NOTICE OF BOARD OF DIRECTORS MEETING OF THE CITY OF HOLLADAY REDEVELOPMENT AGENCY THURSDAY, APRIL 21, 2022

PUBLIC NOTICE IS HEREBY GIVEN that the Holladay Redevelopment Agency will hold a meeting **Thursday, April 21, 2022 as close to 7:00 pm or as soon thereafter as possible.** It is possible that a member of the Board will be participating by electronic means. The Council Chambers shall serve as the anchor location. **NOTE:** *State Law requires that the City Council members constitute the Board of the Redevelopment Agency.*

All documents which are available to the RDA Board are also available on the City's website or are linked in this agenda. Interested parties are encouraged to watch the **Live video stream** of the meeting **-**
http://cityofholladay.com/government/elected-officials/meetings-and-agendas/

Persons desiring to make public comment or to make comment during any public hearing may provide such comment as follows:

1. **In-person attendance**: at Holladay City Hall – space is limited to pre-arranged socially distanced seating.
2. **Email** your comments by 5:00 pm on the date of the meeting to scarlson@cityofholladay.com

AGENDA

I. ***Call to Order*** *–Chairman Gibbons*

II. ***Public Comments***
Any person wishing to comment on any item not otherwise on the agenda may provide their comment via email to the Council prior to 5:00 p.m. on the date of the meeting to scarlson@cityofholladay.com, with the subject line: Public Comment.

III. ***Consideration of Resolution RDA 2022-01 – Appointing a Chair and Vice-Chair***

IV. ***Consideration of Resolution RDA 2022-02 Amending the Agreement to Develop Land (ADL) with KMW Independent, LLC, as the Substitute Party for Holladay Hills, LLC***

V. ***Consideration of Resolution RDA 2022-03, Approving a Site Development Agreement with KMW Independent, LLC, and Associated Entities, Relating to the Former Cottonwood Mall Property, and Confirming the Previously Adopted Site Development Master Plan***

VI. ***Discussion of Allocation of Housing set aside funds from Agency Project Areas and Agency/City Affordable Housing Obligations***

VII. ***Approval of Minutes*** *– Aug. 26, 2021*

VIII. ***Other Business***

IX. ***Adjourn RDA Meeting***

RESOLUTION RDA NO. 2022-01

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE REDEVELOPMENT AGENCY OF THE CITY OF HOLLADAY, UTAH, PERTAINING TO THE ELECTION OF A CHAIR, AND VICE CHAIR OF THE AGENCY

WHEREAS, the bylaws of the Redevelopment Agency of the City of Holladay (the *"Agency"*), require that certain officers be elected on a periodic basis; and

WHEREAS, the Board desires to elect a Chair and a Vice-Chair for Calendar Year 2021: and

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE REDEVELOPMENT AGENCY OF THE CITY OF HOLLADAY that_________________ is hereby elected to serve as Chair of the Redevelopment Agency and shall serve until a successor is elected.

BE IT FURTHER RESOLVED that _________________is hereby elected to serve as the Vice-Chair of the Redevelopment Agency and shall serve until a successor is elected.

ADOPTED by the Board of Directors of the Redevelopment Agency of the City of Holladay, Utah this ________day of April, 2022.

REDEVELOPMENT AGENCY OF THE CITY OF HOLLADAY, UTAH

By ______________________________________
Dan Gibbons, Chair

VOTING:

Matt Durham	Yea ____	Nay ___
Ty Brewer	Yea ____	Nay ___
Drew Quinn	Yea ____	Nay ___
Paul Fotheringham	Yea ____	Nay ___
Dan Gibbons	Yea ____	Nay ___
Robert Dahle	Yea ____	Nay ___

ATTEST:

____
Stephanie N. Carlson, RDA Secretary

DEPOSITED in the office of the City Recorder this   day of April, 2022.

RECORDED this   day of April, 2022.

REDEVELOPMENT AGENCY OF THE CITY OF HOLLADAY

RESOLUTION NO. 2022-03

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE REDEVELOPMENT AGENCY OF THE CITY OF HOLLADAY APPROVING AN AMENDED AGREEMENT FOR THE DEVELOPMENT OF LAND WITH KMW DEVELOPMENT, LLC, AND THE CITY OF HOLLADAY

WHEREAS, KMW Development, LLC, as a related entity and successor Developer of property known as the former Cottonwood Mall Site is in the process of, and proposing to further develop the property pursuant to the approved 2007 Site Development Master Plan; and

WHEREAS, the Owners have expressed a desire to amend the Agreement for Development of Land relating to the development of the property and tax increment subsidies for the development; and

WHEREAS, the Board of Directors of the Redevelopment Agency hereby finds and determines that entry of the 4th Amended and Restated Agreement for the Development of Land; (1) makes no substantive changes to the subsidy agreement for the development of the property; and (2) will benefit the Redevelopment Agency and the residents of the City and will enable and support the development of the property in a more timely manner, which development may otherwise likely be accomplished over a further extended period of time absent amendment of the Agreement for the Development of Land;

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE REDEVELOPMENT AGENCY OF THE CITY OF HOLLADAY AS FOLLOWS:

Section 1. Approval. The Board of Directors of the Redevelopment Agency of the City of Holladay hereby approves that certain Fourth Amended and Restated Agreement for the Development of Land, attached hereto as Exhibit A and incorporated herein by reference. The Chair of the Board of Directors of the Redevelopment Agency of the City is hereby authorized to execute the Agreement for and in behalf of the Agency.

Section 2. Severability. If any section, part or provision of this Resolution is held invalid or unenforceable, such invalidity or unenforceability shall not affect any other portion of this Resolution, and all sections, parts and provisions of this Resolution shall be severable.

Section 3. Effective Date. This Resolution shall become effective immediately upon its approval by the Agency.

ADOPTED by the Board of Directors of the Redevelopment Agency of the City of Holladay, Utah this ____ day of April, 2022.

SITE DEVELOPMENT AGREEMENT

THIS SITE DEVELOPMENT AGREEMENT (the "**Agreement**") is entered into as of the ____ day of _____, 2022, by and between the CITY OF HOLLADAY, a municipal corporation under the laws of the State of Utah (the "**City**"), and KMW DEVELOPMENT, L.L.C., a Utah limited liability company ("**Developer**"). The aforementioned are sometimes referred to in this Agreement as a "Party", or collectively as the "Parties."

RECITALS

A. Developer, Peterbuilt HH, L.L.C., a Utah limited liability company ("**Peterbuilt**"), and RL Cheney Holladay Holdings, LLC, a Utah limited liability company, and JM Cheney Holladay Holdings, LLC, a Utah limited liability company (collectively, the "**Cheney Entities**" and together with Developer and Peterbuilt, the "**Owners**")) own certain property within the City of Holladay commonly known as the former Cottonwood Mall Site, to be known as Holladay Hills Development;

B. By executing the consents and acknowledgments below, the Owners agree that the Site (defined below) has received the entitlements and is subject to the rights, benefits, and obligations set forth in this Agreement.

C. The City, the City's redevelopment agency, and Developer's predecessor-in-interest, Holladay Hills LLC ("**HHL**"), previously entered into that certain Second Amended and Restated Agreement for the Development of Land dated August 22, 2019 ("**Second Amended Development Agreement**"), providing for the Site's development;

D. Pursuant to Subsections 4.1(C) and 5.2(B) of the Second Amended Development Agreement, HHL assigned and transferred all of its interests in the Second Amended Development Agreement and the Site to Developer.

E. Developer, City, and the City's redevelopment agency, entered into that certain Third Amendment to the Agreement for Development of Land also known as the First Amendment to the Second Amended and Restated Agreement for the Development of Land, dated December 16, 2020, providing for an extension of the tax increment subsidiary period by two years.

F. Concurrently herewith, the Parties, together with the City's redevelopment agency, will execute that certain Fourth Amended and Restated Agreement for Development of Land (the "**ADL**") that sets forth and clarifies the Parties' covenants and obligations with respect to certain subsidies, increment, and development of the Site.

G. The Parties desire to execute this Agreement for the purposes of setting forth and clarifying the certain covenants and obligations that apply to the Site in accordance with the Site Development Master Plan ("**SDMP**") as approved by Holladay City Resolution 07-51.

NOW, THEREFORE, each of the Parties for and in consideration of mutual promises and other good and valuable consideration, does covenant and agree as set forth herein.

1. Site. The term "**Site**" means the real property described in the attached Exhibit A, and which is located in the City's Regional/Mixed-Use Zone.

2. Compliance with SDMP. Developer, as the master developer for the development of the Site, shall be responsible for each Owner's compliance with the terms and conditions of the SDMP and this Agreement including developing the Site in accordance with the uses specified therein, and to locate structures and improvements in the configurations, heights and locations contemplated by the SDMP and confirmed in subdivision and site plan approvals applying the approvals in the SDMP.

3. Covenants Run with the Land. It is intended and agreed that a memorandum of this Agreement in the form attached hereto as Exhibit B shall be recorded in the Office of the Salt Lake County Recorder upon execution of this Agreement. The Parties agree that the agreements and covenants provided in this Agreement touch and concern the land comprising the Site and shall be covenants running with the land for the Site, provided that this Agreement shall not apply to residents or property owners who purchase developed lots or units within the Site or tenants thereon, it being the intent of this Agreement that it governs the Developer's project on the Site, not the use by subsequent owners, tenants, or residents. Notwithstanding the foregoing, the provisions of this Section 3 shall not operate to excuse, (1) the payment of lawful impact fees in accordance with Section 4; or (2) compliance with the terms and conditions of the Ordinances of the City.

4. Impact Fees. The City agrees that, other than impact fees for police and fire which Developer shall pay in full, impact fees relating to the Developer's project on the Site will not paid or collected by City as there are sufficient credits and offsets, as shown and described in Attachment No. 6 from the ADL, a copy of Attachment No. 6 is attached hereto as Exhibit C.

5. Construction Easements. The City shall provide to Developer reasonably needed temporary construction easements (for access, staging and other construction-related purposes) and perpetual utility easements on City owned property for the purpose of allowing Developer to perform the following work in connection with Developer's project on the Site: (A) the relocation and modifications of electrical power lines; (B) reinforcement and stabilization of retaining walls along Murray Holladay Road; and (C) work on utilities and landscaping within rights of way.

6. Administrative Act. The Parties acknowledge and agree that the City's approval and execution of this this Agreement is an administrative action because it implements existing approvals and does not expand, modify, terminate, restrict, alter, or amend any entitlements with respect to the Property.

7. Miscellaneous. This Agreement shall be interpreted and enforced according to the laws of the State of Utah. This Agreement may be executed in counterparts, each of which shall be deemed to be an original, and such counterparts shall constitute one and the same agreement.

[Remainder of page left blank.]

IN WITNESS WHEREOF, the City and Developer have caused this Agreement to be duly executed on their behalf.

City:

CITY OF HOLLADAY

By:________________________________
Robert M. Dahle, Mayor

ATTEST:

____
Stephanie Carlson, City Recorder

Approved as to form:

____
Todd J. Godfrey, Holladay City Attorney

KMW:

KMW DEVELOPMENT L.L.C., a Utah limited liability company

By: WOODBURY CORPORATION,
a Utah corporation, its Manager

By: ______________________________
____

By: ______________________________
Jeffrey K. Woodbury, Senior Vice President

By: MILLROCK CAPITAL II, LLC,
a Utah limited liability company,
its Manager

By: ______________________________
Steve Peterson, Manager

OWNER'S CONSENT:

The following Owners own real property within the Site. The Owners hereby consent to this Agreement running with the land and to Developer coordinating development activity within the Site in accordance with the SDMP.

OWNERS**:**

PETERBUILT HH, L.L.C.
a Utah limited liability company

By: ____________________
Name: Steven Peterson
Title: Manager

RL CHENEY HOLLADAY HOLDINGS, LLC
a Utah limited liability company

By: __________________________
Name: Joseph D. Rich
Title: Manager

JM CHENEY HOLLADAY HOLDINGS, LLC
a Utah limited liability company

By: __________________________
Name: Joseph D. Rich
Title: Manager

[Notary Acknowledgments on the Following Pages]

ACKNOWLEDGMENTS

STATE OF UTAH)
:ss.
COUNTY OF SALT LAKE)

On the __ day ____________, 2022, personally appeared before me Robert M. Dahle, the Mayor, and Stephanie Carlson, the City Recorder, of the City of Holladay, who being by me duly sworn did say for themselves, that he, the said Robert M. Dahle is the Chairperson and she the said Stephanie Carlson is the City Recorder, of the City of Holladay and that the within and foregoing instrument was signed in behalf of said City by authority of a resolution or motion of its City Council and said Robert M. Dahle and Stephanie Carlson duly acknowledged to me that said City executed the same and that the seal affixed is the seal of said City.

