocation to affordable housing and an acknowledgement that the agency will use approximately 3 percent of the funds received for Agency operational expenses. In summary, the Agency is not under any extraordinary restrictions as to the use of tax increment funds beyond those found in Utah statutes.

Participation Agreement Obligations

The Building #2 participation agreement contemplates the payment of an incentive of up to \$1.9 million, contingent on the office building being completed prior to January 1, 2029 (among other requirements). This participation agreement contemplates incentive payments based on 78% of the funds received by the Agency pursuant to the Interlocal Agreements, but only *after* the completion and occupancy of Building #2 (see Sections 1.5 and 1.8 of the Building #2 participation agreement). In other words, the Building #2 participation agreement does not involve any funds received by the Agency prior to the completion of Building #2. To illustrate, if Building #2 were to be completed during 2028, the Agency would make incentive payments equal to 78 percent of the tax increment for 2029 onward. The incentive payments in this hypothetical would be based on property taxes paid on both Building #1 and Building #2.

If Building #2 never gets developed, the Agency is not obligated to make any payments under the Building #2 participation agreement.

Funds Transfer Authority

For \$1.2 mm incentive for Building #1

The Agency's authority to transfer—or loan—the funds from the Southeast RDA to the South Pointe CRA is based on the definitions of “agency funds” and “project area funds” in the Community Reinvestment Agency Act founds in Utah Code Title 17C (the “Act”). The Act defines

project area funds as “tax increment or sales and use tax revenue that an agency receives under a project area budget adopted by a taxing entity committee or an interlocal agreement” (§ 17C-1-102(51)). The definition of “agency funds” in the Act is very broad, and includes project area funds and any other funds received by the agency (§ 17C-1-102(5)). The Act allows the agency to use “agency funds” for “project area development in a project area” (§ 17C-1-409(1)(a)(iii)(A)). Importantly, this gives the Agency authority to use agency funds in “a” project area—not specifically within *the* project area that generated the funds. The version of § 17C-1-409 from 2015 and earlier generally restricted the use of funds to projects within the project area that generated the funds. If a question about the interpretation of this language were to arise, the Agency would have solid justification supporting this interpretation based on the plain language of the revised statute and general principles of statutory interpretation.

The Agency has the statutory authority to spend agency funds within any project area and the project area documents for the Southeast RDA do not impose any relevant additional restrictions. As such, the transfer of funds to make the Building #1 incentive payment was allowed.

The Act also provides authorization allowing a redevelopment agency to loan funds between project areas (§ 17C-1-409(1)(d)). This provision explicitly allows the Agency to make loans between project areas, subject to approval from the Agency Board and City Council, provided that the projected revenues in the borrowing project area are expected to be sufficient to repay the loan amount. That said, this loan language predates the 2016 changes to the Act and is mostly irrelevant now in light of the ability to use funds in any project area, as described above. This loan concept does give the Agency an additional justification for the transfer of funds to fund the Building #1 incentive payment.

For future tax increment revenues

Based on the current taxable value within the South Pointe CRA of \$29.8 million, which is due to the development of Building #1, the Agency can expect to receive about \$3.3 million in tax increment funds over the 16-year project area funds collection period. Of that \$3.3 million, the Agency must allocate 10 percent to affordable housing and can allocate 3 percent to Agency operational costs, potentially leaving about \$2.87 million that can be used for project area development (as defined in Utah Code § 17C-1-102) and for other purposes as allowed by the Community Reinvestment Agency Act (the “Act”).

As noted above, the Agency has the ability to use “agency funds” in any project area—not just within the project area that generated the funds. That same analysis supports the Agency’s ability to transfer future tax increment funds generated within the South Pointe CRA to the Southeast RDA.

The Agency has the statutory authority to spend agency funds within any project area and the project area documents (for both project areas) and interlocal agreements do not impose any relevant additional restrictions. In the current scenario, the Agency can transfer funds generated within the South Pointe CRA to the Southeast RDA. The Agency could make this transfer even without the justification of repaying the Southeast RDA for the funds used for the Building #1 incentive.

Recommendations

The Agency is authorized by the Act to use funds within any project area, and with it the implicit authorization to transfer funds for such purposes. I suggest that the transfer of funds to repay the \$1.2 million borrowed from the Southeast RDA be documented in a resolution or in meeting minutes, and that such transfer be authorized or acknowledged by the Agency board. This authorization can refer to this transfer as essentially repaying a loan between project areas, even if the initial transfer was not structured as such.

Beyond the strictly legal considerations, the Agency should consider the relationships among the Agency and the taxing entities. In the event that the tax increment generated within the South Pointe CRA is in excess of (i) the amount needed to reimburse the Southeast RDA, potentially with interest, and (ii) the amount the Agency can reasonably use to fund other project area development activities within the South Pointe CRA, the Agency may have the opportunity to earn some goodwill with the taxing entities by returning some portion of the tax increment funds the Agency receives under the interlocal agreement. To be clear, the Agency is under no legal obligation to return these funds, but doing so may be politically expedient.