

**MILLCREEK COMMUNITY REINVESTMENT AGENCY
RESOLUTION NO. 26-02**

**A RESOLUTION OF THE MILLCREEK COMMUNITY REINVESTMENT AGENCY
APPROVING A PARTICIPATION AGREEMENT WITH MC29 DEVELOPMENT LLC**

WHEREAS, the Millcreek Community Reinvestment Agency (“Agency”) met in a regular open and public meeting on April 13, 2026, to consider, among other things, approving a participation agreement with MC29 Development LLC; and

WHEREAS, the Agency was created to transact the business and exercise all of the powers provided for in the former Utah Redevelopment Agencies Act and the current Utah Community Reinvestment Agency Act and any subsequent, replacement or amended law or act (the “Act”); and

WHEREAS, pursuant to the Act, and more particularly Utah Code Section 17C-1-202, the Agency is authorized enter into participation agreements with developers or property owners; and

WHEREAS, MC29 and the Agency have negotiated a contract for repayment of certain housing fund tax increment, the terms of which are set forth in the participation agreement (“Agreement”) attached hereto as Exhibit A.

NOW THEREFORE BE IT RESOLVED by the Agency as follows:

1. that the Agreement be approved, with such minor changes and recommendations as deemed necessary by the Agency.
2. that the Chair and Recorder are hereby authorized and directed to execute and deliver the Agreement on behalf of the Agency.
3. that this resolution takes effect upon adoption.

PASSED AND APPROVED this 13th day of April 2026.

**MILLCREEK COMMUNITY
REINVESTMENT AGENCY**

By: _____
Cheri Jackson, Chair

ATTEST:

Elyse Sullivan, Agency Recorder

Roll Call Vote:

Jackson	Yes	No
Catten	Yes	No
DeSirant	Yes	No
Handy	Yes	No
Uipi	Yes	No

EXHIBIT A
to Resolution No. 26-02
Participation Agreement

PARTICIPATION AGREEMENT BY AND BETWEEN THE MILLCREEK COMMUNITY REINVESTMENT AGENCY AND PARTICIPANT FOR THE MC29 PROJECT DEVELOPMENT

This Participation Agreement (the “**Agreement**”) is made and entered into as of this 7th day of April, 2026 (the “**Effective Date**”), by and between the Millcreek Community Reinvestment 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.*) and MC29 Development LLC, a Utah limited liability company (together with its successors and assigns, “**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 Agreement is to carry out the Agency’s use of its housing allowance by providing for reimbursements to entice the Participant to develop and construct 23 income-targeted owner-occupied residential condominiums (“**Units**”) located at 1285 East Villa Vistas Avenue, which is in the boundaries of the Agency (such Units may also be referred to as the “**Project**”). The purpose is also to specify the terms and conditions pursuant to which the Agency and Participant will cooperate in bringing about the Project, including funds the Agency will provide to assist in Participant’s development of the Project

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

This Agreement is in the vital and best interests of the Millcreek, Utah (the “**City**”), and the health, safety, and welfare of its residents, and in accord with public purposes. This Agreement is executed pursuant to the Act, specifically Utah Code § 17C-1-412.

1.3. The Agency Boundaries

The Project is located within the Agency's boundaries.

1.4. “Interlocal Agreements”; “Agency Share”; Certain Other Defined Terms

Subject to the terms of various interlocal agreements between the Agency and certain taxing entities (such interlocal agreements that pertain to payments the Agency is entitled to receive based on property tax payments with respect to areas within the Agency and, in the case of some or all of such interlocal agreements, the other property within the Project Area, collectively, “**Interlocal Agreements**”, and such taxing entities that are parties to the Interlocal Agreements, the “**Taxing Entities**”), the Agency is entitled to receive, for a period of up to 20 years, a portion of the Tax Increment (as such term is defined in such Interlocal Agreements) from various project areas, a

portion as identified in the various areas budget to be used for the Agency's affordable housing allocation (such payments are defined as the "**Affordable Housing Allocation**").

1.4.1. "Agency Share"

The term "Agency Share" means the portion of the Agency Share of the housing allocation that is attributable to property taxes generated solely by the Agency paid with respect to real and personal property within the Agency's Budget. For clarity, the Parties acknowledge that (i) the Agency Share "applicable to" or "with respect to" a given Tax Year means the portion of the Agency Share of the housing allocation that is attributable to property taxes assessed and payable with respect to such Tax Year, regardless of when such property taxes are paid and regardless of when the Agency receives payment of the Agency Share attributable to such property taxes and (ii) the term "Agency Share" does not include any funds received by the Agency pursuant to the Interlocal Agreements attributable to taxes assessed and payable with respect to any period other than the Reimbursement Term (or any portion of the Reimbursement Term).

1.4.1. "Reimbursement Term"

The term "Reimbursement Term" means a period not to exceed ten years beginning on the Reimbursement Term Commencement Date (as defined below).

