Next Item

COMMUNITY DEVELOPMENT AND RENEWAL AGENCY OF HERRIMAN CITY SPECIAL MEETING AGENDA

Wednesday, September 08, 2021

NOTICE IS HEREBY GIVEN that the Herriman Community Development and Renewal Agency of Herriman City shall assemble for a
meeting in the City Council Chambers, located at
5355 WEST HERRIMAN MAIN STREET

7:00 PM: (OR AS SOON AS POSSIBLE THEREAFTER)

1. **Call to Order**
   1.1. Motion for review and outline of the finalization process to approve the minutes of September 9, 2021

2. **Discussion and Action Items**
   2.1. Resolution Approving an Interlocal Agreement between the Community Development and Renewal Agency of Herriman and Salt Lake County in the Herriman Innovation District Community Reinvestment Project Area - Chase Andrizzi, City Attorney
   SR_HerrimanInnovationDistrict.pdf

   2.2. Discussion of a Participation Agreement benefitting one or more end users of the proposed Automall - Chase Andrizzi, City Attorney
   SR_AutoMallParticipationAgreement.pdf

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 and provide at least 48 hours advance notice of the meeting.

ELECTRONIC PARTICIPATION: Members of the City Council may participate electronically via telephone, Skype, or other electronic means during this meeting.

PUBLIC COMMENT POLICY AND PROCEDURE: The purpose of public comment is to allow citizens to address items on the agenda. Citizens requesting to address the Council will be asked to complete a written comment form and present it to Jackie Nostrom, City Recorder. In general, the chair will allow an individual two minutes to address the Council. A spokesperson, recognized as representing a group in attendance, may be allowed up to five minutes. At the conclusion of the citizen comment time, the chair may direct staff to assist the citizen on the issue presented; direct the citizen to the proper administrative department(s); or take no action. This policy also applies to all public hearings. Citizens may also submit written requests (outlining their issue) for an item to be considered at a future council meeting. The chair may place the item on the agenda under citizen comments; direct staff to assist the citizen; direct the citizen to the proper administrative departments; or take no action.

I, Jackie Nostrom, certify the foregoing agenda was emailed to at least one newspaper of general circulation within the geographic jurisdiction of the public body, at the principal office of the public body, on the Utah State Public Notice website www.utah.gov/pmn/index.html and on Herriman City's website at www.herriman.org, Posted and dated this 2nd day of September, 2021. /s/ Jackie Nostrom, City Recorder

STAFF REPORT

DATE: August 23, 2021

TO: Community Development and Renewal Agency Board Members

FROM: Chase A. Andrizzi, City Attorney

SUBJECT: Interlocal Agreement between the Community Development and Renewal Agency of Herriman and Salt Lake County in the Herriman Innovation District Community Reinvestment Project Area.

RECOMMENDATION

Approve the Interlocal Agreement between the Community Development and Renewal Agency ("CDRA") of Herriman and Salt Lake County in the Herriman Innovation District Community Reinvestment Project Area.

ISSUE BEFORE COUNCIL

Should the CDRA approve the Interlocal Agreement between Salt Lake County and the CDRA for payment of County-portion property tax to the CDRA.

BACKGROUND/SUMMARY

The Herriman Innovation District Community Reinvestment Area (CRA) was approved by the City Council, and CDRA on June 26, 2019. This CRA was approved in an effort to develop the Herriman Innovation District. The property tax will be used to reimburse for the public infrastructure required to support the development.

DISCUSSION

This is the final interlocal agreement to be approved in this project area. All other participating taxing entities have been approved and triggered for the tax increment. The County has agreed to the following points for this particular Interlocal Agreement:

- 15-year term starting in 2022.
- *Maximum* incentive is the greater of the following two options:
  - $437,901
  - The combined contribution of the City and HCSEA but no greater than $832,352.

ALTERNATIVES

The County has established the amount of property tax that they will commit to the CDRA under this Interlocal Agreement (see bullet points above). Accordingly, the CDRA has two options:

- EXECUTE THE AGREEMENT and receive the property tax incentives from the County as identified in the Interlocal Agreement
- DO NOT EXECUTE THE AGREEMENT in which case there will not be any property tax contributions from the County. The agreements with the other agencies will remain in effect.

FISCAL IMPACT

The fiscal impact to the City over 15 years is $348,933, which is 100% of the City's property tax generated in the project area.

