



SPECIAL COMMUNITY DEVELOPMENT AND RENEWAL AGENCY OF HERRIMAN CITY AGENDA

Wednesday, February 24, 2016

NOTICE IS HEREBY GIVEN that the Herriman Community Development and Renewal Agency shall hold a meeting at the Herriman Community Council Chambers, located at 13011 South Pioneer Street (6000 West), Herriman, Utah.

6:45 PM: (OR AS SOON AS POSSIBLE THEREAFTER)

1. CALL TO ORDER

- A. Motion for review and outline the finalization process to approve the minutes of February 24, 2016

2. DISCUSSION AND ACTION ITEMS

- A. Discussion and consideration of a resolution approving an Interlocal Cooperative Agreement with Central Utah Water Conservancy District - John Brems, City Attorney

3. ADJOURNMENT

In accordance with the Americans with Disabilities Act, Herriman City will make reasonable accommodation for participation in the meeting. Request assistance by contacting Herriman City at (801) 446-5323, providing at least 48 hours advance notice of the meeting.

ELECTRONIC PARTICIPATION

Board Members may participate electronically via telephone, Skype, or other electronic means during this meeting.

Certificate of Posting

I, Jackie Nostrom, the duly appointed, qualified, and acting City Recorder of Herriman City, Utah, do hereby certify that the above and foregoing is a full, true and correct copy of the agenda; it was emailed to at least one newspaper of general circulation within the geographic jurisdiction of the public body. The agenda was also posted at the principal office of the public body. Also posted on the Utah State Public Notice Website <http://www.utah.gov/pmn/index.html> and on Herriman City's website at www.herriman.org

Posted and Dated this 22nd day of February 2016

Jackie Nostrom, CMC
City Recorder



STAFF REPORT

DATE: February 24, 2016
TO: Community Development and Renewal Agency Board
FROM: John Brems, City Attorney
SUBJECT: Interlocal Cooperative Agreement with Central Utah Water

RECOMMENDATION:

Approval of the Interlocal Agreements with Central Utah Water.

BACKGROUND:

Pursuant to Utah Code Ann. § 17C-4-101 et seq. the Agency is authorized to negotiate with a taxing entity for the Agency to receive all or a portion of the taxing entity tax increment for the purpose of providing funds to carry out an adopted community development project area plan and the taxing entities under the Act and the Agency has negotiated with them to receive a portion of shared tax increments the terms of which are set forth in the attached Interlocal agreements.

**COMMUNITY DEVELOPMENT AND RENEWAL AGENCY OF HERRIMAN CITY
RESOLUTION NO. _____**

**A RESOLUTION OF THE COMMUNITY DEVELOPMENT AND
RENEWAL AGENCY OF HERRIMAN CITY APPROVING AN INTELLOCAL
COOPERATIVE AGREEMENT WITH CENTRAL UTAH CONSERVANCY
DISTRICT**

WHEREAS, the Redevelopment Agency of Herriman City (the “Agency”) met in special open and public meeting on February 24, 2016, to consider, among other things, approving an interlocal cooperative agreement with the Central Utah conservancy District; 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 Development and Renewal Agencies Act and any subsequent, replacement or amended law or act (the “Act”); and

WHEREAS, pursuant to Section 17C-4-101 et seq. of the Act the Agency is authorized to negotiate with a taxing entity for the Agency to receive all or a portion of the taxing entity tax increment for the purpose of providing funds to carry out an adopted community development project area plan; and

WHEREAS, Central Utah Water Conservancy District is a taxing entity under the Act and the Agency has negotiated with Central Utah Water Conservancy District to receive a portion of property tax increment the terms of which are set forth in the attached interlocal agreement (“Interlocal”).

NOW THEREFORE BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE REDEVELOPMENT AGENCY OF HERRIMAN CITY that the Interlocal be approved, that the Chairperson and Secretary are hereby authorized and directed to execute and deliver the same, and that the Secretary is hereby authorized and directed provide notice as set forth in Section 17C-4-402 of the Act.