____
Notary Public

STATE OF ______________)
:ss.
COUNTY OF ____________)

The foregoing instrument was duly acknowledged before me this ___, day of _______________ 2022 by ____, the _________________________ of Woodbury Corporation, a Utah corporation.

____
Notary Public

STATE OF ______________)
:ss.
COUNTY OF ____________)

The foregoing instrument was duly acknowledged before me this ___, day of _______________ 2022 by Jeffrey K. Woodbury, the Senior Vice President of Woodbury Corporation, a Utah corporation.

____
Notary Public

STATE OF _______________)
:ss.
COUNTY OF _____________)

The foregoing instrument was duly acknowledged before me this ___, day of ________________ 2022 by Steve Peterson, the Manager of Millrock Capital II, LLC, a Utah limited liability company.

____
Notary Public

STATE OF _______________)
:ss.
COUNTY OF _____________)

The foregoing instrument was duly acknowledged before me this ___, day of ________________ 2022 by Steve Peterson, the Manager of Peterbuilt HH, L.L.C., a Utah limited liability company.

____
Notary Public

STATE OF _______________)
:ss.
COUNTY OF _____________)

The foregoing instrument was duly acknowledged before me this ___, day of ________________ 2022 by Joseph D. Rich, the Manager of RL Cheney Holladay Holdings, LLC, a Utah limited liability company.

____
Notary Public

STATE OF _______________)
:ss.
COUNTY OF _____________)

The foregoing instrument was duly acknowledged before me this ___, day of ________________ 2022 by Joseph D. Rich, the Manager of JM Cheney Holladay Holdings, LLC, a Utah limited liability company.

____
Notary Public

EXHIBIT A

SITE LEGAL DESCRIPTION

That certain real property located in Salt Lake County, Utah more particularly described as:

Blocks A–L, less and excepting Block K Lot 2, Block H Lot 2, and Block L Lot 3, of Royal Holladay Hills Subdivision #2 Amending Royal Holladay Hills Subdivision #1, recorded on June 25, 2021 in Book 2021P at Page 171 as Entry No. 13700581, in the Office of the County Recorder of Salt Lake County, Utah.

EXHIBIT B

FORM OF RECORDABLE MEMORANDUM

[Attached]

WHEN RECORDED RETURN TO:

Snell & Wilmer L.L.P.
Attn: Wade R. Budge
15 West South Temple, Suite 1200
Salt Lake City, UT 84101

Affects Parcel Nos. 22-09-228-001-0000; 22-09-228-007-0000
22-09-228-010-0000; 22-09-228-012-0000
22-09-228-014-0000; 22-10-151-006-0000
22-10-151-007-0000; 22-10-151-008-0000
22-10-151-009-0000

MEMORANDUM OF SITE DEVELOPMENT AGREEMENT

Notice is hereby given that the CITY OF HOLLADAY, a Utah municipal corporation ("City"); KMW DEVELOPMENT L.L.C., a Utah limited liability company ("KMW"), and certain title owners have executed that certain Site Development Master Plan (SDMP) Development Agreement, dated as of August ___, 2022. Inquiries regarding the same may be directed to the City, or the registered agent on file for the Utah Division of Corporations and Commercial Code for KMW.

IN WITNESS WHEREOF, the parties have executed this Memorandum of Site Development Master Plan (SDMP) Development Agreement.

[Signatures and Acknowledgments Follow]

IN WITNESS WHEREOF, the City and Developer have caused this Agreement to be duly executed on their behalf; and the Owners have caused the same to be duly executed on their behalf, on or as of the day and year first above written.

CITY:

CITY OF HOLLADAY

By:____________________________________
Robert M. Dahle, Mayor

ATTEST:

____
Stephanie Carlson, City Recorder

Approved as to form:

____
Todd J. Godfrey, Holladay City Attorney

KMW:

KMW DEVELOPMENT L.L.C., a Utah limited liability company

By: WOODBURY CORPORATION,
a Utah corporation, its Manager

By: __________________________________
____

By: __________________________________
Jeffrey K. Woodbury, Senior Vice President

By: MILLROCK CAPITAL II, LLC,
a Utah limited liability company,
its Manager

By: __________________________________
Steve Peterson, Manager

ACKNOWLEDGMENTS

STATE OF UTAH)
:ss.
COUNTY OF SALT LAKE)

On the __ day ____________, 2022, personally appeared before me Robert M. Dahle, the Mayor, and Stephanie Carlson, the City Recorder, of the City of Holladay, who being by me duly sworn did say for themselves, that he, the said Robert M. Dahle is the Chairperson and she the said Stephanie Carlson is the City Recorder, of the City of Holladay and that the within and foregoing instrument was signed in behalf of said City by authority of a resolution or motion of its City Council and said Robert M. Dahle and Stephanie Carlson duly acknowledged to me that said City executed the same and that the seal affixed is the seal of said City.

____
Notary Public

STATE OF ______________)
:ss.
COUNTY OF ____________)

The foregoing instrument was duly acknowledged before me this ___, day of _______________ 2022 by ____, the _________________________ of Woodbury Corporation, a Utah corporation.

____
Notary Public

STATE OF ______________)
:ss.
COUNTY OF ____________)

The foregoing instrument was duly acknowledged before me this ___, day of _______________ 2022 by Jeffrey K. Woodbury, the Senior Vice President of Woodbury Corporation, a Utah corporation.

____
Notary Public

STATE OF ______________)
:ss.
COUNTY OF ____________)

The foregoing instrument was duly acknowledged before me this ___, day of _______________ 2022 by Steve Peterson, the Manager of Millrock Capital II, LLC, a Utah limited liability company.

____
Notary Public

EXHIBIT A
TO MEMORANDUM

SITE LEGAL DESCRIPTION

Blocks A–L, inclusive, of Royal Holladay Hills Subdivision #2 Amending Royal Holladay Hills Subdivision #1, recorded on June 25, 2021 in Book 2021P at Page 171 as Entry No. 13700581, in the Office of the County Recorder of Salt Lake County, Utah

EXHIBIT C

AGREED UPON IMPACT FEE SCHEDULE

The following impact fees will be generated pursuant to applicable city ordinances.

	Minimum	Maximum	Total Range	
Park & Rec*				
Commercial	0	0		
Residential	$1,136,911	$1,537,585		
			$1,136,911	$1,537,858
Storm Water*				
Commercial		795,700	--	
				$ 795,700
Public Safety				
Police				
Commercial	74,470	99,293		
Residential	29,887	40,420		
			104,357	$ 139,713
Fire				
Commercial	71,150	94,866		
Residential	87,723	118,685		
			$158,873	$ 213,551

* These fees will not be collected. The Developer will install or cause to be constructed the required improvements in-kind in lieu of the City causing the construction to occur. The improvements installed will equal or exceed the fees that would be imposed pursuant to applicable ordinances.

REDEVELOPMENT AGENCY OF THE CITY OF HOLLADAY

RESOLUTION NO. 2022-03

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE REDEVELOPMENT AGENCY OF THE CITY OF HOLLADAY APPROVING AN AMENDED AGREEMENT FOR THE DEVELOPMENT OF LAND WITH KMW DEVELOPMENT, LLC, AND THE CITY OF HOLLADAY

WHEREAS, KMW Development, LLC, as a related entity and successor Developer of property known as the former Cottonwood Mall Site is in the process of, and proposing to further develop the property pursuant to the approved 2007 Site Development Master Plan; and

WHEREAS, the Owners have expressed a desire to amend the Agreement for Development of Land relating to the development of the property and tax increment subsidies for the development; and

WHEREAS, the Board of Directors of the Redevelopment Agency hereby finds and determines that entry of the 4th Amended and Restated Agreement for the Development of Land; (1) makes no substantive changes to the subsidy agreement for the development of the property; and (2) will benefit the Redevelopment Agency and the residents of the City and will enable and support the development of the property in a more timely manner, which development may otherwise likely be accomplished over a further extended period of time absent amendment of the Agreement for the Development of Land;

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE REDEVELOPMENT AGENCY OF THE CITY OF HOLLADAY AS FOLLOWS:

Section 1. Approval. The Board of Directors of the Redevelopment Agency of the City of Holladay hereby approves that certain Fourth Amended and Restated Agreement for the Development of Land, attached hereto as Exhibit A and incorporated herein by reference. The Chair of the Board of Directors of the Redevelopment Agency of the City is hereby authorized to execute the Agreement for and in behalf of the Agency.

Section 2. Severability. If any section, part or provision of this Resolution is held invalid or unenforceable, such invalidity or unenforceability shall not affect any other portion of this Resolution, and all sections, parts and provisions of this Resolution shall be severable.

Section 3. Effective Date. This Resolution shall become effective immediately upon its approval by the Agency.

ADOPTED by the Board of Directors of the Redevelopment Agency of the City of Holladay, Utah this ____ day of April, 2022.

FOURTH AMENDED AND RESTATED AGREEMENT FOR DEVELOPMENT OF LAND (ADL)

Dated the ___ day of April, 2022

By and Between the Redevelopment Agency of the City of Holladay, a Utah community development and renewal agency (**Agency**); the City of Holladay, a Utah municipal corporation (**City**); and KMW Development L.L.C., a Utah limited liability company (**Developer**).

COTTONWOOD MALL URBAN RENEWAL PROJECT AREA
located in Holladay, Utah

FOURTH AMENDED AND RESTATED AGREEMENT FOR DEVELOPMENT OF LAND (ADL)

COTTONWOOD MALL URBAN RENEWAL PROJECT AREA
HOLLADAY, UTAH

THIS FOURTH AMENDED AND RESTATED AGREEMENT FOR DEVELOPMENT OF LAND (ADL) (the "**Agreement**") is entered into as of the ____ day of _____, 2022, among the REDEVELOPMENT AGENCY OF THE CITY OF HOLLADAY, a community development and renewal agency under the laws of the State of Utah (the "**Agency**"), the CITY OF HOLLADAY, a municipal corporation under the laws of the State of Utah (the "**City**"), and KMW DEVELOPMENT, L.L.C., a Utah limited liability company ("**Developer**"). The aforementioned are sometimes referred to in this Agreement as a "Party", or collectively as the "Parties."

RECITALS

A. In furtherance of the objectives of the former Utah Redevelopment Agencies Act and the current Utah Community Development and Renewal Agencies Act, Title 17C, Chapters 1 through 4, Utah Code Annotated (the "**Act**"), the Agency has undertaken a program for the development of a certain geographic area known as the "Cottonwood Mall Urban Renewal Project Area" located in the City of Holladay, Salt Lake County, Utah (the "**Project Area**");

B. The Agency has prepared, and the City Council through the adoption of an Ordinance No. 08-01 dated the 7th day of February 2008 and published on the 16th day of February 2008 has approved, an urban renewal project area plan (as hereinafter defined, the "**Plan**") providing for the urban renewal and development of real property located in the Project Area and the future uses of such land, which Plan has been filed with both the City of Holladay and the Agency;

C. On June 15, 2011 the Agency, and the Taxing Entity Committee for the Agency, approved amendments to the Project Area Budget known as the "Cottonwood Mall Urban Renewal Project Area Budget" (as more particularly defined herein, the "**Project Area Budget**") by passing Resolution TEC 2011-01;

D. On October 12, 2017 the Agency approved Agency Resolution No. 2017-06 expressing the continuing interest of the Agency in facilitating the utilization of tax increment funding as a mechanism to benefit the community at large and the fiscal integrity of the City;

E. By amendment executed May 17, 2018, the Agency, the City and Developer's predecessor-in-title entered into a First Amended and Restated Agreement for Development of Land;

F. The Agency, City, and Developer's predecessor-in-interest, Holladay Hills LLC, ("**HHL**") previously entered into that certain Second Amended and Restated Agreement for the Development of Land, dated August 22, 2019 ("**Second Amended Development Agreement**"), which agreement amended, restated, and replaced in whole (i) the original Agreement for the Development of Land, dated July 30, 2008, and (ii) the First Amended and Restated Agreement for the Development of Land entered into as of May 17, 2018 (collectively, the "**Prior ADLs**");

G. Pursuant to Subsections 4.1(C) and 5.2(B) of the Second Amended Development Agreement, HHL assigned and transferred all of its interests in the Second Amended Development Agreement and the Site to Developer.

H. The Parties previously entered into that certain Third Amendment to the Agreement for Development of Land also known as the First Amendment to the Second Amended and Restated Agreement for the Development of Land providing for an extension of the Subsidy Period (defined below);

I. Concurrently herewith, the City and Developer will execute that certain Site Development Agreement ("**SDA**") that sets forth and clarifies certain covenants and obligations that apply to the Site (defined below) in accordance with the SDMP (defined below) as approved by Holladay City Resolution 07-51.