HERRIMAN, UTAH
RESOLUTION NO. 21.__

A RESOLUTION OF THE HERRIMAN COMMUNITY DEVELOPMENT AND RENEWAL AGENCY BOARD ADOPTING AND APPROVING AN INTERLOCAL AGREEMENT BETWEEN THE BOARD AND SALT LAKE COUNTY SETTING FORTH THE COUNTY'S PARTICIPATION IN THE HERRIMAN INNOVATION DISTRICT COMMUNITY REINVESTMENT PROJECT AREA.

WHEREAS, the Community Development and Renewal Agency Board ("CDRA") met in regular meeting on September 8, 2021 to consider, among other things, adopting and approving an interlocal cooperation agreement between the CDRA and Salt Lake County; and

WHEREAS, CDRA and Salt Lake County are each public agencies, authorized under Utah Code Ann. § 11-13-202 to enter into agreement with one another for joint or cooperative; and

WHEREAS, the CDRA is a community reinvestment agency created and existing under the Limited Purpose Local Government Entities – Community Reinvestment Agency Act, Utah Code Ann. §§ 17C-1-101 to -5-406 (the "Act"); and

WHEREAS, the CDRA is authorized under the Act to conduct urban renewal, economic development, community development, and community reinvestment activities within Herriman City; and

WHEREAS, pursuant to Resolution No. R2019-09 adopted by the CDRA on June 26, 2019 and Ordinance 2019-16 adopted by the Herriman City Council on June 26, 2019, the Herriman Innovation District Community Development Area Plan (the "Project Area Plan") has been approved; and

WHEREAS, under the Project Area Plan, the CDRA desires to increase available job opportunities near population centers in the southwest area of the County; and

WHEREAS, Utah Code Ann. § 17C-5-204 authorized the County, as a taxing entity, to consent to the payment to the CDRA of its share of tax increment generated from the Project Area for the purposes set forth in the Project Area Plan; and

WHEREAS, the County and the Agency wish to enter into an Interlocal Cooperation Agreement to set forth the County's contribution of tax increment; and

WHEREAS, both the CDRA and the County have determined that entering in this Interlocal Agreement is in the best interests of each individual party and that the general public will be served by execution of the attached Interlocal Cooperation Agreement.

NOW, THEREFORE, **BE IT RESOLVED** by the Board of the Herriman Community Development and Renewal Agency that the attached Interlocal Cooperation Agreement Between the CDRA and Salt Lake County is hereby approved; and the Director David Watts is authorized to execute the same.

This resolution assigned no. 21______, shall take effect immediately upon passage and acceptance as provided herein.

PASSED AND APPROVED by the Herriman Community Development and Renewal Agency in Herriman City, Utah, this 8th day of September 2021.

HERRIMAN CDRA

____
David Watts, Executive Director

ATTEST:

____
Jackie Nostrom, MMC
CDRA Clerk

County Contract No.

____

DA Log No.

INTERLOCAL COOPERATION AGREEMENT
BETWEEN SALT LAKE COUNTY AND
THE COMMUNITY DEVELOPMENT AND RENEWAL AGENCY OF HERRIMAN

[Herriman Innovation District Community Reinvestment Project Area]

THIS INTERLOCAL COOPERATION AGREEMENT (this "Agreement") is entered into between **SALT LAKE COUNTY**, a body corporate and politic of the State of Utah (the "County"), and the **COMMUNITY DEVELOPMENT AND RENEWAL AGENCY OF HERRIMAN**, a public entity (the "Agency") (collectively, the "Parties").

RECITALS

WHEREAS, the County and the Agency are "public agencies" as defined by the Utah Interlocal Cooperation Act, Utah Code Ann. §§ 11-13-101 *et seq*. (the "Interlocal Act"), and, as such, are authorized by the Interlocal Act to enter into this Agreement to act jointly and cooperatively in a manner that will enable them to make the most efficient use of their resources and powers; and

WHEREAS, the Agency is a community reinvestment agency created and existing under the Limited Purpose Local Government Entities – Community Reinvestment Agency Act, Utah Code Ann. §§ 17C-1-101 *et seq.*, (the "Act"). The Agency is authorized under the Act to conduct urban renewal, economic development, community development, and community reinvestment activities within Herriman City, Utah (the "City"); and

WHEREAS, pursuant to Resolution No. R2019-09 adopted by the Agency on June 26, 2019 and Ordinance 2019-16 adopted by the Herriman City Council on June 26, 2019, the Herriman Innovation District Community Development Area Plan (the "Project Area Plan") has been approved, a copy of which is attached hereto as **Exhibit A**, which includes the legal description and a map of Herriman Innovation District Community Development Area (the "Project Area"); and

WHEREAS, under the Project Area Plan, the Agency desires to increase available job opportunities near population centers in the southwest area of the County;

WHEREAS, the County, as a taxing entity, now desires to consent to the Agency receiving certain tax increment (as defined in 17C-1-102(61) of the Act) ("Tax Increment") created by development activities in the Project Area to assist in development as set forth in the Project Area Plan; and

WHEREAS, section 17C-5-204 of the Act authorizes the County to consent to the payment to the Agency of its share of Tax Increment generated from the Project Area for the purposes set forth in the Project Area Plan.