ADOPTED by the Board of Directors of the Redevelopment Agency of Herriman City, this__ day of January 2016.

HERRIMAN

ATTEST:

Carmen Freeman, Chairperson

Jackie Nosrtom, Secretary

**INTERLOCAL AGREEMENT
BETWEEN THE COMMUNITY DEVELOPMENT AND RENEWAL AGENCY OF
HERRIMAN AND CENTRAL UTAH WATER CONSERVANCY DISTRICT**

THIS INTERLOCAL AGREEMENT is entered into as of the 27 day of January, 2016, by and between the **COMMUNITY DEVELOPMENT AND RENEWAL AGENCY OF HERRIMAN** (the “**Agency**”) and the **CENTRAL UTAH WATER CONSERVANCY DISTRICT** (the “**District**”) (collectively, the “**Parties**”).

RECITALS

A. The Agency was created pursuant to the provisions of the Limited Purpose Local Government Entities – Community Development and Renewal Agencies Act, Title 17C of the Utah Code (the “**Development Act**”), and is authorized thereunder to conduct urban renewal, economic development, and community development activities within Herriman, Utah, as contemplated by the Development Act; and

B. Pursuant to Resolution No. R2015-01 adopted by the Agency on January 28, 2015, the Agency authorized steps to be taken for the creation of the Herriman Business Park Community Development Project Area (the “**Project Area**”) and has prepared a draft community development project area plan for the Project Area, a copy of which is attached hereto as exhibit “A” and incorporated herein by this reference (referred to in this Interlocal Agreement as the “**Project Area Plan**,” which includes the legal description and a map of the Project Area), pursuant to which the Agency desires to encourage, promote and provide for the development of a business center in the Project Area; and

C. The Agency has established the Project Area through adoption of the proposed Project Area Plan; and

D. The Agency intends to issue one or more bonds to finance the construction of certain infrastructure improvements for the Project Area; and

E. The District has determined that it is in the best interests of the District to provide certain financial assistance through the use of Tax Increment (as defined below) in connection with the development of the Project Area; and

F. The Agency anticipates providing tax increment (as defined in Utah Code Ann. § 17C-1-102(47) (hereinafter “**Tax Increment**”)) from the Project Area, to assist in the development of the Project Area and for funding of the Project Area Plan; and

G. Utah Code Ann. § 17C-4-201(1) authorizes the District to consent to the payment by Salt Lake County (the “**County**”) to the Agency certain Tax Increment from the Project Area attributable to the District’s tax levy, for the purposes set forth herein; and

H. Utah Code Ann. § 11-13-215 further authorizes the District to share its tax and other revenues with the Agency; and

I. In order to facilitate development of and in the Project Area and to provide funds to carry out the Project Area Plan, the District desires to consent that the Agency receive certain Tax Increment from the Project Area attributable to the District's tax levy, in accordance with the terms of this Agreement; and

J. This Agreement is entered into by the Parties pursuant to the authority of applicable State law, including the Development Act, and the Interlocal Cooperation Act, Utah Code Ann. § 11-13-101 *et seq.*, as amended (the "**Cooperation Act**").