J. The Agency believes that the urban renewal and development of the Site pursuant to the provisions of the Plan and this Agreement are in the vital and best interests of the Agency and in the best interest of the health, safety and welfare of City residents, and in accord with the public purposes and provisions of the applicable State laws and requirements under which the Project Area and its urban renewal and development are undertaken and are being assisted by the Agency;

K. On the basis of the foregoing and the undertakings of the Developer pursuant to this Agreement, and to enable the Agency to achieve the objectives of the Plan, the Agency is willing, in the manner set forth herein, to assist the Developer in the development of the Site for the purpose of accomplishing the provisions of the Plan, and the provisions of this Agreement;

L. The City is a party to this Agreement for the purpose of entering into certain agreements with the Developer on matters that would normally be set forth in a development agreement between the Developer and the City; and

M. The Parties desire to execute this Agreement for the purposes of setting forth and clarifying the Parties covenants and obligations with respect to subsidies, increment, and incentives for development of the Site.

NOW, THEREFORE, each of the Parties for and in consideration of mutual promises and other good and valuable consideration, does covenant and agree as set forth herein.

<u>ARTICLE 1- DEFINITIONS</u>

The following capitalized terms have the meanings and content set forth in this Article 1, wherever used in this Agreement. Some contractual terms and provisions are included within the definitions set forth below and are binding upon the Parties.

1.1 <u>Affiliate</u>.

The term "**Affiliate**" shall mean any entity controlled by, under common control with or controlling another entity, directly or indirectly, through one or more intermediaries.

1.2 Agency.

The term "**Agency**" means the Redevelopment Agency of the City of Holladay, a public body, exercising its functions and powers and organized and existing under the Utah Community Development and Renewal Agencies Act or any successor or replacement law or act (the "Act"), including any successor public agency designated by or pursuant to law. The principal office of the Agency is located at 4580 South 2300 East, Holladay, Utah 84117.

1.3 Agreement.

The term Agreement shall mean this Fourth Amended and Restated Agreement for the Development of Land and shall be considered an amendment, restatement and replacement of the Prior ADLs.

1.4 Assessed Taxable Value.

The term "**Assessed Taxable Value**" for any Tax Increment Year means: with respect to the Site, which is within the Project Area, the assessed taxable value as equalized and shown on the records of the Salt Lake County Assessor's Office for that Tax Increment Year for such property, including, the real property and personal property located thereon.

1.5 Available Property Tax Increment.

The term "**Available Property Tax Increment**" means 75% of all property Tax Increment from the Site within the Project Area for the Subsidy Period, to the extent that such Tax Increment is actually received by the Agency pursuant to the Project Area Budget, less:

(A) beginning five (5) years after the Agency first collects Tax Increment from the portion of the Project Area including the Site, 20% of the property Tax Increment received by the Agency until said 20% allocation to the Agency equals $500,000 (in total, and not on an annual basis), which $500,000 of Tax Increment shall be received and retained by the Agency and allocated for affordable housing purposes as required and permitted by the Act and the TEC Resolution; and

(B) an additional 2.5% of the property Tax Increment received by the Agency for each Tax Increment Year, which is to be received and retained by the Agency for administrative purposes, plus an additional amount of $150,000 of Tax Increment from the first Tax Increment proceeds from the Project Area for purposes related to the improvement of Highland Drive.

The Parties recognize that the Agency is entitled to receive 75% of the property Tax Increment generated from the Project Area pursuant to the terms and conditions of the TEC Resolution. For avoidance of doubt, the Parties understand and agree that the 75% of Tax Increment to be paid by the Agency to the Developer, as described above and subject to all of the other terms and conditions for the receipt of such funds, represents 100% of the Tax Increment to be received by the Agency from the Site within the Project Area during the Subsidy Period pursuant to the Project Area Budget (less the amounts described in subparagraphs (A) and (B) above), rather than 75% of the amount to be received by the Agency. "Available Property Tax Increment" also includes any replacement funding provided by legislative action to adjust for property Tax Increment lost through legislative action as provided in Section 6.5(A), below.

1.6 Available Sales Tax Proceeds.

The term "**Available Sales Tax Proceeds**" means 75% of the City's share of local point-of-sale sales tax increment (the one-half of one percent sales tax allocated to the City based upon point-of-sale sales) actually received by the City for the Subsidy Period that are attributable to sales by businesses located within the Site, as defined below, but only to the extent such sales tax proceeds are in excess of Two Hundred Thirty Nine Thousand One Hundred Two and No/100 dollars ($239,102), and that are actually received by the Agency from the City pursuant to the applicable interlocal cooperation agreement between the Agency and the City dated July 15, 2008 (the "**Interlocal Agreement**"). "Available Sales Tax Proceeds" also includes any replacement funding provided by legislative action to adjust for sales tax proceeds lost through legislative action as provided in Section 6.5(A), below. For avoidance of doubt, the Parties understand and agree that 75% of the above-referenced City's share of sales tax increment generated from the Project Area is 100% of the sales tax proceeds to be received by the Agency for the Subsidy Period pursuant to the TEC Resolution and the Interlocal Agreement.

1.7 Available Tax Increment.

The term "**Available Tax Increment**" means the sum of the Available Property Tax Increment and the Available Sales Tax Proceeds which the Agency actually receives from the Project Area for the Subsidy Period.

1.8 Base Taxable Value

The term "**Base Year Taxable Value**" means the Thirty-Four Million Twenty Four Thousand One Hundred and No/100 dollars ($34,024,100) value for the real and personal property within the Site (defined below) for the Base Year (defined below) comprised of a real property valuation of Thirty Million Twenty Four Thousand One Hundred and No/100 ($30,024,100) and a personal property valuation of Four Million and 00/100 ($4,000,000), as set forth in the Project Area Budget approved by the Taxing Entity Committee on June 15, 2011.

1.9 Base Year

The term "**Base Year**" means the year 2007 as established by the Project Area Budget and the TEC Resolution (defined below).

1.10 Certificate of Completion.

The term "**Certificate of Completion**" has the meaning provided for it in Section 3.5.

1.11 Certificate of Occupancy.

The term "**Certificate of Occupancy**" means (1) with respect to a residential building or unit, a temporary or permanent certificate of occupancy for the building or unit that is issued by the City, and, (2) with respect to a commercial building (whether office or retail improvements) a permanent certificate of occupancy issued by the City.

1.12 City.

The term "**City**" means the City of Holladay, a political subdivision of the State of Utah.

1.13 County.

The term "**County**" means Salt Lake County, Utah.

1.14 Developer.

The term "**Developer**" means KMW Development L.L.C., a Utah limited liability company with its principal offices located at the address provided in Section 9.3 below, which entity is the successor of the rights of any prior developer or co-developer in the Prior ADLs.

1.15 Improvements.

The term "**Improvements**" means the improvements contemplated under this Agreement to be constructed and installed by the Developer on the Site, as more particularly described or referred to in Attachment No. 1, and as further defined below in Section 1.14.

1.16 Institutional Lender

The term "**Institutional Lender**" has the meaning provided for it in Section 4.1(C).

1.17 Minimum Investment Amount.

The term "**Minimum Investment Amount**" means (i) One Hundred Fifteen Million Dollars ($115,000,000.00) in order for Developer to be entitled to up to the first Fifteen Million Dollars ($15,000,000.00) of Subsidy, and (ii) a total of One Hundred Sixty-Five Million Dollars ($165,000,000.00), which amount includes the first $115,000,000, for any amounts of Subsidy over Fifteen Million Dollars ($15,000,000). The "**Minimum Investment Amount**" may include land value, personal property or tenant improvements paid by third parties. The Minimum Investment Amount also includes and requires completion of the Improvements listed in Paragraph 3 of Attachment No. 1.

1.18 Permitted Uses.

The term "**Permitted Use**" or "**Permitted Uses**" shall be limited to the uses permitted by the SDMP (as defined below).

1.19 Plan.

The term "**Plan**" means the Plan entitled the "Cottonwood Mall Urban Renewal Project Area Plan," adopted by the City Council through the adoption of Ordinance No. 08-01 dated the

7th day of February 2008 and published on the 16th day of February 2008. The Plan is incorporated herein and made a part hereof as if set forth in full.

1.20 Project Area.

The term "**Project Area**" means the Cottonwood Mall Urban Renewal Project Area, as more fully described in the Plan.

1.21 Project Area Budget.

The term "**Project Area Budget**" means the revised budget attached as Attachment No. 3 which was prepared by the Agency and approved on June 15, 2011 by the Taxing Entity Committee and set forth in the TEC Resolution.

1.22 Public Improvements.

The term "**Public Improvements**" means the public improvements to be constructed and installed by the City and paid for by the Developer, which are described in Attachment No. 4.

1.23 SDMP.

The term "**SDMP**" means the Site Development Master Plan for the Site approved by the City on November 19, 2007, as it may be amended from time to time upon the proposal of the Developer and approval of the City. The Parties acknowledge that the SDMP is consistent with, and complies with, the Plan.

1.24 Site.

The term "**Site**" means the real property situated in the Project Area described in the Site Legal Description, Attachment No. 2 hereto. The Site is located in the City's Regional/Mixed-Use Zone and is approximately 56.4 acres in size.

1.25 Subsidy.

The term "**Subsidy**" means and includes the sum of the Available Property Tax Increment and Available Sales Tax Proceeds actually received by the Agency for the Subsidy Period (defined below), subject to the Maximum Aggregate Subsidy (defined below). The maximum amount of property Tax Increment that could be received by the Agency pursuant to the Project Area Budget is $96,331,107 and the once projected (but not maximum) Available Sales Tax Proceeds are estimated to be $26,166,068, for a total of $122,497,175. Pursuant to the TEC Resolution, if the Available Sales Tax Proceeds are greater than projected, then the amount of property Tax Increment paid to the Agency pursuant to the Project Area Budget shall be reduced in a corresponding amount. Nevertheless, the parties recognize and agree that the Maximum Aggregate Subsidy shall not change as the result of any change in the Available Sales Tax Proceeds. From the property Tax Increment received by the Agency pursuant to the Project Area Budget, the Agency shall be entitled to retain the sum of $500,000 to be used for residential housing as described in Section 1.5(A), plus 2.5% for Agency administration and the sum of $150,000 for purposes of improvements to Highland Drive as described in Section 1.5(B) (which, at the maximum property Tax Increment amount of $96,331,107 would be $2,408,278), leaving a balance of $119,588,897 [$122,497,175 - 650,000 - 2,408,278 = $119,438,897]. In no event shall the total amount of all payments of the Public Subsidy to the Developer exceed $119,438,897 (the "**Maximum Aggregate Subsidy**"); and provided, further that the Maximum Aggregate Subsidy is subject to limitations and downward adjustments pursuant to other terms and provisions of this Agreement depending upon performance of certain requirements by the Developer.

1.26 Subsidy Period.

Pursuant to the approved Project Area Budget, the first calendar year of the Project Area Budget and the first Tax Increment Year is the calendar year 2017 as previously selected by the Agency. The Subsidy Period shall end on the last day of the calendar year that is the earlier of (a) 20 years following the commencement of the Subsidy Period extended for a two year period as authorized in Senate Bill 6001, approved by the Utah State Legislature in 2020, which is December 31, 2038, or (b) the year in which the aggregate amount of Available Tax Increment, plus the amounts retained by the Agency under Subparagraphs 1.5(A) and (B), received by the Agency reaches the sum of $122,497,155. The "Subsidy Period" shall coincide with the term of the Project Area Budget.

1.27 Tax Increment.

The term "**Tax Increment**" means the difference between (i) the amount of real and personal property tax revenue generated each Tax Increment Year (defined below) using the Assessed Taxable Value for the applicable year and each taxing entity's current certified tax rate and (ii) the Base Taxable Value.

1.28 Tax Increment Year.

The term "**Tax Increment Year**" means a calendar year of the Project Area Budget beginning January 1 (the "tax lien date" when real property is deemed to be assessed for purposes of taxation by the Office of the Salt Lake County Assessor pursuant to law) and ending December 31 of the same calendar year.

1.29 Taxing Entity Committee.

The term Taxing Entity Committee, or sometimes TEC, means the committee comprised of representatives appointed by the taxing entities participating in the Project Area, created in accordance with Utah Code Ann. § 17C-1-402.

1.30 TEC Resolution.

The term "**TEC Resolution**" means the Taxing Entity Committee Resolution dated June 15, 2011, approving the Project Area Budget and setting forth criteria for revisions thereto, a copy of which is attached hereto as Attachment No. 6.

ARTICLE 2- CONDITIONS PRECEDENT TO THE PAYMENT OF THE SUBSIDY BY THE AGENCY TO THE DEVELOPER

2.1 Conditions Precedent.

As express conditions precedent to the Agency's obligation to pay, and the Developer's eligibility to receive, the portion of the Subsidy originating from Available Property Tax Increment for each year of the Subsidy Period, as more fully described in Article 6, the Developer must have met each of the following conditions precedent:

(A) Minimum Investment Amount. At least the Minimum Investment Amount must have been expended for the construction and installation of the Improvements on the Site.