1.4.2. "Reimbursement Term Commencement Date"

The term "**Reimbursement Term Commencement Date**" means the date designated by Participant in a written notice to the Agency as the date on which the Reimbursement Term will commence.

1.4.3. "Tax Year"

The term "**Tax Year**" means each of the ten calendar years beginning on the Reimbursement Term Commencement Date.

1.5. Description of the Project

The term "**Project**" means 23 income-targeted owner-occupied residential condominiums to be constructed at 1285 East Villa Vistas Avenue. Income-targeted means housing means a "first-time home buyer" of a "qualified residential unit" (collectively "**Income Targeted Housing**") as defined in Utah Code § 63H-8-501, financed by Utah Housing Corporation ("**Utah Housing**") as part of the state of Utah's First-Time Homebuyer Assistance Program and as set forth in Utah Code § 63H-8-501 et seq.

1.6. The Reimbursement

As used in this Agreement, the term "**Reimbursement**" means the portion of the Agencies' affordable Housing Fund in an amount not to exceed \$50,000 per Unit, not to exceed 23 units (or \$1,150,000 total).

1.7. Parties to the Agreement

1.7.1. The Agency

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

Millcreek Community Reinvestment Agency
Attn: Executive Director
1330 East Chambers Avenue
Millcreek, UT 84106

With a copy to:

John Brems
1330 East Chambers Avenue
Millcreek, UT 84106

1.7.2. The Participant

Participant's address for purposes of this Agreement is:

MC29 Development LLC
10808 S River Front Parkway, Ste 3015
South Jordan, UT 84095

1.7.3. Representation as to Investment 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 further development of and in the Project, for the purpose of further investment in Participant's business, and is not for speculation in land holding or otherwise.

1.7.4. Assignment or Transfer of Agreement

Participant acknowledges and agrees that (a) Participant may not assign or transfer all or any part of this Agreement, assign or transfer any of its rights herein or delegate any of its obligations hereunder during the term of this Agreement except with the express written consent of the Agency (and Participant acknowledges and agrees that the Agency may withhold its consent to such an assignment, transfer or delegation if, in the sole discretion of the Agency, such assignment, transfer or delegation would result in the economic development goals of the Agency and the Project area not being met).

2. OBLIGATIONS OF THE PARTIES

2.1. Payment of Reimbursement

2.1.1. Payment Obligation

Subject to the applicable terms and provisions of this Agreement, including, without limitation, the terms and provisions of this Subsection and Subsections 2.2, below that condition or limit the Agency's obligation to remit, or the amount the Agency is obligated to remit, to Participant as Reimbursement. The Agency shall remit payment of the Reimbursement based proportionately on each fulfilled draw request received by the Participant from Utah Housing, as it relates to the total commitment from Utah Housing ("**Draw**"). For example, if Utah Housing intends to commit \$8,000,000 to the entire Project, then Millcreek's share is 14.375% ($\$1,150,000/\$8,000,000 = 0.14375$ or 14.375%). As a result, upon the Participant's receipt of \$800,000 from Utah Housing from a draw request (which is 10% of Utah Housing's total intended commitment), the Participant may then also request 10% of Millcreek's share of their total intended commitment of \$1,150,000, or \$115,000, provided that the current amount and all previous amounts paid by the Agency do not exceed \$50,000 per unit or \$1,150,000 in total.

2.1.2. Sole Source of Funding for the Reimbursement

The entirety of the Reimbursement payments to Participant contemplated in this Agreement will be funded solely by the Agency Share payments received by the Agency pursuant to the Interlocal Agreements. Participant is not, and shall not be, entitled to any other funds collected by the Agency for any other portion of the Project Area or any other funds held by the Agency.

2.2. Conditions Precedent to the Payment of the Reimbursement or the Reimbursement Applicable to the Given Tax Year to Participant; Certain Limitations on the Amount of the Reimbursement Applicable to a Given Tax Year Payable to Participant

The Parties acknowledge that the provisions of Sections 2.2 constitute conditions precedent to the Agency's obligation to remit any Reimbursement payments with respect to a given Tax Year to Participant and that other provisions of such subsections may limit the amount of Reimbursement the Agency is obligated to remit to Participant with respect to a given Tax Year based on applicable facts and circumstances. In addition to other provisions in this Agreement that condition or limit the Agency's obligation to remit Reimbursement payments or limit the amount of Reimbursement the Agency is required to remit, (a) the Agency has no obligation to remit to Participant the Reimbursement with respect to a given Tax Year unless and until all conditions precedent included in Sections 2.2 applicable to the Reimbursement with respect to such Tax Year are satisfied and (b) the amount of the Reimbursement the Agency shall be required to remit to Participant with respect to a given Tax Year will be subject to any of the limitations described herein.