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

1. **District's Consent.**

a. The Parties agree that for purposes of calculation of the District's share of Tax Increment from the Project Area to be paid by the County to the Agency pursuant to this Agreement, the base year shall be 2014, and the base taxable value shall be the 2014 assessed taxable value of all real and personal property within the Project Area. Based upon review of the Salt Lake County and Utah State Tax Commission records, the Parties believe that the 2014 base taxable value of the Project Area is approximately \$ 384,642 which base taxable value is subject to adjustment by law in accordance with the provisions of the Development Act. Pursuant to Section 17C-4-201 of the Development Act and Sections 11-13-202.5 and 11-13-215 of the Cooperation Act, the District hereby agrees and consents that for a period of twenty (20) years the Agency shall receive and be paid seventy five percent (75%) of the tax increment attributable to the District's tax levy on both real and personal property within the Project Area (the "**District Share**"), for the purpose of providing funds to the Agency to carry out the Project Area Plan. Said twenty (20) year period shall commence with any tax year from 2016 through 2019 at the Agency's election and determination as evidenced by a written notice to the District and to the Salt Lake County Auditor and Assessor; provided, however, that any portion of the District's taxes resulting from an increase in the District's tax rate pursuant to applicable hearing procedures (truth in taxation), that occurs after the Effective Date (defined below) of this Agreement, shall not be paid to the Agency unless the District specifically so consents in writing pursuant to an amendment to this Agreement or in a separate agreement. For the twenty (20) year period described above, the remaining 25% of the Tax Increment attributable to the District's tax levy on both real and personal property within the Project Area shall be paid by Salt Lake County to the District. All tax increment from the Project Area attributable to the District's tax levy for tax years beyond the twenty (20) year period described above shall be paid by Salt Lake County to the District. The calculation of the District's portion of annual Tax Increment to be paid by the County to the Agency shall be made as required by Utah Code Ann. § 17C-1-102(47) (a), using the then current tax levy rate (subject to the limitation set forth above regarding increases in the District's??? tax rate pursuant to applicable hearing procedures).

b. Salt Lake County shall pay directly to the Agency the District Share in accordance with Utah Code Ann. § 17C-4-203 for the twenty (20) year period described in Section 1.a. above.

c. Notwithstanding the foregoing, if the Agency receives in less than the specified twenty (20) years Tax Increment from the Project Area sufficient to retire, pay, or otherwise satisfy all of the payment obligations of the Agency with regard to the Project Area, including, but not limited to, debt service on any bonds issued to finance Project Area costs and the maximum amount the Agency has agreed to contribute to the cost of infrastructure, the Agency will either (i) cease collecting the District Share under this Agreement, or (ii) renegotiate this Agreement with the District to provide for the payment of the District Share for the remainder of all or a portion of the originally contemplated twenty (20) year term of this Agreement. It is the intent of the Parties that the payment and use of Tax Increment from the Project Area for eligible Project Area costs will not extend over a period longer than twenty (20) years.

2. **Authorized Uses of Tax Increment.** Except as otherwise provided in this Agreement, the Parties agree that the Agency may apply the District Share to the payment of any improvements of the Project Area, as described herein and/or as contemplated in the Project Area Plan, including, but not limited to financing the cost of public infrastructure and other improvements located within or benefitting the Project Area, site preparation, and administrative costs, as authorized by the Development Act.

3. **No Third Party Beneficiary.** Nothing in this Agreement shall create or be read or interpreted to create any rights in or obligations in favor of any person or entity not a Party to this Agreement. Except for the Parties to this Agreement, no person or entity is an intended third party beneficiary under this Agreement.

4, **Due Diligence.** Each of the Parties acknowledges for itself that it has performed its own review, investigation, and due diligence regarding the relevant facts concerning the Project Area and Project Area Plan and expected benefits to the community and to the Parties, and each of the Parties relies on its own understanding of the relevant facts and information, after having completed its own due diligence and investigation.

5. **Interlocal Cooperation Act.** In satisfaction of the requirements of the Cooperation Act in connection with this Agreement, the Parties agree as follows:

a. This Agreement shall be authorized and adopted by resolution of the legislative body of each Party pursuant to and in accordance with the provisions of Utah Code Ann. § 11-13-202.5;

b. This Agreement shall be reviewed as to proper form and compliance with applicable law by a duly authorized attorney on behalf of each Party pursuant to and in accordance with the Utah Code Ann. § 11-13-202.5(3);

c. A duly executed original counterpart of this Agreement shall be filed immediately with the keeper of records of each Party pursuant to Utah Code Ann. § 11-13-209;