(B) Completion of the Improvements. The Developer shall have timely completed, to the reasonable satisfaction of the Agency, the remaining Improvements on the Site as described and defined in Attachment No. 1.

(C) Other Terms and Conditions of this Agreement. The Developer shall have timely performed each and every material term, covenant and condition of this Agreement to be performed by Developer as of the time each Subsidy payment is to be made, including but not limited to the timely commencement and completion of construction and installation of the Improvements and payment of the costs for constructing and installing the Public Improvements, and the timely payment of all ad valorem taxes on the Site, and personal property taxes related thereto, when due.

(D) Compliance with SDMP. The Developer shall comply with the terms and conditions of the SDMP, as referenced in Section 4.1(A), below.

2.2 Developer's Failure to Meet the Conditions Precedent or Eligibility Requirements.

In the event that the Developer fails to perform any term, covenant or condition precedent described in Section 2.1 during any Tax Increment Year ("**Default Year**"), or fails to meet eligibility requirements of this Agreement for receipt of Subsidy payments, then the Agency shall give notice of such failure to the Developer, detailing what the Developer must do to satisfy the conditions or requirements for the Subsidy, and the Agency shall retain and deposit into a separate interest-bearing account ("**Retention Account**") the Subsidy payments available for such Tax Increment Year. At such time thereafter that the Developer meets all of the conditions precedent described in Section 2.1, then the Agency shall immediately pay to the Developer all amounts in the Retention Account, including all interest earned thereon.

2.3 Subsidy Period.

Subject to the satisfaction of the conditions precedent described in Section 2.1, and subject to compliance with all other requirements set forth in this Agreement, the Developer shall only be eligible for the Subsidy payments during the Subsidy Period, provided that a Subsidy earned during the Subsidy Period but not distributed to Agency until after the Subsidy Period shall still be paid to Developer in accordance with the timing outlined in Subsections 6.1(A) and (B).

2.4 Satisfaction of Certain Housing Obligations.

(A) Developer's Housing Allocation. As described in Section 1.22, the maximum property Tax Increment that could be received by the Agency pursuant to the Project Area Budget is $96,331,107. Twenty percent (20%) of the property Tax Increment received by the Agency, which at a maximum would be $19,266,221, shall be used for housing purposes. The amount of $500,000 shall be retained by the Agency to be used for housing purposes, as described herein. The remainder of the twenty percent (20%) of the property Tax Increment received by the Agency (under the above calculation once projected to be $18,766,221) shall be referred to herein as "**Developer's Housing Allocation**". Developer's Housing Allocation is included in the Maximum Aggregate Subsidy and shall be used by the Developer within municipal boundaries of the City for housing related uses as described in Subsections 17C-1-412(1)(a)(i), (ii) and (iii) of the Act and in Attachment No. 1 to this Agreement. To qualify as moderate income housing, a residential unit is to be affordable to households with 80% of AMI (area median income for Holladay City as determined by U.S. Census Bureau or other acceptable authority) or below, or Developer or its Affiliate shall subsidize the sales or rental price of residential units in order to make such units affordable to households with the foregoing maximum income ("**Moderate Income Housing**"). In receiving Developer's Housing Allocation, Developer shall not be required to locate Moderate Income Housing within the Site, provided, however, that Developer may elect to do so in accordance with the housing requirements of this Subsection 2.4(A).

(B) Progress Payments of Developer's Housing Allocation. To be eligible for the entire Developer's Housing Allocation, Developer must construct or convert fifty (50) residential units to be operated as Moderate Income Housing within the municipal boundaries of the City. Developer may request progress payments from Agency upon the completion of each unit qualifying as Moderate Income Housing, provided Developer has installed Improvements equal in value to the initial required Minimum Investment Amount of $115,000,000. Such portions of Developer's Housing Allocation that have not been distributed to Developer shall be retained by the Agency in an interest bearing account until disbursement in accordance with this Agreement. Developer shall supply cost information to Agency to assist Agency in confirming that Developer's Housing Allocation is less than developers cost for Moderate Income Housing, which costs shall include the proportionate share of land, site/infrastructure improvements, building common areas, amenities and other costs. The proportionate share will be the ratio of the gross leasable affordable housing unit area to the gross leasable residential area.

ARTICLE 3- CONSTRUCTION AND INSTALLATION OF IMPROVEMENTS, PAYMENT OF TAXES, PROHIBITION AGAINST CERTAIN PARCEL SPLITTING, ETC.

3.1 Permits and Fees.

The Developer shall have the sole responsibility for obtaining all necessary permits and approvals to construct and install the Improvements and shall make application for such permits and approvals directly to the City Building Department and other appropriate agencies and departments. Developer shall pay to the City all applicable building permit fees relating to the Improvements. The Developer and the City agree that the Developer shall pay in full all impact fees relating to public safety (police and fire) as referred to in Attachment No. 5, and that other impact fees relating to Developer's project on the Site will be paid by Developer in reduced amounts or credited, as shown and described in Attachment No. 5, and as set forth in Section 7.4.

3.2 Site Preparation, Grading and Construction and Installation of Improvements.

(A) Improvements Generally. Developer owns a portion of the Site and is the successor of the developer which conducted preparations of the Site, including the grading of the Site and most of the necessary Improvements as described Attachment No. 1. Developer shall construct and install the remaining Improvements defined in Attachment No. 1 without expense to the Agency. The Developer shall install the remaining Improvements in such a manner that the development shall meet applicable parking, landscaping and all other requirements of the City's laws and regulations. All Improvements shall comply with the City's zoning ordinances, and with the City-approved SDMP as it exists at the time of the issuance of the relevant building permit(s).

(B) Affordable Housing. Not later than two years prior to the City's deadline under the TEC Resolution to provide 100 affordable housing units, the Developer (or an Affiliate) shall expend at least $1,500,000 for Moderate Income Housing, as defined in Subsection 2.4(A). Any portion of the $1,500,000 that has not been expended for affordable housing by the deadline set forth above shall be paid by the Developer to the City. All residential units constructed, acquired or provided to satisfy the above requirement shall be subjected to a deed restriction or other restrictive covenant to assure that such units continue to meet the affordable housing criteria for a period of at least twenty (20) years following the issuance of Certificate of Occupancy for each unit.

3.3 Access to Site.

The Improvements on the Site and the work of the Developer shall be subject to inspection by representatives of the City and the Agency. The Developer shall permit access to the Site by the City and the Agency for purposes of inspection, and, to the extent necessary, to carry out the purposes of this and other sections or provisions of this Agreement. Inspections shall be made during reasonable business hours and shall be made in accordance with standard inspection and project safety guidelines. Except for Building Department inspections which are regulated by other City ordinances, City and Agency personnel will provide reasonable notice to Developer prior to visiting the Site.

3.4 Payment for Public Improvements.

The City shall contract for the design, construction and installation of the Public Improvements, and shall be solely responsible for the supervision of such activities. The Developer shall have no liability whatsoever for the design and construction of the Public Improvements. Developer's sole responsibility with respect to the Public Improvements shall be to pay or reimburse the City for all of the City's costs and expenses incurred for the design, construction and installation of the Public Improvements. In order to protect the interests of the Developer in keeping the cost of the Public Improvements to reasonable amounts, the Developer shall have the right to review the plans to verify that they are consistent with Attachment No. 4. Further, if the total projected cost of the Public Improvements exceeds $2,500,000.00 then City and Developer shall cooperate to jointly review and, if appropriate, revise the plans and specifications for the

Public Improvements in an effort to identify available cost savings, so long as all applicable City codes and construction standards are satisfied. The City may bill the Developer periodically as costs and expenses for the Public Improvements are incurred. Developer shall make payments to the City for the costs of the Public Improvements within sixty (60) days following receipt of an invoice from the City for such work.

3.5 City Certificates of Occupancy and Agency Certificate of Completion.

Upon completion of each building, Developer shall obtain from the City a Certificate of Occupancy for the completed building. After Developer has obtained Certificates of Occupancy for all of the buildings included in the Improvements, and provided construction and installation of all of the Improvements has been completed and Developer has made all required payments for the Public Improvements, the Agency shall issue a Certificate of Completion to the Developer acknowledging that all of the Improvements have been constructed and installed. This Subsection 3.5 shall be of no further force or effect after the Improvements are complete and Developer has built vertical Improvements in excess of the residential, office and retail minimums set forth in Attachment No. 1.

3.6 Developer's Payment of Ad Valorem Taxes; First Tax Increment Year.

(A) The Developer shall timely pay, or cause to be paid, all ad valorem taxes for the portions of the Site still owned by Developer, based on the Assessed Taxable Value and in accordance with current laws and ordinances.

(B) According to the TEC Resolution, the first Tax Increment Year is 2017.

3.7 Restriction Against Parcel Splitting.

Until one full calendar year after the end of the Subsidy Period, the Developer shall not, without the prior written approval of the City and the Agency: (a) convey the Site, or a portion of the Site, or any real property acquired by the Developer within the Project Area, in such a way that the parcel of real property would extend outside the Project Area as shown on the County's tax identification system for numbering individual parcels of real property; (b) construct or install or allow to be constructed or installed any building or structure on the Site, or on any portion of the Project Area, in such a way that the building or structure would extend outside the Project Area as shown on the County's tax identification system for numbering individual parcels of real property. The Developer understands that the purpose and intent of this prohibition is to avoid the "splitting" of any parcels of real property within the Project Area or the "joining" of any parcels of real property within the Project Area with those outside the Project Area, or construction or installation of buildings, in such a way that the County Assessor or County Auditor could no longer identify, by distinct parcels, the periphery boundaries of the Project Area described in the Plan, or the buildings or structures included within the Project Area, and would be required to "apportion" Tax Increment monies between a parcel of real property, or a building or structure, located in part within the Project Area and located in part outside the Project Area. The Developer understands the importance of honoring the Project Area boundaries and agrees to take no action in the construction or installation of buildings or structures or in the conveyance of real property located within the Site or the Project Area that would result in the "splitting" or "joining" of a parcel of real property or the improvements thereon, or would make it difficult for the County Assessor or County Auditor to calculate the amount of Tax Increment in the Project Area.

3.8 Deannexation (Disconnection).

The Developer agrees that it will not cooperate with any person, group, or municipality in any effort to remove, deannex, disconnect or disincorporate the Site or any portion thereof from the municipal boundaries of the City until at least ten (10) years after the end of the Subsidy Period. The Developer further agrees that until ten (10) years after the end of the Subsidy Period it will not give consent to remove, deannex or disincorporate the Site in whole or in part from the City by any existing or future municipality or county.

3.9 Payment of Taxes and Assessments.

(A) Subject to the Developer's or a current owner's right to protest or appeal as provided below, for each Tax Increment Year during the Subsidy Period, all ad valorem taxes and assessments levied or imposed on the Site, any of the Improvements, and any personal property on the Site shall be paid annually by the Developer or current owner on or before the due date which is currently set by law as November 30th.

(B) The Developer or current owner (as applicable) shall have the right to protest or appeal the amount of Assessed Taxable Value and taxes levied against the Site by the County Assessor, State Tax Commission or any lawful entity authorized by law to determine the ad valorem assessment against the Site, the Improvements, personal property on the Site, or any portion thereof in the same manner as any other taxpayer as provided by law. The Developer shall, however, notify the Agency in writing within thirty (30) calendar days following the Developer's filing of any protest or appeal to such assessment determination or taxes and provide a copy to the Agency of any protest or appeal of such assessment and information submitted as part of the protest or appeal. In addition, the Developer shall give to the Agency written notice at least fifteen (15) calendar days prior to the time and date that such protest or appeal is to be heard. Notwithstanding the foregoing, the Agency recognizes that certain of Developer's tenants on the Site (typically those considered to be "anchor tenants", but potentially other tenants as well) may have the right to protest or appeal property taxes for which they are directly or indirectly liable and that end users of a housing lot or housing unit on the Site shall also have the right to protest or appeal property taxes. In such event, Developer will make reasonable efforts to notify the Agency of such protests or appeals, but Developer shall not be in default hereunder for failing to provide notice of any protests or appeals filed by third parties having an interest in some portion of the Site or the improvements thereto. The Agency shall have the right, without objection by the Developer, to appear at the time and date of such protest or appeal and to present oral or written information or evidence in support of or objection to the amount of assessment or taxes which should or should not be assessed against the real or personal property of the Site and the amount of the Agency's Project Area existing or future obligations.

3.10 Annual Fundraiser for Local Schools.

Developer will work with the City to hold an annual fundraiser for the benefit of local public schools, beginning in the first year of the Subsidy Period and continuing each year thereafter.

ARTICLE 4- LAND USES

4.1 Covenants.

The Developer covenants and agrees for itself, and its successors and assigns to or of the Site or any part thereof, that the Developer, and such successors and assigns shall, subject to the terms and conditions contained in this Agreement:

(A) Devote the Site to, and only to and in accordance with, the uses specified in the Plan, the SDMP and this Agreement, as hereafter amended and extended from time to time, and to locate structures and improvements in the configurations, heights and locations contemplated by the SDMP and confirmed in subdivision and site plan approvals applying the approvals in the SDMP.