2.2.1. Agency is Entitled to Receive the Agency Share

The Agency is only obligated to pay to Participant the Reimbursement amount that arises out of Agency Share payments received by the Agency if and to the extent the Agency is legally entitled to receive such Agency Share payments pursuant to the applicable Interlocal Agreement(s).

2.2.2. Agency has Actually Received the Agency Share Payment

The Agency is obligated to make Reimbursement payments with respect to a particular Tax Year to the Participant only to the extent the Agency has actually received Agency Share payment(s) from Salt Lake County or a Taxing Entity with respect to such particular Tax Year. The Agency will use commercially reasonable efforts to pursue payment in full of the Agency Share for a particular Tax Year if it does not receive payment in full on a timely basis.

2.2.3. Continued Operation of the Project

The Agency is not obligated to pay to Participant the Reimbursement with respect to a particular Tax Year unless the Project is an Income Targeted Housing project for the entirety of such Tax Year (or, if the Project commences operations after January 1 of a Tax Year, continuously for the period between the date the Project commences Operations and the end of such Tax Year).

2.2.4. Request for Payment by Participant

The Agency is not obligated to pay the Reimbursement with respect to a particular Tax Year to Participant unless Participant has made a Request for Payment in writing pursuant to Section 2.5 for the Reimbursement with respect to such Tax Year.

2.2.5. Project Operations Have Commenced

The Agency is not obligated to pay the Reimbursement to the Participant unless the Participant has begun construction of the income-targeted housing and has received a Draw.

2.2.6. Investment

Reimbursement is available to the Participant only upon verification of the actual Draw received from Utah Housing.

2.3. Effect of Failure to Meet Conditions Precedent to Payment of Reimbursement

In the event that the conditions precedent to the payment of any Reimbursement with respect to a particular Tax Year, as included in Section 2.2, are not met for such Tax Year and the Participant is thus not entitled to receive the Reimbursement with respect to such Tax Year, such failure shall not constitute a Default under this Agreement.

2.4. Limitations on Reimbursement

The amount of Reimbursement paid to Participant pursuant to this Agreement shall be limited as follows:

2.4.1. Draws

Reimbursement payments will be limited to the portions of the Draw received by the Participant

from Utah Housing.

2.4.2. Cap on Reimbursement

The total Reimbursement paid to the Participant under this Agreement shall not exceed \$50,000 per Unit and \$1,150,000 total Reimbursement.

2.5. Request for Reimbursement

Participant shall submit to the Agency by May 1st of the year following each Tax Year a written request for payment of the Reimbursement with respect to such Tax Year (each, a “**Request for Payment**”). Participant’s Request for Payment shall include written documentation of actual construction of the Units, the Units that the Request for Payment is attributable to, and the Draws for which the Reimbursement is sought. Unless the Agency sends written notice to Participant of a deficiency in the Request for Payment (which notice must specify in reasonable detail all alleged deficiencies) within thirty (30) days of receipt of a Request for Payment, such Request for Payment shall be deemed complete. Participant shall have a reasonable time not to exceed thirty (30) days in which to rectify any deficiencies specified in a notice, and the Request for Payment shall be deemed timely delivered in the event any such deficiencies are rectified within that period. If Participant has timely delivered (or is deemed to have timely delivered) a Request for Payment with respect to a given Tax Year and there is a Reimbursement Shortfall with respect to such Tax Year, Participant will not be required to deliver any additional Request for Payment with respect to such Tax Year as a condition to the Agency’s obligation to remit any remaining Reimbursement with respect to such Tax Year to Participant.

2.6. Reduction or Elimination of Reimbursement

The Parties agree that Participant assumes and accepts the risk of possible alteration of Federal or State statute, rule, regulation, or other law, or adjudication rendering unlawful the collection, receipt, disbursement, or application of the Agency Share to the Agency or the Reimbursement to Participant as contemplated in and by this Agreement. If the provisions of Utah law that govern the payment of the Agency Share to the Agency are changed or amended so as to reduce or eliminate the amount paid to the Agency under the Interlocal Agreements, the Agency’s obligation to pay Participant the Reimbursement will be proportionately reduced or eliminated, but only to the extent necessary to comply with the changes in such law. Participant specifically reserves and does not waive any right it may have to challenge, at Participant’s cost and expense, the validity, enforceability, legality or constitutionality of any change in any Federal or State statute, rule, regulation or other law that reduces or eliminates the payment of Agency Share to the Agency and/or the payment of Reimbursement to Participant (any such change, a “**Change in Law**”), including, without limitation, by (a) bringing, either individually or with other persons or entities, legal proceedings challenging the validity, enforceability, legality or constitutionality of any Change in Law or (b) joining (as a party or otherwise) any such legal proceedings that have been brought by others (any such legal proceedings, “**Reimbursement Proceedings**”); and nothing herein shall be construed as an estoppel, waiver or consent to reduce or eliminate payment of