d. The Chair of the Agency is hereby designated the administrator for all purposes of the Cooperation Act, pursuant to Utah Code Ann. § 11-13-207;

e. The term of this Agreement shall commence on the date of full execution of this Agreement by both Parties and shall continue through the date on which all of the District Share has for the 20-year period been paid to and disbursed by the Agency as provided for herein or the Agency ceases to receive such Tax Increment pursuant to Section 1.c. hereof but in any event unless amended this Area shall terminate no later than January 1, 2039;

f. Following the execution of this Agreement by both Parties, the Agency shall cause a notice regarding this Agreement to be published on behalf of both of the Parties in accordance with Utah Code Ann. § 11-13-219 and on behalf of the Agency in accordance with § 17C-4-202;

g. The Parties agree that they do not, by this Agreement, create an interlocal entity;

h. There is no financial or joint or cooperative undertaking and no budget shall be established or maintained;

i. No real or personal property will be acquired, held or disposed of or used in conjunction with a joint or cooperative undertaking.

6. **Modification and Amendment.** Any modification of or amendment to any provision contained herein shall be effective only if the modification or amendment is in writing and signed by both Parties. Any oral representation or modification concerning this Agreement shall be of no force or effect.

7. **Further Assurance.** Each of the Parties hereto agrees to cooperate in good faith with the other, to execute and deliver such further documents, to adopt any resolutions, to take any other official action, and to perform such other acts as may be reasonably necessary or appropriate to consummate and carry into effect the transactions contemplated under this Agreement.

8. **Governing Law.** This Agreement shall be governed by, and construed and interpreted in accordance with, the laws of the State of Utah.

9. **Interpretation.** The terms “include,” “includes,” “including” when used herein shall be deemed in each case to be followed by the words “without limitation.”

10. **Severability.** If any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction or as a result of future legislative action, and if the rights or obligations of any Party hereto under this Agreement will not be materially and adversely affected thereby,

a. such holding or action shall be strictly construed;

b. such provision shall be fully severable;

c. this Agreement shall be construed and enforced as if such provision had never comprised a part hereof;

d. the remaining provisions of this Agreement shall remain in full force and effect and shall not be affected by the invalid or unenforceable provision or by its severance from this Agreement; and

e. in lieu of such illegal, invalid, or unenforceable provision, the Parties hereto shall use commercially reasonable efforts to negotiate in good faith a substitute, legal, valid and enforceable provision that most nearly effects the Parties' intent in entering into this Agreement.

11. **Incorporation of Recitals.** The recitals set forth above are hereby incorporated by reference as part of this Agreement.

12. **Effective Date.** Payment of Tax Increment under this Agreement is conditioned upon adoption by the Agency of the Project Area Plan, and this Agreement shall become effective upon the publication of the summary of this Agreement as provided by law.

13. **Entire Agreement.** This Agreement and its exhibits constitute the entire agreement between the Parties hereto pertaining to the subject matter hereof, and the final, complete and exclusive expression of the terms and conditions thereof. All prior agreements, representations, negotiations and understandings of the Parties hereto, oral or written, express or implied, are hereby superseded and merged herein.

14. **Waivers.** No waiver of any breach of any covenant or provision herein contained shall be deemed a waiver of any preceding or succeeding breach thereof or of any other covenant or provision herein contained. No extension of time for performance of any obligation or act shall be deemed an extension of the time for performance of any other obligation or act.

15. **Assignment.** No Party may assign its rights, duties or obligations under this Agreement without the prior written consent first being obtained from all Parties ENTERED into as of the day and year first above written.

**COMMUNITY DEVELOPMENT AND
RENEWAL AGENCY OF HERRIMAN**

By: _____
Chair

Attest:

By: _____
Secretary

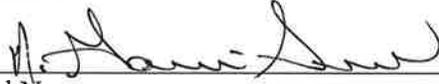
Attorney Review for the Agency:

The undersigned, as counsel for the Community Development and Renewal Agency of Herriman, has reviewed the foregoing Interlocal Agreement and finds it to be in proper form and in compliance with applicable state law.