(B) Except as to portions of the Site conveyed by Developer to others as authorized in this Agreement, pay when due, or cause to be paid when due, and on or before the tax payment date, all ad valorem taxes or assessments on or relating to the Site or any part thereof, and on any property located on the Site or any part thereof.

(C) Except as set forth below, prior to the issuance of the applicable temporary certificates of occupancy for such portion of the Improvements constituting residential or housing units, and permanent Certificates of Occupancy for such portion of the Improvements constituting commercial or retail buildings, the Developer shall not convey the Site, or any part thereof, without the prior written consent of the Agency. The Developer may, however, convey the Site, or any part thereof, prior to the completion of the Improvements and the issuance of the applicable Certificate of Occupancy, without the prior written consent of the Agency to: (1) any institutional mortgage/trust lender in the business of making loans and credit facilities of the type secured by such lender's security instrument(s) (each an "**Institutional Lender**"), as security for funds necessary for the Site's development, including loans and security facilities that are secured by Developer's interest in any Subsidy payment(s); or (2) to an end user of a housing lot or housing unit on the Site, or to an end user of a pad or commercial unit or commercial lot of the Site which end user of a pad or commercial unit or commercial lot is obligated pursuant to the terms of the conveyance of the pad, or commercial unit or commercial lot of the Site to construct thereon its own building as a part of the Improvements; or (3) to a builder or other developer of one or more of the attached or detached residential lots or parcels to be created on the Site, and the subsequent sale of such lot, unit or home to an end user thereof; or (4) as authorized in Section 5.2 of this Agreement. In addition, as provided immediately below, with the consent of the Agency, the Developer may convey the Site or any portion thereof to a new proposed developer of all or any portion of the Site pursuant to a development contract containing the applicable terms and conditions of this Agreement binding upon the new proposed developer in conformance with and subject to the approval of the Agency. Notwithstanding the foregoing provisions of this paragraph, or any other provision of this Agreement to the contrary, the Developer shall have the right, without any obligation to seek or obtain the consent of the Agency or the City, to transfer the Site or any portion thereof or interest therein, to (y) an Affiliate of the Developer or (z) Woodbury Corporation or an Affiliate of Woodbury Corporation. In the event of such a transfer, the transferee shall be bound to all of the terms and provisions of this Agreement applicable to the property or interest transferred, and all of the conditions to Developer's eligibility to receive Subsidy payments and Developer's Housing Allocation shall continue to apply. Developer's entitlement to Subsidy payments and Developer's Housing Allocation may only be assigned in writing and notice of any such assignment shall be delivered to the Agency.

As provided above and elsewhere in this Agreement, subject to the exceptions set forth in the immediately preceding paragraph above, until Improvements at least equal to the Minimum Investment Amount are completed and Certificates of Occupancy therefor are issued by the City, the Developer shall obtain the written consent of the Agency before conveying the Site or any part thereof. The Agency may withhold such consent at its reasonable discretion, and in addition, as a condition of granting such written consent, the Agency may require that any proposed transferee who wishes to purchase all or part of the Site prior to the completion of Improvements at least equal to the Minimum Investment Amount and the issuance of certificates of occupancy for such Improvements enter into a written agreement with the Agency to assume the obligations of the Developer under this Agreement and become a developer of all or a portion of the Improvements described on <u>Attachment No. 1</u> and to be bound by the terms of this Agreement and to become the successor in interest to the Developer under this Agreement with respect to the Site or portion thereof to be conveyed.

(D) Not discriminate against any person or group on any unlawful basis in the sale, lease, rental, sublease, transfer, use, occupancy, tenure or enjoyment of the Site or any improvements erected or to be erected thereon, or any part thereof.

(E) In connection with a site plan or subdivision plat, Developer shall dedicate any portion of the Site extending into the travelled way of existing Murray Holladay Road or Highland Drive.

(F) Developer shall use its best efforts to route construction traffic away from the Holladay Village Center, provided, however, that this provision shall not apply to suppliers located within or near the Holladay Village Center.

(G) Billboards, as defined in Section 13.04.040 of the Holladay City Code shall not be allowed along the public roads adjoining the site. The foregoing restriction shall not apply to on premise signs, road tops, and other signage located within the site that is consistent with Holladay City Code, an approved sign plan, the SDMP, or amendments thereto.

4.2 <u>Enforcement of Covenants</u>.

(A) The Parties agree that the Agency shall be deemed a beneficiary of the agreements and covenants provided in Section 4.1 of this Article, both for and in its own right and also for the purposes of protecting the interest of the community and other parties, public or private, in whose favor or for whose benefit these agreements and covenants have been provided. The memorandum or other recorded notice of this Agreement shall specify that the purchasers or other end users of housing lots and housing units shall have no obligations under this Agreement, other than the legal obligation to pay ad valorem taxes and assessments attributable to such end user's property.

(B) The covenant and agreement contained in covenant numbered Section 4.1 (A) shall terminate upon the expiration of the Subsidy Period, except that the termination of the covenant numbered 4.1 (A) shall in no way be construed to release the Developer, or its permitted successors, from the obligation to comply with the applicable zoning or other ordinances or regulations of the City, including the SDMP.

(C) The covenants and agreements contained in covenants numbered 4.1 (B), (C), and (F) shall terminate as to a particular parcel of real property of the Site on the date the City has issued the Certificate(s) of Occupancy as to the particular parcel of real property on the Site, or as to a particular phase of construction or installation of the Improvements, on the date that the City has issued the Certificate(s) of Occupancy to the Developer. The Certificate(s) of Occupancy shall be evidence that the Improvements or a particular portion of construction or installation of the Improvements on the Site have been completed. The covenants numbered 4.1 (D) and 4.1(G) shall not terminate.

ARTICLE 5- ANTI—SPECULATION AND ASSIGNMENT PROVISIONS

5.1 Representation as to Development.

The Developer represents and agrees that its use of the Site, and the Developer's other undertakings pursuant to this Agreement, are and shall be only for the purpose of development of the Site and not for speculation in land holding.

5.2 Prohibition Against Transfer and Assignment.

(A) The Developer further agrees, in view of (1) the importance of the development of the Site to the general welfare of the community; and (2) the fact that a change in the controlling ownership of the Developer may have the same practical effect as a transfer or disposition of the property owned by the Developer; that, except as otherwise provided below, and in Sections 4.1(C) and 5.4, no change in the ownership of the Site, or change in the majority ownership or control of the Developer, or with respect to the identity of the parties in control of the Developer, shall be permitted without the express written consent of the Agency until the time that Improvements at least equal to the Minimum Investment Amount have been constructed and installed on the Site. The Agency's decision to approve or disapprove of a transfer or assignment shall be at the Agency's reasonable discretion, and based upon the Agency's reasonable evaluation of the ability of the proposed successors to construct, install, maintain and operate the Improvements on the Site and to pay for the Public Improvements, as described in this Agreement. The Agency may require as conditions to any such approval of a transfer or assignment before construction and installation of Improvements at least equal to the Minimum Investment Amount that:

(1) Any proposed transferee shall have the qualifications and financial responsibility, as reasonably determined by the Agency, necessary and adequate to fulfill the obligations undertaken pursuant to this Agreement by the Developer (which qualifications and financial resources may be less than those possessed by Developer, but still sufficient);

(2) Any proposed transferee, by instrument in writing, shall have expressly assumed all of the obligations of the Developer under this Agreement with respect to that portion of the Site acquired by such transferee and agreed to be subject to all of the conditions and restrictions to which the Developer is subject with respect to such property; provided, that there has been submitted to the Agency for review, and the Agency has reasonably approved, all instruments and other legal documents involved in effecting transfer that are reasonably necessary for the Agency to determine that such agreement has been obtained;

(3) The Developer and any subsequent transferee shall comply with such other conditions as the Agency reasonably determines are needed in order to achieve and safeguard the purposes of the Act, the Plan, and the benefits to the Agency under this Agreement, including but not limited to, the construction and installation of the Improvements and payment for the Public Improvements, or any of the obligations with respect thereto:. In the event of a transfer to an Affiliate of the Developer, the Developer shall remain fully liable for the performance of all of the duties and obligations of the Developer hereunder. In the event of a transfer to a third party (other than an Affiliate) approved by the Agency, unless specifically agreed otherwise by the Agency in writing, which agreement shall not be unreasonably withheld, Developer shall continue to be obligated for the performance of all duties and obligations hereunder with respect to the property transferred.

(B) Notwithstanding the provisions of this Section 5.2, a transfer of the entire or a portion of the Site is permitted under the following circumstances: (i) a transfer to any Institutional Lender, as security for funds necessary for the Site's development, including loans and security facilities that are secured by Developer's interest in any Subsidy payment(s), or (ii) a transfer to any Affiliate of the Developer. No consent of the Agency shall be required for any transfer under this Section 5.2(B).

(C) Also, the Developer may transfer a portion or portions of the Site that is/are designated for housing/residential development, to (i) an Affiliate of the Developer, which shall not require Agency approval, or (ii) another developer approved by the Agency, provided such other developer is contractually bound to the Agency to timely construct and install the residential/housing units on the portion of the Site that Developer intended to or is obligated to construct under this Agreement. The Agency's approval of such other developer shall not be unreasonably withheld and shall be given if the conditions of this subparagraph are met and the proposed developer has the qualifications and financial responsibility, as reasonably determined by the Agency, necessary and adequate to fulfill the obligations regarding the timely construction of the housing/residential units. Notwithstanding any transfer by the Developer of a portion of the Site to a party other than an Affiliate, for construction of housing/residential units, unless specifically agreed otherwise by the Agency in writing, which consent shall not be unreasonably withheld, Developer shall continue to be obligated and responsible for the construction of such housing/residential units in accordance with this Agreement, and the conditions to Developer's eligibility to receive Subsidy payments and Developer's Housing Allocation shall continue to apply.

(D) The provisions of this Section 5.2 shall terminate upon the issuance of the Certificates of Completion by the Agency for the payments for the Public Improvements and the completion of the Improvements representing the Minimum Investment Amount.

5.3 Assignment for Financing.

(A) Notwithstanding anything to the contrary herein, the Developer shall have the right, without obtaining the Agency's or the City's consent, to assign its rights and interest in this Agreement to one or more Institutional Lenders, as collateral for one or more loans or other arrangements for the financing of any improvements to be made by a Developer to the Site. The City and the Agency shall cooperate in the Developer's activities to obtain financing for the development of the Site and comply with any commercially reasonable requests for notices, consents and other documentation and information as may be reasonably required by any Institutional Lenders or investors. Without limiting the generality of the foregoing, the Agency and the City shall, upon the written request of the Developer, promptly execute and deliver to Institutional Lenders or investors designated by the Developer estoppel certificates, confirming the enforceability of this Agreement, confirming the status of the Developer's performance hereunder (i.e., that there are no defaults, or detailing the nature of any defaults hereunder) and including such other information as the Developer or such lender or investor may reasonably require.

(B) Notwithstanding anything herein to the contrary, any limitations or restrictions set forth in this Agreement regarding the transfer of the Site are inapplicable to any transfers which may be effected in connection with any judicial or non-judicial foreclosure of a Deed of Trust, deed-in-lieu thereof, or any other enforcement of an Institutional Lender's rights and remedies thereunder.

(C) Provided that Developer provides City and Agency with written notice of the name and address of any Institutional Lender for the Project, City and Agency shall send a copy of any notice of default or similar statement with respect to this Agreement to any Institutional Lender at the same time such notice or statement is sent to Developer. City and Agency shall not exercise any right or remedy with respect to any such default or make claim with respect thereto until they have given each Institutional Lender written notice of such default at the address provided by Developer and a reasonable time for each Institutional Lender to cure the default, including a reasonable time to gain possession of the Property to effectuate such cure, if necessary.

5.4 Reports and Notices - Changes in Ownership.

The Developer agrees that during the period between execution of this Agreement and the issuance of the Certificate of Completion by the Agency the Developer will promptly notify the Agency of any and all changes whatsoever with respect to: (1) a change in the project manager of the Developer; (2) a change in control, ownership, legal or beneficial of the Developer; or (3) a change or any other act or transaction involving or resulting in any change in control or the ownership of the Developer.

5.5 Application to All Forms of Entities.

The provisions of this Article shall apply without exception to all forms of business organization, including but not limited to, limited liability companies, corporations, sole proprietorships, joint ventures and partnerships, both general and limited.