Agency Share to the Agency and/or payment of Reimbursement to Participant. Participant acknowledges, understands, and agrees that the Agency is under no obligation to challenge the validity, enforceability, legality or constitutionality of a Change in Law or to otherwise indemnify or reimburse Participant for its actions to independently do so. Notwithstanding the foregoing, (i) the Agency agrees that, at the request of Participant and at Participant's cost and expense (and at no cost to the Agency), the Agency will cooperate with Participant in all reasonable respects in connection with Participant's challenge of a Change in Law as contemplated above, (ii) the Agency (A) acknowledges and agrees that (I) Participant is not a party to any of the Interlocal Agreements or any other agreements to which the Agency is a party that relate to the Agency Share and the Reimbursement, (II) the Interlocal Agreements include (and such other agreements may include) provisions in which the parties expressly agree that other persons and entities are not third party beneficiaries to such agreements and (III) due to the facts described in clauses (A)(I) and (II), above, and other possible factual or legal matters, Participant may not have standing to challenge a Change in Law or join in a Reimbursement Proceeding in a manner that could prevent or mitigate the reduction or elimination of the payment of Agency Share to the Agency and/or the payment of Reimbursement to Participant at all or to the same degree as the Agency, and (B) agrees that, at the request of Participant and at Participant's cost and expense (and at no cost to the Agency), it will (I) challenge a Change in Law and/or join in a Reimbursement Proceeding in its own name, (II) join, in its own name, Participant in challenging a Change in Law or in joining in a Reimbursement Proceeding and/or (III) authorize Participant to challenge a Change in Law and/or join in a Reimbursement Proceeding in the Agency's name, and (iii) in connection with its agreements in clauses (i) and (ii), above, at the request of Participant and at Participant's cost and expense (and at no cost to the Agency), the Agency will take such actions in connection with any such challenge of a Change in Law or Reimbursement Proceeding as Participant (A) reasonably believes the Agency must or may be required to take in connection with such challenge or Reimbursement Proceeding and/or (B) reasonably directs the Agency to take, including, without limitation, (I) taking any such action for or on behalf of Participant or itself, (II) joining Participant in taking any such action, (III) authorizing Participant to act for, on behalf of or in the name of the Agency with respect to any such action and/or (IV) executing such documents as Participant reasonably requests the Agency to execute.

2.7. Declaration of Invalidity

In the event any legal action is filed in a court of competent jurisdiction that seeks to invalidate the Project Area or this Agreement or that otherwise seeks to or would have the possible result of reducing or eliminating the payment of the Agency Share to the Agency (any such action, an "**Invalidation Action**"), the Agency shall provide written notice of such Invalidation Action to Participant. In the event an Invalidation Action is filed, the Agency shall have no obligation to challenge that Invalidation Action or defend itself against such Invalidation Action. If requested by Participant, the Agency may, at its sole discretion, take such actions as may be reasonably required to defend such Invalidation Action and to address the grounds for any causes of action that could result in the reduction or elimination of the payment of the Agency Share to the Agency or the Reimbursement to Participant as contemplated in and by this Agreement. Participant specifically reserves and does not waive any right it may have to intervene, at Participant's cost and expense, in any such Invalidation Action and challenge the basis for any causes of action or any remedy sought that would reduce or eliminate the payment of the Reimbursement to the Agency and/or Participant, and nothing herein shall be construed as an estoppel, waiver or consent

to reduce or eliminate payment of the Agency Share to the Agency and/or the Reimbursement to Participant. Notwithstanding the foregoing, (a) the Agency agrees that, at the request of Participant and at Participant's cost and expense (and at no cost to the Agency), the Agency will cooperate with Participant in all reasonable respects in connection with Participant's intervention in an Invalidation Action and bringing the challenges described above in this section, (b) the Agency (i) acknowledges and agrees that (A) Participant is not a party to any of the Interlocal Agreements or any other agreements to which the Agency is a party that relate to the Agency Share and the Reimbursement, (B) the Interlocal Agreements include (and such other agreements may include) provisions in which the parties expressly agree that other persons and entities are not third party beneficiaries to such agreements and (C) due to the facts described in clauses (i)(A) and (B), above, and other possible factual or legal matters, Participant may not have standing to intervene in any or all Invalidation Actions or challenge the basis for any causes of action or any remedy sought that would reduce or eliminate the payment of the Reimbursement to the Agency and/or Participant in a manner that could prevent or mitigate the reduction or elimination of the payment of Agency Share to the Agency and/or the payment of Reimbursement to Participant at all or to the same degree as the Agency, and (ii) agrees that, at the request of Participant and at Participant's cost and expense (and at no cost to the Agency), it will (A) challenge an Invalidation or defend itself in an Invalidation Action in its own name, (B) join, in its own name, Participant in challenging or defending an Invalidation Action and/or (C) authorize Participant to challenge an Invalidation Action or defend the Agency in an Invalidation Action in the Agency's name, and (c) in connection with its agreements in clauses (a) and (b), above, at the request of Participant and at Participant's cost and expense (and at no cost to the Agency), the Agency will take such actions in connection with any such challenge of an Invalidation Action or defense of an Invalidation Action as Participant (i) reasonably believes the Agency must or may be required to take in connection with such challenge or defense and/or (ii) reasonably directs the Agency to take, including, without limitation, (A) taking any such action for or on behalf of Participant or itself, (B) joining Participant in taking any such action, (C) authorizing Participant to act for, on behalf of or in the name of the Agency with respect to any such action and/or (D) executing such documents as Participant reasonably requests the Agency to execute. In the event that the court declares that the Agency cannot receive the Agency Share and/or cannot remit Reimbursement to Participant, invalidates the Project Area or this Agreement, or takes any other action which eliminates or reduces the amount of Agency Share paid to the Agency and/or the Reimbursement paid to Participant, and the grounds for the legal determination cannot reasonably be addressed by the Agency, the Agency's obligation to pay to Participant the Reimbursement in accordance with this Agreement will be reduced or eliminated to the extent that the Agency Share is not received by the Agency.