AGREEMENT

NOW, THEREFORE, for good and valuable consideration, the Parties agree as follows:

1. Base Year and Base Taxable Value. The calculation of the annual Tax Increment shall be made using the 2018 tax year (the "Base Tax Year") and the base taxable value shall be the assessed taxable value of all Property within the Project Area for the Base Tax Year, which is $696,711 (the **"**Base Taxable Value**"**).

2. Budget. Pursuant to Subsection 17C-5-204(6)(c) of the Act, the County's portion of tax increment in the Project Area budget is reflected in **Exhibit B**, which is attached hereto and incorporated by reference.

3. Payment of Tax Increment and Collection Period. The County hereby agrees and consents that the County shall pay 100% of the County's portion of the Tax Increment from the Project Area (the "County's Contribution"), subject to the Annual Mitigation Payment and the Contribution Cap defined below. The County's Contribution shall be paid for a term of fifteen (15) years beginning with the 2022 tax year. Pursuant to Subsection 17C-5-204(6)(d) of the Act, the County is prohibited from proportionately reducing the Tax Increment the County consents to pay to the Agency by the amount of any direct expenditures the County makes within the Project Area for the benefit of the Project Area or the Agency. This Agreement does not include a contribution of sales and use tax, and the Agency shall not seek a contribution of sales and use tax from the County with respect to the Project Area.

(a) Annual Mitigation Payment. Notwithstanding Section 3 of this Agreement, the Parties hereby agree that for each tax year during the collection period, the Agency shall transfer an amount equal to 25% of the County's Contribution back to the County (the "Annual Mitigation Payment"). The Agency's transfer of the Annual Mitigation Payment to the County each year shall occur no later than three months following the Agency's receipt of County's Contribution from the Salt Lake County Treasurer. The amount equal to the County's Contribution less the Annual Mitigation Payment is hereinafter referred to as the "Agency's Share." However, the Parties agree that if this Annual Mitigation Payment in this Subsection 3(a) is ever held to be invalid or unenforceable by a court of competent jurisdiction or as a result of legislative or administrative action, or if the County ever provides a written notice to the Agency calling for the elimination of the Annual Mitigation Payment in this Subsection (3)(a) from the Agreement for any other reason, then the Parties agree that, in lieu of the Annual Mitigation Payment under this Subsection 3(a) and starting with the next tax year for which County Tax Increment has not already been paid to the Agency, the County's Contribution under Section (3) will be reduced by 25% — in addition to any reduction for the County's administration and operations — and that the Salt Lake County Treasurer shall pay the remainder of County's Tax Increment directly to the County. Such reductions in the County's Contribution should be adjusted proportionally to any increases in the Agency's

Share as provided under Sections 5 and 6 of this Agreement. Furthermore, if a reduction to the County's Contribution is triggered under this Subsection 3(a), the Agency agrees that it will not seek repayment of and will waive any claim to any portion of the Annual Mitigation Payment that has already been paid to the County.

(b) Contribution Cap. The County's Contribution shall not exceed the greater of $437,901 or the combined contribution of Herriman City and the Herriman City Safety Enforcement Area, but in no event shall the amount exceed $832,352 ("Contribution Cap").

(c) Administrative Fees. The administrative fee paid to the Agency is limited to 2.9% of the County's Contribution. Three percent of the County's Contribution shall be paid annually to the County's Office of Regional Development for costs associated with evaluating the County's participation in the Project Area and ongoing administration related to this Agreement.

(d) Allowable Uses. The County's Contribution may only be for improvements to the sewer line found within the Project Area, the County's Administrative Fee, the Agency's administrative costs directly related to the administration of the Project Area, and for the Housing Set Aside as set forth herein.

4. Representations. To induce the County to execute and perform this Agreement, the Agency hereby represents to the County as follows:

(a) Local Community Contribution. The Agency and the City have entered into an interlocal cooperation agreement wherein the City has agreed to contribute 100% of its Tax Increment generated in the Project Area to the Agency for the duration of the collection period.

(b) Sufficiency of Tax Increment. To the best of the Agency's knowledge, the amount of Tax Increment that the Agency expects to receive from the County is sufficient to carry out and accomplish some of the objectives of the Project Area Plan.