ARTICLE 6- AGENCY OBLIGATIONS

The Agency's obligations under this Agreement are that the Agency will perform its obligations as required under and pursuant to the provisions of this Article 6:

6.1 Subsidy.

In consideration of the Developer's promises and performance, including but not limited to the timely construction and installation of the Improvements, and subject to the conditions, terms and limitations set forth in this Agreement, including those set forth in Section 6.5, Limitations On Making Payments, below, and contingent on the Developer otherwise being eligible and entitled under this Agreement, and only to the extent the Developer is entitled and eligible under the conditions, terms and provisions of this Agreement to receive Subsidy payments, the Agency agrees to pay to the Developer the Subsidy for the Subsidy Period by payment of the following:

(A) Property Tax. Subject to Section 1.22 Subsidy and other provisions of this Agreement, 100% of the Available Property Tax Increment from each Tax Increment Year of the Subsidy Period shall be paid to the Developer until (i) the Maximum Aggregate Subsidy, as adjusted pursuant to the terms of this Agreement, has been paid, or (ii) the end of the Subsidy Period, whichever occurs first. The Agency reserves the right to amend the Project Area Budget for any reason, provided that the amendment does not adversely affect Developer's rights under this Agreement or reduce the amount, or delay the payment, of Subsidy required by this Agreement to be paid to the Developer for the Subsidy Period. The Tax Increment payments received each year by the Agency from the ad valorem and personal property taxes required to be paid by taxpayers to the County Treasurer by November 30 each year on the Project Area, to the extent required under this Agreement to be paid to the Developer as Subsidy, shall be paid to the Developer within sixty (60) calendar days following receipt of and final accounting of said funds by the Agency. The Agency anticipates receipt of these funds by June 1 of each year from the ad valorem and personal property taxes paid by property owners which are due the prior November 30th.

(B) Sales Tax.

(1) Subject to applicable provisions of this Agreement, 100% of the Available Sales Tax Proceeds actually received by the Agency from the City for the Subsidy Period shall be paid to the Developer, until (i) the Maximum Aggregate Subsidy, as adjusted pursuant to the terms of this Agreement, has been paid, or (ii) the end of the Subsidy Period, whichever occurs first. The Agency reserves the right to amend for any reason the Interlocal Agreement with the City pursuant to which the Agency is to receive the Available Sales Tax Proceeds, provided that the amendment does not adversely affect Developer's rights under this Agreement or reduce the amount, or delay the payment, of

Subsidy required by this Agreement to be paid to the Developer for the Subsidy Period. The Agency's payments to the Developer of the sales tax portion of the Subsidy shall be made by the Agency to the Developer on a semi-annual basis, by March 31 and September 30 each calendar year.

(2) Parties recognize that development contemplated for the Site will likely not produce Available Sales Tax Proceeds, in part because of the Base Year. Nevertheless, the Parties agree that Agency and City will cooperate in potentially adjusting the Available Sales Tax Proceeds as may be necessary for Developer to attract a tenant or user to the Site of significant value to the Project and the City, subject to any restrictions of law that may be applicable.

(C) <u>No Guarantee of Maximum Aggregate Subsidy</u>. It is understood and agreed by the Developer that the Agency makes no representation to the Developer, or to any other party, person or entity that the Agency will actually receive the contemplated Available Tax Increment, or that the Available Tax Increment monies to be received by the Agency from the Project Area for the Subsidy Period will be an amount large enough to pay the Developer the Maximum Aggregate Subsidy or any other specific amount. The Agency has not computed, nor can it compute the exact amount of anticipated Available Tax Increment that may be available from the Project Area for the Subsidy Period. The-Agency has relied upon the representations made to the Agency by the Developer that the Developer will construct and install Improvements on the Site which will create sufficient Available Tax Increment monies to be received by the Agency and distributed to the Developer as set forth herein.

6.2 <u>Notice to Developer of Tax Increment</u>.

The Agency shall provide Developer with notice and information with respect to the Tax Increment, including, without limitation, any amounts payable to Developer, as follows: by not later than May 31 of each year, subject to the receipt of the necessary information from the County and the State Tax Commission. In addition, on or before November 1 of each calendar year, the Agency shall provide to Developer a copy of the report which the Agency must submit to various entities pursuant to Utah Code § 17C-1-603(4)(a). Agency shall also provide an annual report confirming Available Sales Tax Proceeds and Available Tax Increment for the prior years and confirm all amounts withheld by the Agency for the benefit of the Agency or the City under the terms of this Agreement.

6.3 <u>Priority of Payment of the Tax Increment</u>.

The Agency and the Developer agree that the Tax Increment monies received by the Agency shall be paid out according to a schedule of priorities. Each year (unless different timing is provided below) that the Agency receives Available Tax Increment money from the Project Area during the Subsidy Period, the Agency shall use the Available Tax Increment money in accordance with the following order of priority of payments:

<u>First</u>: The Agency shall have, receive and retain 2.5% of the Available Property Tax Increment received from the Project Area for each Tax Increment Year, plus an additional $150,000 to be retained by the Agency from the first Tax Increment proceeds from the

Project Area, to pay the Agency's administrative, consulting, legal and other Agency costs and expenses, and other obligations incurred or to be incurred.

Second: The Agency shall have, receive and retain, but only after the first five years of receiving Tax Increment from the portion of the Project Area including the Site, in accordance with the applicable provisions of this Agreement, 20% of the Available Property Tax Increment received by the Agency until said 20% allocation to the Agency equals $500,000, which $500,000 of Available Property Tax Increment shall be received and retained by the Agency as a one-time payment and allocated for housing purposes as required and permitted by the Act and the Project Area Budget and for Highland Drive purposes.

Third: Subject to the terms and provisions of this Agreement regarding Developer's eligibility to receive Subsidy payments, the balance of the Available Tax Increment shall be paid as the Subsidy to the Developer as required and provided for in this Agreement.

6.4 Available Tax Increment and Available Sales Tax Proceeds Are Sole Sources of Agency's Funding for Subsidy.

The Developer understands and agrees that the only sources of monies available to the Agency to pay the Subsidy payments are the Available Property Tax Increment monies actually received by the Agency from the Project Area based upon the value of the Improvements to be constructed and installed by the Developer on the Site or by others within the Project Area, and the Available Sales Tax Proceeds actually received by the Agency from the City pursuant to the Interlocal Agreement with the City. Only the Available Tax Increment monies actually received by the Agency will be available to the Agency for use in meeting said obligations. The Agency will use reasonable diligence to collect: (A) from the County the property Tax Increment to which the Agency is entitled pursuant to the Project Area Budget; and (B) from the City the sales tax proceeds to which the Agency is entitled pursuant to the Interlocal Agreement.

6.5 Contingencies of Subsidy Payments: Assumption of Risks By Developer.

The Developer understands and agrees that:

(A) Based upon the Act, the Agency anticipates to be the recipient of certain Tax Increment monies from the Project Area which are expected to be paid to the Agency by Salt Lake County, the collector of ad valorem taxes, conditional upon several factors, one of which is the completion of the Improvements upon the Site by the Developer in a timely manner and having a sufficient amount of assessed valuation. It is anticipated that the construction or installation of the Improvements will cause the Assessed Taxable Value of the Project Area to increase to a point which is greater than the Assessed Taxable Value of the Project Area for the Base Year for that portion of the Project Area which covers the Site and was established at the time of the adoption of the Plan and Project Area Budget. The Developer further understands that the Available Property Tax Increment monies can become available to the Agency only if and when the Improvements to be constructed and installed by the Developer on the Site, or improvements by others in the Project Area, are completed and have a current year Assessed Taxable Value which is greater than the Base Year Assessed Taxable Value of the Project Area.

(B) The Developer further understands and agrees that:

(1) The Agency is not a taxing entity under state law;

(2) The Agency has no power to levy a property tax on real or personal property located within the Site or the Project Area or to levy, establish or collect sales taxes;

(3) The Agency has no power to set a mill levy or rate of tax levy on real or personal property, or a tax on sales;

(4) The Available Property Tax Increment monies shall become available to the Agency only if and when improvements to the Project Area cause the Assessed Taxable Value of the Project Area to increase over its Assessed Taxable Value for the Base Year, and the actual amount of the. Available Property Tax Increment is dependent upon the Assessed Taxable Value of the land, improvements and personal property in the Project Area;

(5) The Agency is only entitled to receive Tax Increment funds from the Project Area for the period established by law pursuant to the provisions of the Act, and is only entitled to receive sales taxes from the City pursuant to the terms of the Interlocal Agreement with the City; and

(6) The Agency represents that it has attempted in good faith to comply with the provisions of law for the establishment of the Plan and Project Area Budget and that, absent a claim of defect by others, the Agency will not assert against the Developer any defect in the process of establishing the Plan or Project Area Budget for the purpose of depriving the Developer of the contemplated benefits or payments under this Agreement. However, the Agency does not warrant that there are no defects in the process used to establish the Plan or Project Area Budget. The Developer has investigated the provisions of state laws governing tax funds, redevelopment agencies and Tax Increment and sales tax funding, and assumes all risk (subject to the Agency performing all of its duties and obligations hereunder) regarding whether:

(a) the Plan, Project Area, Project Area Budget and Interlocal Agreement with the City were properly approved and adopted;

(b) the anticipated Available Tax Increment derived from the Project Area will actually be paid to the Agency, and if paid, whether the amount of Available Tax Increment funds will be sufficient to pay the obligations or indebtedness of the Agency, according to the terms and conditions contained in this Agreement;

(c) the Available Tax Increment from the Project Area will be paid to the Agency during the entire Subsidy Period; and

(d) changes or amendments will be made by the Utah State Legislature in the provisions of the Act which would affect or impair:

(i) the Agency's right to receive Tax Increment monies or sales taxes and to pay the Agency's obligations;

(ii) the length of time said Tax Increment monies or sales taxes can be received by the Agency; or

(iii) the percentage or the amount of Tax Increment monies or sales taxes received or anticipated to be received by the Agency based upon the current statutes;

(7) The Utah State Legislature considers proposals which reduce the taxes which the State of Utah imposes on all real and personal property within the State, and that could affect sales taxes. Such proposals, if enacted, could materially reduce the amount of Tax Increment generated within the Project Area and anticipated to be paid to the Agency, or the sales taxes payable to the Agency.

(C) If one or more of the risks referred to in subparagraphs (6) or (7) above becomes a reality and adversely affects the Agency or Developer, the Developer, the City and the Agency agree that they will work together in taking all reasonable steps to remedy the cause of the problem in order to provide the Agency and the Developer with the funding and other benefits contemplated in this Agreement.

6.6 Limitations on Making Payments.

The following additional provisions regarding limitations and reductions regarding the Developer's entitlement to and eligibility to be paid or to receive the Subsidy shall govern and shall be applied in addition to any other term or provision of this Agreement:

(A) It is the intention of the Parties that the Developer shall only be paid the Subsidy from the Available Sales Tax Proceeds, if any, which are paid to the Agency by the City, and the Available Property Tax Increment monies, if any, which are paid to the Agency as a direct result of the value of the improvements (including the value of both the real property and personal property) constructed or installed in the Project Area. The Developer understands that if, for any reason, any component of the Available Tax Increment anticipated to be received by the Agency for the Project Area is reduced, curtailed, or limited in any way by enactments, initiative, referendum, or judicial decree or other reasons, the Agency's ability to pay the Subsidy to the Developer as described in this Agreement, would likewise be reduced, curtailed, or limited. The Agency shall have no obligation to pay the Subsidy to the Developer from other sources or monies that the Agency has or might hereafter receive from other project areas or from sources other than from the Available Tax Increment monies that the Agency actually receives for the Project Area. Notwithstanding the foregoing, in the event the Utah State Legislature enacts changes to the applicable laws that have the effect of reducing any component of the Available Tax Increment to be paid to the Agency and the effect is to reduce the contemplated net benefit to the Developer, and the Legislature also provides for replacement funding, and provided that the Agency is authorized to so use the replacement funding, then to the extent of the replacement funding actually received by the Agency, the Agency will use the replacement funding to pay the Developer to the extent needed to provide the full funding to the Developer contemplated in this Agreement. It is the express intent of the Parties that (i) the Developer shall not receive a windfall (i.e. greater funding than the Developer would have received under this Agreement absent such legislative action) by reason of the operation of this provision and (ii) the Agency and City will take such actions as may be available to it so as to maintain the revenue streams upon which the Available Tax Increment has been calculated.

(B) Subject to the limitations in this Agreement, the Subsidy shall be paid by the Agency to the Developer only during the Subsidy Period, conditional, however, upon the Developer being eligible and entitled thereto under the provisions of this Agreement and the Developer having met all of the conditions precedent. Agency agrees that no payment of any portion of the Subsidy shall be made to a successor or assign of Developer without Developer consenting to such payment being made to a successor or assign in writing.

(C) The Agency's obligations to make payments to the Developer pursuant to this Agreement are limited obligations and are payable solely from the Available Tax Increment actually received by the Agency. The Subsidy payments to be made by the Agency to the Developer are secured solely by a pledge of the Agency of the agreed upon percentage of the Available Property Tax Increment the Agency actually received for the Project Area for the Subsidy Period and the Available Sales Tax Proceeds actually received by the Agency from the City pursuant to the Interlocal Agreement and other agreements with other taxing entities. The Developer shall have no other recourse to the Agency or the City for payment of the Subsidy other than the Agency's pledge.