2.8. Dispute over Receipt of Payment of the Reimbursement

If not due to the act, error or omission of the Agency, in the event a dispute arises as to the person or entity entitled to receive all or any portion of the Reimbursement under this Agreement with respect to a given Tax Year due to a claimed assignment or claimed successor-in-interest to such portion of the Reimbursement or otherwise, the Agency may withhold payment of the portion of the Reimbursement in dispute and may refrain from taking any other action required of it by this Agreement with respect to such portion of the Reimbursement until the dispute is resolved either by agreement of the persons or entities claiming to be entitled to such portion of the Reimbursement or by a court of competent jurisdiction and sufficient evidence of such resolution is provided to the Agency. The foregoing provisions of this section with respect to the timing of

the Agency's payment of withheld Reimbursement amounts described above are subject to the provisions hereof 2.2. the Agency shall be entitled to deduct from its payment of the Reimbursement any costs or expenses, including reasonable attorney fees, incurred by the Agency due to the dispute, except in the instance that the dispute arises due to the act, error or omission of the Agency, in which case the Agency shall be responsible for all costs and expenses including reasonable and actual attorney fees.

2.9. Operation of the Project

For purposes of this Agreement, "**Operate**", "**Operated**", "**Operating**", "**Operational**" or "**Operations**" of the Project, all required permits, licenses, or other approvals have been obtained for the person to occupy the Project. For purposes of this Agreement, Participant shall be deemed to have continuously Operated the Project if the foregoing standards are substantially met or exceeded, notwithstanding temporary cessation for inspection, maintenance, repair, replacement, down-time or not using portions of the Project that are not material in size in the ordinary course of business and operations, Events of Force Majeure, and/or damage or destruction.

2.10. Commencement of Operations

For purposes of this Agreement, Operations of the Project shall be deemed to have commenced if the applicable conditions and standards in Section 2.11 are met. If Participant fails to commence Operations of the Project on or before June 30, 2027 for any reason other than Events of Force Majeure, the Agency shall have the right to terminate this Agreement upon written notice to Participant at any time prior to commencement of Operations of the Project, subject, however, to any notice requirements, cure periods, limitations or requirements set forth herein.

2.11. Continuing Operations

Operations of the Project as described in Section 2.11 shall continue throughout the term of this Agreement as set forth in Article 4. If Participant ceases to construct the Income Targeted Housing for a continuous period of more than one year for any reason other than Events of Force Majeure and/or damage or destruction, the Agency shall have the right to terminate this Agreement upon written notice to Participant at any time during such cessation.

2.12. Funding Responsibility

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

3. ADDITIONAL TERMS

3.1. Project

The Participant will be responsible at all times for the Project. 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 Reimbursement to Participant to develop the Project, undertake the investment, and meet the continued Operation requirements with respect to the Project, as contemplated in this Agreement.

3.2. Responsibility for Development Plans and Permits

The Agency shall not be responsible for obtaining permits, licenses, or other approvals for the Project.

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. Indemnification

Participant agrees to and shall indemnify, defend, and hold the Agency and its directors, officers, agents, employees, and representatives harmless from and against all liability, loss, damage, costs, or expenses (including reasonable attorney fees and court costs) arising from or as a result of the death of any person, or any accident, injury, loss, or damage whatsoever caused to any third party person or to the property of any third party person, directly or indirectly caused by any acts done or any errors or omissions of Participant or its directors, officers, agents, employees, consultants, and contractors on the Project except for willful misconduct or negligent acts or omissions of the Agency, the City, or their respective directors, officers, agents, employees, contractors, and consultants. Likewise, the Agency agrees to and shall indemnify, defend, and hold Participant and its directors, officers, agents, employees, and representatives harmless from and against all liability, loss, damage, costs, or expenses (including reasonable attorneys' fees and court costs) arising from or as a result of the death of any person, or any accident, injury, loss, or damage whatsoever caused to any third party person or to the property of any third party person, directly or indirectly caused by any acts done or any errors or omissions of the Agency, the City, or their respective directors, officers, agents, employees, contractors and consultants except for willful misconduct or negligent acts or omissions of Participant or its directors, officers, agents, employees, consultants, and contractors.