(c) Legal Requirements. To the best of the Agency's knowledge, the Agency is not in violation of any legal requirements pursuant to this Agreement and no violation of legal requirements exist with respect to the establishment of the Project Area.

(d) No Violation of Other Agreements. To the best of the Agency's knowledge, the consummation of the transactions contemplated by this Agreement and the performance of this Agreement will not result in any breach of, or constitute a default under, any agreement or other instrument pertaining to this Project Area.

5. Effect of Disbursement of County's Contribution to Agency. The Agency agrees that its receipt of the County's Contribution under this Agreement each year during the collection period, constitutes an affirmation that the representations of this Section remain true and correct as of the date thereof, unless the County is notified to the contrary prior to the Agency's receipt of County Contribution.

6. Affordable Housing Set Aside – Agency Obligation. Agency agrees to set aside at least 10% of the Agency Share for affordable housing. The Agency agrees to encumber its affordable housing set-aside increment received from the County, within a reasonable amount of time but in no case any later than 7 years after receipt, for projects that satisfy Section 17C-1-412 of the Act. The objective of this provision is to use the County's Contribution to create an increase in affordable housing within the Project Area and not to replace affordable housing already available.

7. Interlocal Cooperation Act. In satisfaction of the requirements of the Interlocal 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 Section 11-13-202.5 of the Interlocal Act.

(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 Section 11-13-202.5(3) of the Interlocal Act.

(c) Except as otherwise specifically provided herein, each Party shall be responsible for its own costs of any action taken pursuant to this Agreement, and for any financing of such costs.

(d) A duly executed original counterpart of this Agreement shall be filed immediately with the keeper of records of each Party pursuant to Section 11-13-209 of the Interlocal Act.

(e) No separate legal entity is created by the terms of this Agreement. The Executive Director of the Agency is hereby designated the administrator for all purposes of the Interlocal Act, pursuant to Section 11-13-207 of the Interlocal Act.

(f) Following the execution of this Agreement by each of the Parties, each Party shall cause a notice regarding this Agreement to be published in accordance with Section 11-13-219 of the Interlocal Act.

(g) No real or personal property shall be acquired jointly by the Parties as a result of this Agreement. To the extent a Party acquires, holds, or disposes of any real or personal property for use in the joint or cooperative undertaking contemplated by this Agreement, such Party shall do so in the same manner that it deals with other property of such Party.

(h) The cooperative undertaking set forth in this Agreement shall be administered by the Agency's Executive Director and the County's Director of Economic Development, who may delegate the administration of this Agreement to the extent allowed by law and the rules and regulations of their respective organizations.

8. Notices. All notices, communications, requests, and waivers required under this Agreement must be in writing. All notices shall be given (i) by delivery in person, (ii) by a nationally recognized next day courier service; or (iii) by first class, registered or certified mail, postage prepaid. Notices may also be given by electronic mail, provided that any such communication is concurrently given by one of the methods set forth in the preceding sentence. All notices shall be addressed in each case as follows (or to such other address as either party may specify in writing from time to time):

To Agency:	Herriman Community Development and Renewal Agency Attn: Executive Director 5355 West Herriman Main Street Herriman, Utah 84096
With a copy to:	Herriman City Attorney's Office Attn: Chase Andrizzi 5355 West Herriman Main Street Herriman, Utah 84096
To County:	Salt Lake County Office of Regional Development 2001 South State Street, S2-100 PO Box 144575 Herriman City, Utah 84114-4575 Attn: Director
With a copy to:	Office of the District Attorney 35 East 500 South Herriman City, Utah 84111 Attn: Mr. Jason Rose

9. Event of Default. An "Event of Default" is the failure of a Party to comply with any of the material terms, conditions, covenants, or provisions of this Agreement, or any action or activity of the Agency using the County's Contribution within the Project Area that, materially deviates from the actions or activities contemplated by the Project Area Plan or the Project Area Budget, that is not fully cured by such Party on or before the expiration of a sixty (60) day period (or, if the other Party approves in writing—which approval shall not be unreasonably withheld, conditioned or delayed—such longer period as may be reasonably required to cure a matter which, due to its nature, cannot reasonably be cured within 60 days) commencing upon the non-defaulting Party's written notice to the defaulting Party of the occurrence thereof. Upon the occurrence of any Event of Default, the non-defaulting Party may, in its sole discretion, pursue all remedies conferred by law or equity or other provisions of this Agreement.