ARTICLE 7 - CITY OBLIGATIONS

The City's obligations under this Agreement are that the City will perform its obligations as required under and pursuant to the provisions of this Article 7:

7.1 Design, Construction and Installation of Public Improvements.

The City shall timely design and complete the construction and installation of the Public Improvements by the times set forth in Attachment No. 4. In order to protect the interests of the Developer in keeping the cost of the Public Improvements to reasonable amounts, the Developer shall have the right to review the plans to verify that they are consistent with Attachment No. 4. Further, if total projected cost of the Public Improvements exceeds $2,500,000.00 then City and Developer shall cooperate to jointly review and, if appropriate, revise the plans and specifications for the Public Improvements in an effort to identify available cost savings, so long as all applicable City codes and construction standards are satisfied. The City agrees to install any decorative street lighting along Murray Holladay Road at the City's own cost.

7.2 Payment of Interest to Developer on Amount Paid for Public Improvements in Excess of $2,500,000.00.

If the Developer and the City agree under the provisions of Section 7.1 to spend more than $2,500,000.00 for the Public Improvements (such amount the "Excess Amount"), then the following shall apply:

Prior to the end of the Subsidy Period the City shall repay to the Developer, from the City's general fund, the Excess Amount with interest, from the date(s) paid to the City, at the annual percentage rate of 7% per annum. The City may pay the amount due to the Developer under this Section 7.2 at any time during the Subsidy Period, with no prepayment penalty.

7.3 Limited Indemnification of Developer.

The Parties agree that it is not intended that Developer be liable to third parties for claims relating to the Public Improvements solely because of Developer having paid to the City the costs and expenses incurred for the design, installation and construction of the Public Improvements. The City agrees to indemnify and hold the Developer harmless against all claims of third parties relating to the design, installation and construction of the Public Improvements.

7.4 [Intentionally Omitted].

7.5 County's Affordable Housing Requirement.

The City agrees to satisfy the County's condition to the Project Area Budget as set forth in subparagraph (2)(d) of the TEC Resolution, to the effect that the City will provide or cause to be provided within the City's municipal boundaries 100 units of affordable housing at or below 80% Area Median Income (AMI) by the end of the ten (10) year period required by the TEC Resolution. The TEC Resolution is attached hereto as Attachment No. 6. In the event that the 100 units have not been constructed by the beginning of the eighth (8th) year of such ten (10) year period, the Developer shall have the right, but absolutely no obligation, upon written notice to the City, to construct or otherwise acquire or provide some or all of the additional residential units necessary to satisfy the 100-unit requirement. Any funds expended by the Developer to acquire land outside of the Site, plan for and construct, or otherwise acquire, any such affordable residential units within the municipal boundaries of the City (including without limitation all "hard" and "soft" costs of acquisition, renovation and development) shall be repaid by the City to the Developer within a reasonable period following written notice from the Developer, together with interest from the date expended by Developer until repaid by the City at the rate of ten percent (10%) per annum. Any such notice shall include invoices, check copies and other reasonable verification of the amounts expended or incurred. In addition, the City shall indemnify and hold the Developer harmless from and against all claims, losses and damages experienced by the Developer in the event that the City fails to satisfy its obligations pursuant to this Section 7.5 and Attachment No. 6, even if the Developer engages in activities to construct or otherwise acquire or provide some of the residential units required. Without limiting the generality of the foregoing, regardless of whether the Developer engages in any effort to contribute to the satisfaction of the City's affordable housing obligation (and so long as the Developer or any Affiliate makes its own required expenditure of $1.5 million to affordable housing as required by Section 3.2(B)) if the Subsidy received by the Developer is reduced due to the City's failure to meet its obligations under the TEC Resolution, the City shall be liable to Developer for the full amount of such reduction.

7.6 [Intentionally Omitted].

ARTICLE 8 - REMEDIES

8.1 General Remedies; Agency and Developer.

Subject to the other provisions of this Article 8, in the event of any default or breach of this Agreement or any of its terms, covenants or conditions by any Party hereto, such Party shall, upon written notice from another Party, proceed immediately to cure or remedy such default or breach, and in any event, do so within thirty (30) calendar days after receipt of such notice or if such default or failure is of a type that cannot reasonably be cured within such thirty (30) day period, within ninety (90) days, provided that such cure is commenced within a thirty (30) day period and diligently pursued to completion, unless a longer period of time is specifically set forth in this Agreement or is agreed to by the Parties pursuant to Section 8.3. In case such action is not taken, or diligently pursued, or the default or breach shall not be cured or remedied within the time periods provided above, the aggrieved Party may institute such proceedings as may be necessary or desirable, at its option, to cure or remedy such default or breach, including, but not limited to, proceedings to compel specific performance by the Party in default or breach of its obligations. In the event of any default in or breach of this Agreement by the Developer or the Agency which is not cured within the time limits contained in this Agreement, the non-defaulting Party may, at its option, take such action as allowed by law, in equity and/or provided for in this Agreement. Any delay by a Party in instituting or prosecuting any such actions or proceedings or otherwise asserting its rights under this Article shall not operate as a waiver of such rights.

8.2 Enforced Delay Beyond Party's Control.

A Party shall not be considered in breach of or default in its obligations hereunder, including but not limited to, with respect to the preparation of the Site for development, or the beginning and completion of construction and installation of the Improvements or Public Improvements, or progress in respect thereto, in the event of delay in the performance of such obligations due to causes occurring beyond its control and without its fault or negligence, including acts of God, or of the public enemy or terrorists, wrongful acts of another Party, fires, floods, earthquake, epidemics, quarantine restrictions, strikes, freight embargoes, wars or unusually severe weather, or delays of subcontractors or material suppliers due to such causes. The purpose and intent of this provision is that in the event of the occurrence of any such delay, the time or times for performance of the obligations of a Party with respect to the preparation of the Site for development or the construction and installation of the Improvements or the Public Improvements, as the case may be, can be extended for the period of the delay: Provided, that in order to obtain the benefit of the provisions of this Section, a Party, within sixty (60) calendar days after becoming aware of any such delay, shall have notified the other Party thereof in writing stating the cause or causes for the delay.

8.3 Extensions by Agency.

The Agency may in writing extend the time for the Developer's performance of any term, covenant or condition of this Agreement or permit the curing of any default upon such terms and conditions as may be mutually agreeable to the Parties provided, however, that any such extension or permissive curing of any particular default shall not operate to release any of the Developer's obligations nor constitute a waiver of the Agency's rights with respect to any other term, covenant or condition of this Agreement or any other default in, or breach of, this Agreement. Developer may submit a request for an extension to the Agency for its reasonable consideration.

8.4 Remedies Cumulative/Non-Waiver.

The rights and remedies of the Parties to this Agreement, whether provided by law or by this Agreement, shall be cumulative, and the exercise by any Party of any one or more of such remedies shall not preclude the exercise by it, at the same or different times, of any other such remedies for the same default or breach or of any of its remedies for any other default or breach by a Party. No waiver made by any Party with respect to the performance, or manner or time thereof, or any obligation of a Party or any condition to its own obligation under this Agreement shall be considered a waiver of any rights of the Party making the waiver with respect to the particular obligation of another Party or condition to its own obligation beyond those expressly waived and to the extent thereof, or a waiver in any respect in regard to any other rights of the Party making the waiver or any other obligations of another Party.

ARTICLE 9 - MISCELLANEOUS PROVISIONS

9.1 Conflict of Interest – Agency.

No member, official, employee, consultant, or agent of the Agency shall have any personal interest, direct or indirect, in this Agreement, nor shall any such member, official, or employee participate in any decision relating to this Agreement which affects his personal interests or the interests of any corporation, partnership, or association in which he is directly or indirectly interested.

9.2 No Personal Liability – Agency.

No member, official, employee, consultant, agent or representative of the Agency shall be personally liable to the Developer or any successor in interest in the event of any default or breach by the Agency for any amount which may become due to the Developer or successor or on any obligations under the terms of this Agreement.

9.3 Notices.

A notice or communication under this Agreement, by a Party to another Party, shall be effective upon personal service or three (3) days after mailing, and shall be sufficiently given or delivered, if given in writing by personal service, express mail, Federal Express, DHL or any other similar form of courier or delivery service, or mailing in the United States mail, postage prepaid, certified, return receipt requested and addressed to such Party as follows:

(A) In the case of a notice or communication to the Agency:

Chairperson
Redevelopment Agency of the City of Holladay
4580 South 2300 East
Holladay, Utah 84117

With copies to:

Todd J. Godfrey
Hayes Godfrey Bell, PC
2118 East 3900 South, Ste 300
Holladay, UT 84124

(B) In the case of a notice or communication to the City:

City Manager
City of Holladay
4580 South 2300 East
Holladay, Utah 84117

With copies to:

Todd J. Godfrey
Hayes Godfrey Bell, PC
2118 East 3900 South, Ste 300
Holladay, UT 84124

(C) In the case of a notice or communication to the Developer:

KMW Development, LLC
6510 South Millrock Drive, Suite 450
Holladay, UT 84121
Attn: Steve Peterson

With a copy to:

Woodbury Corporation
2733 East Parleys Way, Suite 300
Salt Lake City, Utah 84109
Attn: Office of General Counsel

And a copy to:

Snell & Wilmer
15 West South Temple, Suite 1200
Salt Lake City, UT 84101
Attn: Wade Budge

Any Party may modify the foregoing notice information by giving written notice to another Party as provided in this Section.

(D) Notwithstanding the foregoing, the Agency may make inquiries from time to time regarding the schedule of the Project to one or any of the following persons: Steve Peterson, McKinnon Woodbury, and Kris Longson.

9.4 Attachments/Recitals.

All Attachments referred to in this Agreement as being attached hereto, and the Recitals, are incorporated herein and made a part hereof as if set forth in full and are binding upon the Parties to this Agreement.

9.5 Headings.

Any titles of the several parts and sections of this Agreement are inserted for convenience of reference only and shall be disregarded in construing or interpreting any of its provisions.

9.6 Successors and Assigns of Developer.

This Agreement shall be binding upon the Developer and its successors and assigns. Where the term "Developer" is used in this Agreement, it shall mean and include the successors and assigns of the Developer, subject to the approval requirements set forth elsewhere herein.

9.7 Attorney's Fees.

In the event of a default hereunder, the defaulting Party agrees to pay all costs incurred by the other Party(ies) in enforcing this Agreement, including reasonable attorney's fees, whether by in-house counsel or outside counsel and whether incurred through initiation of legal proceedings or otherwise.

9.8 Governing Law.

This Agreement shall be interpreted and enforced according to the laws of the State of Utah.

9.9 Counterparts.

This Agreement may be executed in counterparts, each of which shall be deemed to be an original, and such counterparts shall constitute one and the same instrument.

9.10 Time.

Subject to the provisions of Section 8.2 and 8.3, time is of the essence of this Agreement and its Attachments.

9.11 Amendments, Adjustments of Subsidy Period.

This Agreement may only be amended in a writing executed by all Parties hereto. The Parties agree that if Developer obtains approval from the Taxing Entity Committee to adjust the commencement of the Subsidy Period, the Parties shall amend this Agreement to reflect the adjustment.

[Remainder of page left blank.]

IN WITNESS WHEREOF, the Agency has caused this Agreement to be duly executed in its behalf; and the Developer has caused the same to be duly executed in its behalf, on or as of the day and year first above written.

REDEVELOPMENT AGENCY OF THE CITY OF HOLLADAY

By:____________________________________
Daniel Gibbons, Chairperson

ATTEST:

____
Gina Chamness, Executive Director

Approved as to form:

____
Todd J. Godfrey, Agency Special Counsel

CITY OF HOLLADAY

By:____________________________________
Robert M. Dahle, Mayor

ATTEST:

____
Stephanie Carlson, City Recorder

Approved as to form:

____
Todd J. Godfrey, Holladay City Attorney

KMW:

KMW DEVELOPMENT L.L.C., a Utah limited liability company

By: WOODBURY CORPORATION,
a Utah corporation, its Manager

By:______________________________________
____

By:______________________________________
Jeffrey K. Woodbury, Senior Vice President

By: MILLROCK CAPITAL II, LLC,
a Utah limited liability company,
its Manager

By:______________________________________
Steve Peterson, Manager

ACKNOWLEDGMENTS

STATE OF UTAH)
:ss.
COUNTY OF SALT LAKE)

On the __ day of __________, 2022, personally appeared before me Robert M. Dahl, the Chairperson, and Gina Chamness, the Executive Director, of the Redevelopment Agency of the City of Holladay, who being by me duly sworn did say for themselves, that he, the said Robert M. Dahl is the Chairperson and she the said Gina Chamness_is the Executive Director of the Redevelopment Agency of the City of Holladay and that the within and foregoing instrument was signed in behalf of said Agency by authority of a resolution or motion of its Board and said Robert M. Dahle and Gina Chamness acknowledged to me that said Agency executed the same and that the seal affixed is the seal of said Agency.