3.3.3. 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.

3.3.4. Local, State, and Federal Laws

Participant shall make the Investment and utilize the Project in material conformity with all applicable laws; provided, however, that unless otherwise addressed elsewhere in this Agreement, nothing herein shall limit the right of Participant to properly challenge any such law, the applicability of any such law or allegations of non-compliance with any such law.

3.3.5. Rights of Access

Representatives of the Agency shall have the right of reasonable access to the Project for purposes of inspection, with reasonable and prior written notice (but in no event less than 48 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.

3.3.6. 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.

3.3.7. 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.*

3.3.8. Agency and City Publicity

Throughout the term of this Agreement and notwithstanding any agreements to the contrary, the Agency shall have the right to freely use the following facts and information in Agency and City marketing, promotional, and publicity materials (together, "**Promotional Materials**"): (i) the presence of Participant's operations in the City, (ii) the approximate number of homes in the Project, (iii) Participant's approximate total Investment relating to the Project within the City, (iv) timing of Participant's initial and subsequent investments within the City, (v) the details of the Reimbursement and the expected benefits to the City, (vi) the location of the Project, and (vii) publicly-available information about Participant and its operations and history.

Except as required by the Utah Government Records Access and Management Act, the Agency shall not disclose any nonpublic information about Participant or Participant's operations within the Project as part of any Promotional Materials or press releases.

4. EFFECT AND DURATION OF COVENANTS; TERM OF AGREEMENT

The covenants by either of the Parties established in this Agreement, including but not limited to covenants with respect to conformance with federal, local, and state laws, shall, without regard to technical classification and designation, be binding on such Party and any of its successors and assigns for the benefit of the other Party and its successors and assigns during the term of this Agreement. The term of this Agreement shall commence on the date first written above in this Agreement and, unless earlier terminated in accordance with the terms and provisions of this Agreement, shall end upon the later of: (a) Ten years after the Agency's final payment of all Reimbursement to which Participant is entitled under the terms and provisions of this Agreement (including such terms and provisions that condition the obligation of the Agency to make Reimbursement payments with respect to a given portion of any such Tax Year or limit the amount of Reimbursement the Agency is required to make with respect to a given Tax Year) or (b) upon the written agreement signed by the Parties hereto.

5. DEFAULTS, REMEDIES, AND TERMINATION

5.1. Default

If either the Agency 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**").

5.2. Notice

If a Default under this Agreement occurs, the non-defaulting Party may 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 right or remedy hereunder with respect to such Default 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 any right or remedy hereunder with respect to the other Party's Default 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; provided, however, that this sentence shall not be construed to limit Participant's right to challenge a claim that Participant is obligated to make a payment that is alleged in a Default Notice or the amount claimed in a Default Notice. If the Default is not cured by such Party within thirty (30) days of delivery of the Default Notice or commenced

to be cured if such default is of a nature which cannot be cured within thirty (30) days, such failure to cure shall be an Event of Default.

5.3.1. Rights and Remedies

Upon the occurrence of an Event of Default, the non-defaulting Party shall have, and may pursue, all remedies provided for in this Agreement with respect to such Event of Default and shall have the right to obtain specific performance, unless otherwise limited by the express provisions set forth in this Agreement. Such remedies are cumulative and, unless otherwise limited by the express provisions set forth in this Agreement, 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 the foregoing, if Participant fails to commence or continue Project as contemplated herein or fails to cure or commence to cure, as applicable, a Default within the applicable period described herein such that the applicable Default gives rise to an Event of Default, then in such case Agency's sole remedy shall be to terminate this Agreement upon payment of any amounts that may be due from Participant to the Agency and/or from the Agency to Participant under this Agreement (for clarity, Agency may not commence an action against Participant for specific performance to commence or continue Operations, make the Investment or cure any other Default by Participant Party, provided, however, if Participant (a) commences Operations or resumes Operations after a failure to commence or continue Operations or (b) cures (or, when applicable, commence to cure) a Default that has led to an Event of Default (other than a Default contemplated by clause (a), above) before Agency notifies Participant that it is terminating this Agreement as a result of any of the failures on Participant's part described in clauses (a) and (b), above, Agency may not terminate this Agreement, but Agency may withhold any and all Reimbursement Payments otherwise payable to Participant that relate to or arise out of any Agency Share that Agency receives at any time to the extent such Agency Share is based on property taxes paid or payable with respect to (i) the period prior to commencement of Operations, (ii) the period during which Participant's failure to continue the Operations would give Agency the right not to deliver Reimbursement payments to Participant as a result of such failure or (iii) the period between the time a Default described in clause (b), above, has become an Event of Default and the time Participant has cured or commenced to cure, as applicable, such Default. Additionally, nothing in this Section 5.3.1 or elsewhere in this Agreement will limit Agency's right to assert claims or initiate actions against Participant to collect, or pursue a judgment against Participant for, amounts Participant has failed to pay Agency pursuant to the terms and provisions of 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 Third District Court for the State of Utah located in Salt Lake 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 Participant shall be by personal service upon its Registered Agents, 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.