10. Liability. Both Parties are governmental entities under the Governmental Immunity Act of Utah, Utah Code Ann. §§ 63G-7-101 et seq. (the "Immunity Act"). Neither Party waives any defenses or limits of liability available under the Immunity Act and other applicable law. Both

Parties maintain all privileges, immunities, and other rights granted by the Immunity Act and all other applicable law.

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

12. Entire Agreement. This Agreement and the exhibits attached hereto constitute the entire agreement between the Parties pertaining to the subject matter hereof, and all prior agreements, representations, negotiations and understandings of the Parties hereto, oral or written, express or implied, are hereby superseded by this Agreement.

13. No Waiver. The failure of either Party at any time to require performance of any provision or to resort to any remedy provided under this Agreement will in no way affect the right of that Party to require performance or to resort to a remedy at any time thereafter. Additionally, the waiver of any breach of this Agreement by either Party will not constitute a waiver as to any future breach.

14. No Obligations to Third Parties. The Parties agree that the Agency's obligations under this Agreement are solely to the County and that the County's obligations under this Agreement are solely to the Agency. The Parties do not intend to confer any rights to third parties unless otherwise expressly provided for under this Agreement.

15. Agency. No officer, employee, or agent of the Agency or the County is intended to be an officer, employee, or agent of the other Party. None of the benefits provided by each Party to its employees including, but not limited to, workers' compensation insurance, health insurance and unemployment insurance, are available to the officers, employees, or agents of the other Party. The Agency and the County will each be solely and entirely responsible for its acts and for the acts of its officers, employees, or agents during the performance of this Agreement.

16. Assignment. No Party may assign its rights, duties or obligations under this Agreement without obtaining prior written consent from the other Party.

17. Governing Law and Venue. The laws of the State of Utah govern all matters arising out of this Agreement. Venue for any and all legal actions arising hereunder will lie in the District Court in and for the County of Salt Lake, State of Utah.

18. Severability. If any provision of this Agreement is found to be illegal or unenforceable in a judicial proceeding, such provision will be deemed inoperative and severable, and, provided that the fundamental terms and conditions of this Agreement remain legal and enforceable, the remainder of this Agreement shall remain operative and binding on the Parties.

19. Counterparts. This Agreement may be executed in counterparts and all so executed will constitute one agreement binding on all the Parties, it being understood that all Parties need

not sign the same counterpart. Further, executed copies of this Agreement delivered by facsimile or email will be deemed an original signed copy of this Agreement.

20. 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.

21. Authorization. Each of the Parties hereto represents and warrants to the other that the warranting Party has taken all steps, including the publication of public notice where necessary, in order to authorize the execution, delivery, and performance of this Agreement by each such Party.

This Agreement will become effective when all the Parties have signed it. The date this Agreement is signed by the last party to sign it (as indicated by the date stated under that party's signature) will be deemed the date of this agreement.

[The balance of this page was left blank intentionally – Signature pages follow]

INTERLOCAL AGREEMENT -- SIGNATURE PAGE FOR AGENCY

____
David Watts, Executive Director

Approved as to form:
Attorney for the Community Development
and Renewal Agency of Herriman

____
Chase A. Andrizzi

INTERLOCAL AGREEMENT -- SIGNATURE PAGE FOR COUNTY

SALT LAKE COUNTY:

____
Mayor Jennifer Wilson or Designee

Dated: ______________________, 20____

Approved by:

OFFICE OF REGIONAL DEVELOPMENT

By __________________________________

Name: _______________________________

Title: _______________________________

Dated: ______________________, 20______

Approved as to Form and Legality:

SALT LAKE COUNTY DISTRICT ATTORNEY

By ________________________________
Jason S. Rose
Senior Attorney

Date ________________________________

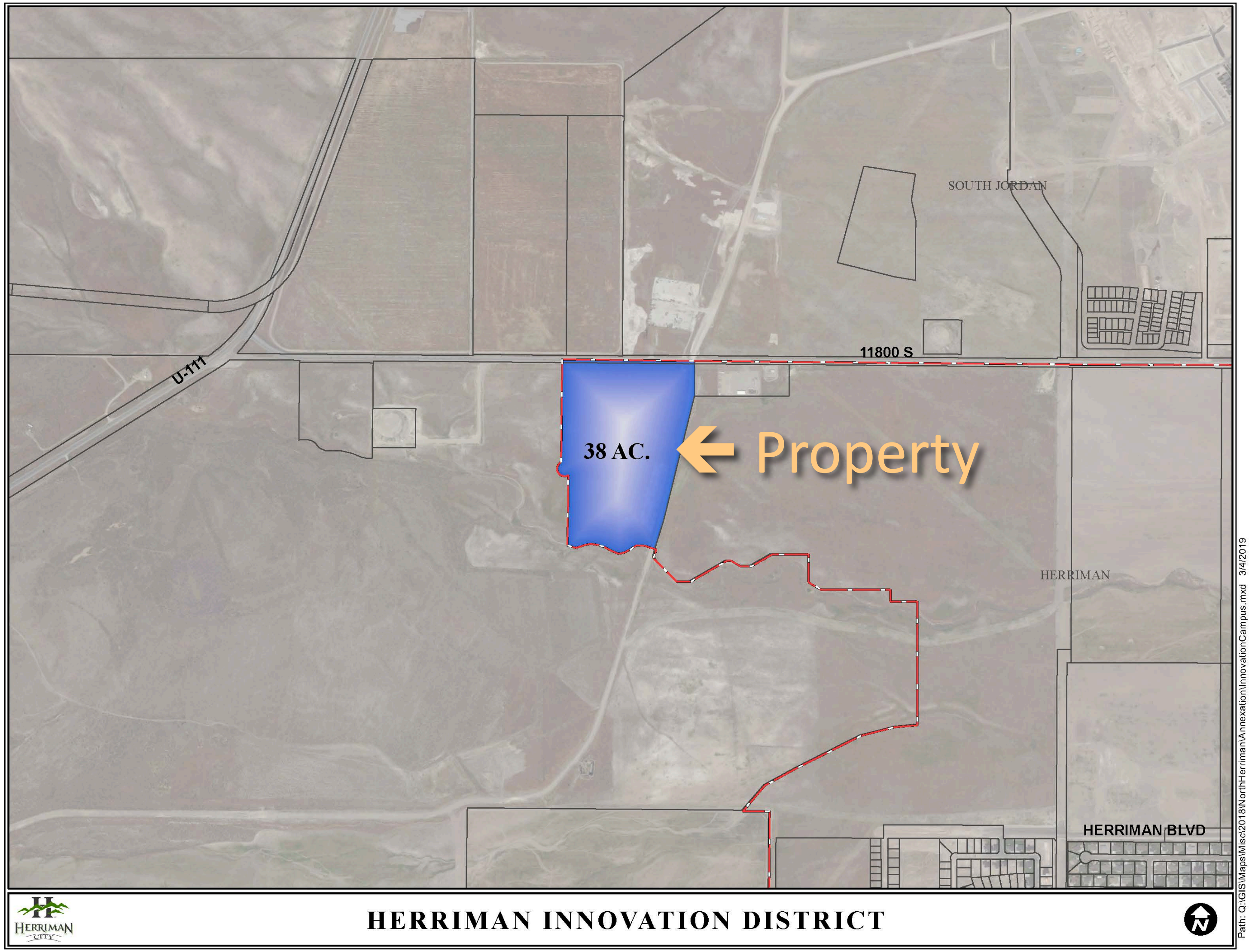
Innovation District Interlocal Agreement

CITY COUNCIL MEETING

SEPTEMBER 8,2021

Herriman Innovation District CDRA

- The Herriman Innovation District CDRA was approved by the City Council and CDRA on June 26, 2019
- This is the final interlocal agreement to be approved in this project area. All other participating taxing entities have been approved and triggered for the tax increment



Vicinity Map

Main Points

- 15-year CDRA
- Trigger in 2022
- Contribution not to exceed the greater of $437,901 or the combined contribution of Herriman City and the Herriman City Safety Enforcement Area, but in no event shall the amount exceed $832,352

STAFF REPORT

DATE: 9/1/2021

TO: Herriman City Community Development and Renewal Agency Board

FROM: Chase A. Andrizzi, CDRA Attorney

SUBJECT: Draft Participation Agreement

RECOMMENDATION

Provide staff with additional guidance on final language for the Participation Agreement between the Community Development and Renewal Agency ("CDRA") and Herriman 73 Partners ("Participant).

ISSUE

Does the draft participation agreement capture the intent of the CDRA with regard to the potential sales tax incentives for the Automall project?

BACKGROUND

On December 11, 2019, the CDRA entered into an interlocal agreement (the "Interlocal Agreement") with Herriman City ("City") with regard to sales tax increment to be paid by the City to the CDRA. Under the Interlocal Agreement, the City has agreed to pay 70% of the point of sale tax generated from the project area to the Agency. The project area for this Interlocal Agreement is the Herriman North Community – Community Reinvestment Project Area (the "Automall"). The Interlocal Agreement has a term of 15 years which begins to toll on the date when the CDRA first requests funds from the City. There is no limit to the incentive listed in the Interlocal Agreement. Instead, the Interlocal Agreement states that the incentive amount "shall not exceed the amount of sale tax increment due and owing to Herriman 73 Partners LLC pursuant to the certain Participation Agreement between the Agency and Herriman 73 Partners LLC."