Attorney for Community Development and
Renewal Agency of Herriman

ADDITIONAL SIGNATURES TO INTERLOCAL AGREEMENT

**CENTRAL UTAH WATER CONSERVANCY
DISTRICT**

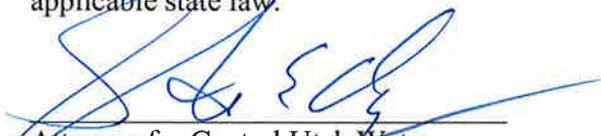
By: 
Printed Name: _____
Title: _____

ATTEST:



Attorney Review for the District:

The undersigned, an attorney for the Central Utah Water Conservancy District, has reviewed the foregoing Interlocal Agreement and finds it to be in proper form and in compliance with applicable state law.


Attorney for Central Utah Water
Conservancy District

RESOLUTION NO. 2016-01-01

RESOLUTION OF THE BOARD OF TRUSTEES OF THE CENTRAL UTAH WATER CONSERVANCY DISTRICT APPROVING AN INTERLOCAL AGREEMENT BETWEEN THE CENTRAL UTAH WATER CONSERVANCY AND THE COMMUNITY DEVELOPMENT AND RENEWAL AGENCY OF HERRIMAN CITY CONSENTING TO THE USE OF TAX INCREMENT

WHEREAS, after careful analysis and consideration of relevant information, the Central Utah Water Conservancy District (the “**District**”), and the Community Development and Renewal Agency of Herriman City (the “**Agency**”), desire to approve and enter into the Interlocal Agreement (the “**Interlocal Agreement**”), attached hereto as EXHIBIT “A.” whereby the District consents to the Agency receiving certain property tax increment from the Herriman Business Center Community Development Project Area, attributable to the District’s tax levy, and that such tax increment be used to fund the Project Area and the Project Area Plan for the Herriman Business Center Community Development Project Area; and

WHEREAS, Section 11-13-202.5, Utah Code Annotated, 1953 as amended, requires certain Interlocal agreements be approved by resolution of the legislative body, governing board, council or other governing body of a public agency; and

WHEREAS, the Board of Trustees of the District desires to approve the Interlocal Agreement by adoption of this Resolution.

NOW, THEREFORE, IT IS HEREBY RESOLVED BY THE BOARD OF TRUSTEES OF THE CENTRAL UTAH WATER CONSERVANCY DISTRICT, as follows:

1. The Interlocal Agreement is hereby approved and the Board Chair is directed to execute and deliver the Interlocal Agreement.
2. The Interlocal Agreement is effective immediately upon execution.
3. Pursuant Section 11-13-202.5, Utah Code Annotated, 1953 as amended, the Interlocal Agreement has been or shall be submitted to legal counsel of the District for review and signature indicating approval as to proper form and compliance with applicable law.
4. Pursuant to Section 11-13-209, Utah Code Annotated, 1953 as amended, a duly executed original counterpart of the Interlocal Agreement has been or shall be filed immediately with the keeper of records of the District.
5. The District Secretary is hereby directed to publish or cause to be published a notice of the Interlocal Agreement in conformance with the requirements of Section 11-13-219 of the Interlocal Cooperation Act, and make a copy of the Interlocal Agreement available for public

inspection and copying at the District's offices during regular business hours for a period of at least 30 days following publication of said notice.

6. This Resolution shall become effective immediately.

ADOPTED by the Board of Trustees of the Central Utah Water Conservancy District this 27th day of January, 2016.

**BOARD OF TRUSTEES, CENTRAL UTAH
WATER CONSERVANCY DISTRICT**

By: 
Gawain Snow, Board Chair

ATTEST:


Secretary