5.3.2.4. Waiver of Trial by Jury.

EACH PARTY ABSOLUTELY AND UNCONDITIONALLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, ANY AND ALL RIGHTS TO TRIAL BY JURY IN CONNECTION WITH ANY PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY.

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.

6.2. Notices, Demands, and Communications between the Parties

Formal notices, demands, and communications between the Agency and 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 herein. 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 mailing or making physical delivery 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 a 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. No Liability 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 delays or defaults are due to war, insurrection, strikes, lock-outs, riots, floods, earthquakes, fires, casualties, acts of God, acts of a public enemy, terrorist activity, epidemics, 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. 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.

6.8. 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.

6.9. 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.

6.10. 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 for one-half of the mediator's costs. The place of mediation shall be Millcreek, Utah.

6.11. Divisions; Headings; Cross References

The division of this Agreement into Articles, Sections and Subsections and the use of titles, headings or captions in connection therewith are only for 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 and shall have no legal effect in construing the provisions of this Agreement. Unless indicated otherwise, references in this Agreement to Articles, Sections, Schedules and Exhibits are to articles, sections, schedules and exhibits of this Agreement.

6.12. 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 construed against either Party based on which Party drafted the provision in question.

6.13. 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.

6.14. Incorporation of Recitals and Exhibits

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

6.15. Force Majeure; Events of Force Majeure

If, by reason of an Event of Force Majeure (as defined below), Participant is unable in whole or in part to (a) carry out any of its obligation or agreements under this Agreement or (b) cure (or, when applicable, commence to cure) any Default by Participant (whether such Default occurred, or the Agency delivered a Default Notice with respect to such Default, prior to or after an applicable Event of Force Majeure), (i) Participant shall be deemed to not be in Default during the

continuance of such inability and for the duration of any delay caused by such inability (any such period, a “**Force Majeure Period**”) and (ii) the period within which Participant may cure (or, when applicable, commence to cure) a Default before such Default gives rise to an Event of Default shall be extended by a length of time that is equal in duration to the applicable Force Majeure Period. Additionally, if, by reason of an Event of Force Majeure, any of the conditions to the Agency’s delivery of any portion of the Reimbursement with respect to a given period have not been satisfied by the date or within the period contemplated in this Agreement with respect to such condition, the date by which, or the period during which, such unfulfilled condition must be satisfied and all dates and periods relevant to the applicable Reimbursement shall be extended by a length of time that is equal in duration to the applicable Force Majeure Period. The term “**Event of Force Majeure**” as used herein shall mean an event that is either not reasonably foreseeable or anticipated or cannot reasonably be controlled by Participant or, in the case of conditions to delivering Reimbursement payments, that prohibits, precludes, delays or materially interferes with (x) the performance of the relevant agreement or obligation of Participant or with Participant’s satisfaction of any conditions or limitations in this Agreement to the Agency’s delivery of any portion of the Reimbursement with respect to any period (including, without limitation, the development and construction of the new patient tower, making any or all of the renovations or improvements contemplated hereby, making the investment, obtaining or receiving any of the licenses, permits or other approvals contemplated herein or the taking of any other action that may be required to commence or continue Operations of the Project) or (y) the satisfaction of any condition to the Agency’s delivery of any portion of the Reimbursement with respect to any period that is not within the control of Participant (including, without limitation, any of the conditions or limitations included in Sections 2.2.), which events include, without limitation strikes; lockouts; the enactment, imposition or modification of any orders of any governmental body, including the government of the United States, the State of Utah, Salt Lake County, the City or any of their departments, agencies, or officials, or any civil or military authority which occurs after the Effective Date and prohibits, precludes, delays or materially interferes with the performance of the relevant agreement of Participant or the satisfaction of any condition on its part; war; terrorist activities; sabotage; acts of public enemies; insurrections; riots; epidemics; pandemics; fire (whether or not an act of nature); landslides, earthquakes, sinkholes, floods, hurricanes, tornadoes, lightning, other unusually inclement weather or other natural disasters of acts of nature; or explosions; it being agreed that the settlement of strikes, lockouts, and other industrial disturbances shall be entirely within the discretion of Participant, and Participant shall not be required to make settlement of strikes, lockouts, and other industrial disturbances by acceding to the demands of the opposing party or parties when such course is, in the judgment of Participant, unfavorable to Participant.