DISCUSSION

It appears that the first draft of the Participation Agreement was presented to the CDRA Board shortly after the execution of the Interlocal Agreement. An updated draft was presented to the CDRA Board on September 9, 2020. During that meeting, Board Member Ohrn was concerned that there was little oversight with regard to the payment of the Incentive from the Agency and to the Participant. Board Member Henderson also expressed a similar concern and stated that he did not want to the Participation Agreement to become a passthrough of public funds to the developer to have carte blanche authority to use the Incentive. Board Member Henderson also questioned why we would not simply pay the incentive directly to dealers/businesses that come into the Automall. With those questions and that direction in mind, I have made additional changes to the draft Participation Agreement and I have included options for the CDRA Board to consider that I believe address the Board's concerns with regard to oversight and control over the Incentive. I discuss each option in turn below.

ALTERNATIVES

1. *Pay all of the incentive directly to Participant with reporting requirements attached.*

The CDRA Board could approve the Participation Agreement so that all of the sales tax incentive is paid directly to the Participant with a condition precedent that the Participant provide invoices that justify the payment of the Incentive. These invoices could be for anything related to development of the Automall (public improvements, private roads, other infrastructure, etc.). The language could even go further as to only allow payments up to a certain dollar amount for specific items (i.e. $500,000 for sewer; $750,000 for roads; etc.). Additionally, language could be included to specify what percentage of the Participants portion may (or should) be used to incentivize dealers and how that should be administered (i.e. paid directly to dealers or funneled through the Participant).

There are a number of ways, in addition to those listed above, through which the CDRA Board could increase the control over the funds while still paying them directly to the Participant. One of the benefits of this option is that it provides the Participant some flexibility to utilize the Incentive while still allowing the board to control how the funds can be used. Additionally, because invoicing would be a necessary condition precedent to distributing the Incentive, the CDRA can account for how the funds are used and can promote the transparent use of such funds.

2. *Pay some of the incentive directly to Participant and the remainder to the dealers.*

Alternatively, the CDRA Board could elect to include language in the Participation Agreement that provides a portion of the Incentive (either a maximum amount or a percent) directly to the Participant while allowing the Participant to commit the remainder to dealers and end-users. Under this option, the CDRA board could then enter into individual Participation Agreements with each of the dealers/end-users based upon the terms negotiated between the Participant, dealer, and the CDRA.

Under this option, only a portion of the Incentive is actually paid directly to the Participant. The remaining Incentive could be committed to individual dealers and paid directly to them. The distribution of Incentive under this option could also have similar conditions precedent to those listed above.

3. *Take no action.*

The CDRA board is not obligated to assign any sales tax incentive to Herriman 73 Partners, and End-user, or any other party. The distribution, amount, term, and all other aspects of the Participation Agreement are entirely within the discretion of the CDRA board.

FISCAL IMPACT

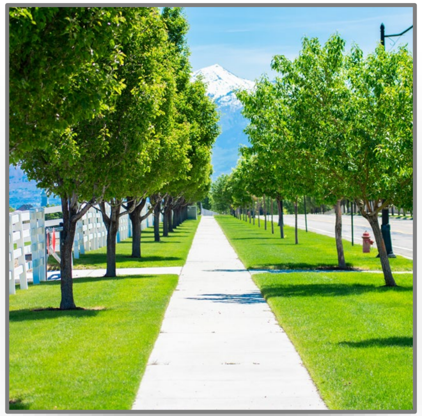
With the Interlocal Agreement and proposed Participation Agreement, no Sales Tax Incentive is paid to the Agency until the Agency requests a trigger date for those funds. The Agency, however, cannot request to trigger the funds until there is actually point of sale tax being generated from the Automall.

The Project Area Plan budget estimates that the Automall will generate about $25 million dollars of point of sale tax revenue during the 15-year period. The CDRA is entitled to receive up to 70% (or about $17.2 million) of that amount. As identified above, however, the Interlocal Agreement does not place a limit on the amount and instead establishes the maximum incentive as the amount agreed to between the CDRA and the Participant.

CDRA Participation Agreement

City Council Meeting

September 8, 2021



<u>Interlocal Agreement</u>

- Approved December 11, 2019, between Herriman City and CDRA

- Provides that 70% of the point-of-sale tax generated from the Auto Mall will be distributed to the CDRA to "facilitate development within the Project Area."
  - <u>No Property Tax Increment</u>. All the property tax stays with the City.