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. Electronic pdf signatures shall be considered original signatures and 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]

**MILLCREEK COMMUNITY
REINVESTMENT AGENCY**

By: _____
_____, Executive Director

Attest:

By: _____
_____, Secretary

MC29 DEVELOPMENT LLC

DocuSigned by:
Mike Oborn
7353CB26D4F8433...
By: _____
Name: Mike oborn
Title: member

EXHIBIT A
(List of Investments)



**Minutes of the
Millcreek Community Reinvestment Agency
March 23, 2026
7:00 p.m.
Regular Meeting**

The Community Reinvestment Agency of Millcreek, Utah, met in a regular public meeting on March 23, 2026, at City Hall, located at 1330 E. Chambers Avenue, Millcreek, Utah 84106.

PRESENT:

Board Members

Cheri Jackson, Chair
Silvia Catten
Thom DeSirant
Nicole Handy
Bev Uipi

City Staff

Mike Winder, City Manager
Elyse Sullivan, Agency Recorder
Kurt Hansen, Facilities Director
John Brems, City Attorney
Francis Lilly, Assistant City Manager
Lisa Dudley, HR-Finance Director

Attendees: No public attendees

REGULAR MEETING: 7:00 p.m.

TIME COMMENCED: 8:23 p.m.

Chair Jackson called the meeting to order.

1. Public Hearing to Consider Amending the Fiscal Year 2025-2026 Budget

Lisa Dudley explained that the Community Reinvestment Agency operates as a separate entity from the city, requiring its board to review and approve its own budget amendments. The materials presented were a reiteration of slides previously shared with the City Council that night, focusing on amendments to the Millcreek Center CRA budget, largely driven by a bond transaction that was finalized after the original budget had been adopted. As a result, the amendments incorporate updated figures based on the finalized transaction.

For Fund 202 (West Millcreek CRA), the amendment primarily reflects an increase in interest income, with the revised budget based on year-to-date actuals. Fund 205 (Med Tech CRA) shows both the original and amended budgets as zero because the CRA was established after the budget cycle for the 2025 tax year; following receipt of its first tax increment distribution, a budget is now being formally established. All CRA funds are expected to undergo additional amendments once year-end settlement data is received from the county. Additionally, Fund 220, the CRA Aggregate Housing Fund, represents the consolidation of required housing set-asides from each CRA, with designated percentages transferred from individual project funds into a centralized fund to support housing initiatives collectively.

Board Member DeSirant moved to open the public hearing. Board Member Catten seconded the motion. The Recorder called for the vote. Board Member Catten voted yes, Board Member DeSirant voted yes, Board Member Handy voted yes, Board Member Uipi voted yes, and Chair Jackson voted yes. The motion passed unanimously.

There were no comments.

Board Member DeSirant moved to close the public hearing. Board Member Catten seconded the motion. The Recorder called for the vote. Board Member Catten voted yes, Board Member DeSirant voted yes, Board Member Handy voted yes, Board Member Uipi voted yes, and Chair Jackson voted yes. The motion passed unanimously.

2. Discussion and Consideration of Resolution 26-01, Amending the Community Reinvestment Agency (CRA) Annual Budget for the Fiscal Year Beginning July 1, 2025, and Ending June 30, 2026

Board Member Handy moved to approve Resolution 26-01, Amending the Community Reinvestment Agency Annual Budget for the Fiscal Year Beginning July 1, 2025, and Ending June 30, 2026. Board Member DeSirant seconded the motion. The Recorder called for the vote. Board Member Catten voted yes, Board Member DeSirant voted yes, Board Member Handy voted yes, Board Member Uipi voted yes, and Chair Jackson voted yes. The motion passed unanimously.

3. Approval of July 28, 2025 Meeting Minutes

Board Member DeSirant moved to approve the minutes from July 28, 2025. Board Member Catten seconded the motion. Chair Jackson called for the vote. Board Member Catten voted yes, Board Member DeSirant voted yes, Board Member Handy voted yes, Board Member Uipi voted yes, and Chair Jackson voted yes. The motion passed unanimously.

ADJOURNED: Board Member Handy moved to adjourn the meeting at 8:28 p.m. Board Member Uipi seconded. Chair Jackson called for the vote. Board Member Catten voted yes, Board Member DeSirant voted yes, Board Member Handy voted yes, Board Member Uipi voted yes, and Chair Jackson voted yes. The motion passed unanimously.

APPROVED: _____ Date
Cheri Jackson, Chair

Attest: _____
Elyse Sullivan, Agency Recorder