- Term of 15 years from the date the Participation Agreement is triggered.

- Incentive cap not included.
  - "shall not exceed the amount of sale tax increment due and owing to Herriman 73 Partners pursuant to the certain Participation Agreement" between the CDRA and Herriman 73 Partners.

Cap On Incentive

- Currently, the Interlocal Agreement does not put a cap on the Incentive.
- Instead, it states that the total “shall not exceed the amount of sales tax increment due and owing to Herriman 73 Partners pursuant to the Participation Agreement…”
- In this light, the Interlocal Agreement anticipates that there will be a cap on the Incentive and that it will be established by the Participation Agreement.

Cap On Incentive
GSBS Study

- GSBS studied future new car buying power in the southwest Salt Lake County and northern Utah County area.

- Future buying power based on Utah household spending power ($4060.34) and future household projections for the area.

Cap On Incentive
GSBS Study

	Households 2016		Current Car Sales 2016
1 mi	6,665	x 4060.34 =	$ 27,062,166.10
3 mi	39,545		$ 160,566,145.30
5 mi	49,077		$ 199,269,306.18
Entire Area	440,998		$ 1,790,601,819.32

"Entire Area" includes southwest Salt Lake County, Saratoga Springs, Bluffdale and Lehi.

	Households 2040		Projected Car Sales 2040
1 mi	14,832	x 4060.34 =	$ 60,222,962.88
3 mi	96,354		$ 391,230,000.36
5 mi	101,727		$ 413,046,207.18
Entire Area	649,630		$ 2,637,718,674.20

Cap On Incentive
Project Area Budget

- In April 2019, Zions Public Finance compiled a Project Area Budget for the Herriman North CDRA.

- The budget was developed and approved to encourage and promote the development of an Auto Mall and other commercial development in the area to strengthen the tax base of the community.

- "The Agency intends to use a portion of the sales tax increment generated within the Project Area to pay part of the costs associated with development of the Project Area or to attract auto dealerships to the Area."

HERRIMAN CITY

Cap On Incentive
Project Area Budget

1(B). PROJECTED AMOUNT OF TAX INCREMENT TO BE GENERATED WITHIN THE PROJECT AREA [17C-5-303(1)(B)]

The projected amount of property tax increment to be generated within the Project Area over 15 years will be dependent on the number and type of new businesses that choose to locate in the Project Area. However, a reasonable estimate, based on discussions with interested developers, is $16.2 million of property tax increment over a period of 15 years.

In addition, sales tax increment will be generated by the automall and other commercial development in the area. Sales tax increment will be generated only for Herriman City and Salt Lake County. It is estimated that the total amount of sales tax increment generated, over 15 years, will be nearly $30.7 million ($24.5 million based on Herriman City's local option point of sale taxes, and $6.1 million based on Salt Lake County's local option point of sale taxes).

TABLE 5: PROJECTED INCREMENTAL SALES TAX REVENUE TO TAXING ENTITIES – 15 YEARS

Taxing Entity	Sum	NPV
Herriman	$7,362,987	$5,140,171
Salt Lake County	$6,135,823	$4,283,476

HERRIMAN CITY

Cap On Incentive

Project Area Budget

Projected Sales and Property Tax to Herriman over 15 years

30,700,000	Estimated Sales Tax over 15 years.
- 6,100,000	County's local option point of sales taxes.
24,600,000	Estimated amount earned by City over 15 years.
- 17,220,000	Amount to CDRA per the Interlocal Agreement
7,380,000	Amount of sales tax kept by City over 15 years.
2,624,438	Projected property tax to Herriman over 15 years
$10,004,438	Total projected property and sales tax to Herriman

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Project Area Budget
Projected Sales Tax Rebate Available for Incentives

17,220,000	Projected TIF to CDRA from City's point-of-sale tax over 15 years.
- 1,722,000	10% rebate for housing per Utah Code Ann. § 17C-5-307(3).
15,498,000	
- 200,000	City to pay for condemnation settlement of Garden Plot properties
$15,298,000	Projected net TIF available for Incentives under the Participation Agreement

Cap On Incentive
Summary

- GSBS
  - $413 million in future new car buying power within five-mile radius in 2040.
  - $2.6 billion in future care buying power in southwest Salt Lake County, Saratoga Springs, Bluffdale, and Lehi in 2040.

- CDRA Budget (Zions Bank Public Finance)
  - Projects $24.5 million of sales tax to Herriman City over next 15 years (not counting contribution to CDRA) and about $2.5 million in property tax. All property tax stays with the City.