____
Notary Public

STATE OF UTAH)
:ss.
COUNTY OF SALT LAKE)

On the __ day ____________, 2022, personally appeared before me Robert M. Dahle, the Mayor, and Stephanie Carlson, the City Recorder, of the City of Holladay, who being by me duly sworn did say for themselves, that he, the said Robert M. Dahle is the Chairperson and she the said Stephanie Carlson is the City Recorder, of the City of Holladay and that the within and foregoing instrument was signed in behalf of said City by authority of a resolution or motion of its City Council and said Robert M. Dahle and Stephanie Carlson duly acknowledged to me that said City executed the same and that the seal affixed is the seal of said City.

____
Notary Public

STATE OF ______________)
:ss.
COUNTY OF ____________)

The foregoing instrument was duly acknowledged before me this ___, day of _______________ 2022 by ____, the __________________________ of Woodbury Corporation, a Utah corporation.

____
Notary Public

STATE OF ______________)
:ss.
COUNTY OF ____________)

The foregoing instrument was duly acknowledged before me this ___, day of _______________ 2022 by Jeffrey K. Woodbury, the Senior Vice President of Woodbury Corporation, a Utah corporation.

____
Notary Public

STATE OF ______________)
:ss.
COUNTY OF ____________)

The foregoing instrument was duly acknowledged before me this ___, day of _______________ 2022 by Steve Peterson, the Manager of Millrock Capital II, LLC, a Utah limited liability company.

____
Notary Public

ATTACHMENT NO. 1

DESCRIPTION OF IMPROVEMENTS AND DEADLINES FOR CONSTRUCTION AND INSTALLATION OF IMPROVEMENTS

The Improvements with a Minimum Investment Amount and consisting of a mixed use regional commercial center including a mix of retail, office and residential uses permitted in the Regional Mixed Use (RMU) Zone and all related parking, landscaping, utilities and other site improvements, shall be constructed and installed on the Site by Developer as described below:

1. Developer has completed the following to improve the Site:

<u>Site and Infrastructure Improvements</u>:

1) Relocation of the Cottonwood Creek;
2) Raising of the Site as needed to bring the Site out of the flood plain;
3) Replacement of the bridge structures on the Site;

2. By the end of the eighth Tax Increment Year the Developer shall construct and install all of the following in accordance with the SDMP:

4) New utilities, including dry and wet utilities for the first phase of vertical construction (first phase is what is described below under Vertical Improvements).
5) Relocation of the transmission lines on the east perimeter of the project;
6) Construction of two new parking decks and facilities, as well as construction of additional parking as required by SDMP; and
7) Construction of roads, curbs, gutters, internal drive lanes, sidewalks, open space, landscaping and green space.

3. To obtain the Subsidy originating from Available Property Tax Increment, or portion thereof, Developer shall complete the following vertical improvements, in addition to meeting the Minimum Investment Amount[1]:

Residential: At least 134 residential units.

Office: At least 100,000 square feet of office space.

Retail: At least 60,000 square feet of new retail construction, which can be achieved through constructing 30,000 square feet of vertical construction and 30,000 square feet of construction of commercial pads for future retail construction.

[1] The Minimum Investment Amount is $115,000,000 initially in order for Developer to receive up to the first $15,000,000 of Subsidy and then an additional $50,000,000, for a total of $165,000,000, in order to receive the remainder of the Subsidy.

ATTACHMENT NO. 2

SITE LEGAL DESCRIPTION

Blocks A–L, less and excepting Block K Lot 2, Block H Lot 2, and Block L Lot 3, of Royal Holladay Hills Subdivision #2 Amending Royal Holladay Hills Subdivision #1, recorded on June 25, 2021 in Book 2021P at Page 171 as Entry No. 13700581, in the Office of the County Recorder of Salt Lake County, Utah.

ATTACHMENT NO. 3

PROJECT AREA BUDGET

COTTONWOOD MALL URBAN RENEWAL PROJECT AREA REDEVELOPMENT AGENCY OF THE CITY OF HOLLADAY AMENDED 20 YEAR CUMULATIVE MULTI-YEAR BUDGET UTILIZING 75% PERCENT OF THE TAX INCREMENT	BASE YEAR 2007	NPV @ 4.8% 20 YEARS	CASH VALUE 20 YEARS	INCREMENT TAX YEAR 1	INCREMENT TAX YEAR 2	INCREMENT TAX YEAR 3	INCREMENT TAX YEAR 4	INCREMENT TAX YEAR 5	INCREMENT TAX YEAR 6	INCREMENT TAX YEAR 7	INCREMENT TAX YEAR 8	INCREMENT TAX YEAR 9	INCREMENT TAX YEAR 10	INCREMENT TAX YEAR 11	INCREMENT TAX YEAR 12	INCREMENT TAX YEAR 13	INCREMENT TAX YEAR 14	INCREMENT TAX YEAR 15	INCREMENT TAX YEAR 16	INCREMENT TAX YEAR 17	INCREMENT TAX YEAR 18	INCREMENT TAX YEAR 19	INCREMENT TAX YEAR 20	ALLOCATED AGENCY % 20 Years	ALLOCATED AGENCY $ 20 Years
P[illegible] REVENUES																									
Base Year Property Tax	$432,489		$8,649,790	$432,489	$432,489	$432,489	$432,489	$432,489	$432,489	$432,489	$432,489	$432,489	$432,489	$432,489	$432,489	$432,489	$432,489	$432,489	$432,489	$432,489	$432,489	$432,489	$432,489		
(Base Year Taxable Value)	$44,000,600			$44,000,600	$44,000,600	$44,000,600	$44,000,600	$44,000,600	$44,000,600	$44,000,600	$44,000,600	$44,000,600	$44,000,600	$44,000,600	$44,000,600	$44,000,600	$44,000,600	$44,000,600	$44,000,600	$44,000,600	$44,000,600	$44,000,600	$44,000,600		
Base Year Land	$38,149,300			$38,149,300	$38,149,300	$38,149,300	$38,149,300	$38,149,300	$38,149,300	$38,149,300	$38,149,300	$38,149,300	$38,149,300	$38,149,300	$38,149,300	$38,149,300	$38,149,300	$38,149,300	$38,149,300	$38,149,300	$38,149,300	$38,149,300	$38,149,300		
Base Year Improvements	$5,851,300		$117,026,000	$5,851,300	$5,851,300	$5,851,300	$5,851,300	$5,851,300	$5,851,300	$5,851,300	$5,851,300	$5,851,300	$5,851,300	$5,851,300	$5,851,300	$5,851,300	$5,851,300	$5,851,300	$5,851,300	$5,851,300	$5,851,300	$5,851,300	$5,851,300		
Projected Available Tax Increment for Bond or Other Debt Service and/or Infrastructure Investment & Project Improvements		$44,301,272	$74,656,608	$1,120,264	$2,162,679	$2,515,615	$2,872,346	$3,191,236	$3,461,807	$3,611,339	$3,735,863	$3,839,067	$3,934,256	$4,027,526	$4,118,808	$4,209,127	$4,299,318	$4,389,404	$4,475,173	$4,557,273	$4,636,255	$4,712,586	$4,786,664		
Tax Increment Surplus (Shortfall)		$31,040,085																							
RDA TOTAL - 20 YEARS @ 75%																									
Agency @ 75%		$57,162,931	$96,331,107	$1,445,503	$2,790,554	$3,245,955	$3,706,253	$4,117,724	$4,466,848	$4,659,792	$4,820,468	$4,953,635	$5,076,460	$5,196,808	$5,314,591	$5,431,132	$5,547,507	$5,663,747	$5,774,417	$5,880,353	$5,982,265	$6,080,756	$6,176,341	100%	$96,331,107
Eligible Project Area Expenditures		$44,301,272	$74,656,608	$1,120,264	$2,162,679	$2,515,615	$2,872,346	$3,191,236	$3,461,807	$3,611,339	$3,735,863	$3,839,067	$3,934,256	$4,027,526	$4,118,808	$4,209,127	$4,299,318	$4,389,404	$4,475,173	$4,557,273	$4,636,255	$4,712,586	$4,786,664	77.5%	$74,656,608
Housing @ 20%		$11,432,586	$19,266,221	$289,101	$558,111	$649,191	$741,251	$823,545	$893,370	$931,958	$964,094	$990,727	$1,015,292	$1,039,362	$1,062,918	$1,086,226	$1,109,501	$1,132,749	$1,154,883	$1,176,071	$1,196,453	$1,216,151	$1,235,266	20.0%	$19,266,221
RDA Administration @ 2.5%		$1,429,073	$2,408,278	$36,138	$69,764	$81,149	$92,656	$102,943	$111,671	$116,495	$120,612	$123,841	$125,911	$129,920	$132,865	$135,778	$138,688	$141,594	$144,360	$147,009	$149,657	$152,019	$154,409	2.5%	$2,408,278
Taxing Agency Flow-Thru @ 25%		$19,054,310	$32,110,369	$481,834	$930,185	$1,081,985	$1,235,418	$1,372,575	$1,488,949	$1,553,264	$1,606,823	$1,651,212	$1,692,153	$1,732,269	$1,771,530	$1,810,377	$1,849,169	$1,887,916	$1,924,806	$1,960,118	$1,994,088	$2,026,919	$2,058,780	25%	$32,110,369
Total Tax Increment to Agency		$57,162,931	$96,331,107	$1,445,503	$2,790,554	$3,245,955	$3,706,253	$4,117,724	$4,466,848	$4,659,792	$4,820,468	$4,953,635	$5,076,460	$5,196,808	$5,314,591	$5,431,132	$5,547,507	$5,663,747	$5,774,417	$5,880,353	$5,982,265	$6,080,756	$6,176,341	75%	$96,331,107
Total Project Revenues		$76,217,242	$128,441,476	$1,927,337	$3,720,739	$4,327,940	$4,941,671	$5,490,298	$5,955,797	$6,213,056	$6,427,291	$6,604,847	$6,768,613	$6,929,077	$7,086,122	$7,241,509	$7,396,676	$7,551,662	$7,699,222	$7,840,470	$7,976,353	$8,107,675	$8,235,121	100%	$128,441,476
PROJECT EXPENDITURES																									
CAPITAL COSTS & RELATED EXPENSES																									
Public Improvements Benefiting the Project Both Within and Outside the Project Area			$101,653,032	$66,074,470	$23,126,065	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0		
Total Public & Special Improvements @ 50%			$50,826,516	$33,037,235	$17,789,281	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0		
Buildings/Improvements																									
Residential @ 55%			$193,226,200	$48,306,550	$42,939,155	$27,603,743	$24,153,275	$21,489,578	$28,753,899	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0		
Retail			$176,090,579	$114,458,876	$61,631,703	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0		
Commercial Office			$24,459,670	$15,805,286	$8,564,385	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0		
Soft Costs/Const Mgmt/Finance (included above)																									
Total New Building Taxable Value			$393,786,449	$178,670,712	$113,135,242	$27,603,743	$24,153,275	$21,489,578	$28,753,899	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0		
Personal Property & Capital Equipment New Investment in Furniture, Fixtures and Equipment (includes replacement and reinvestment)			$229,855,600	$27,822,397	$16,372,410	$3,745,323	$10,700,922	$10,700,922	$10,700,922	$10,700,922	$10,700,922	$10,700,922	$10,700,922	$10,700,922	$10,700,922	$10,700,922	$10,700,922	$10,700,922	$10,700,922	$10,700,922	$10,700,922	$10,700,922	$10,700,922		
Depreciated Value of Personal Property			$204,990,990		$34,645,042	$30,251,925	$27,409,294	$23,488,172	$7,770,346	$15,398,207	$11,033,380	$7,312,267	$5,913,249	$5,578,313	$5,231,344	$5,063,275	$5,040,612	$5,022,561	$4,269,177	$3,628,800	$3,084,480	$2,621,808	$2,228,537		
Total Personal Property & Capital Equipment Expense			$434,846,790	$27,822,397	$51,017,452	$33,997,247	$38,110,216	$34,189,094	$18,471,270	$26,099,128	$21,734,301	$18,013,189	$16,614,171	$16,279,235	$15,932,266	$15,764,197	$15,741,734	$15,723,483	$14,970,099	$14,329,722	$13,785,402	$13,322,730	$12,929,459		
[illegible]OJECT NEW TAXABLE INCREMENTAL VALUE			$679,459,754	$239,630,343	$181,941,975	$61,600,990	$62,263,491	$55,658,672	$47,225,169	$26,099,128	$21,734,301	$18,013,189	$16,614,171	$16,279,236	$15,932,266	$15,764,197	$15,741,734	$15,723,483	$14,970,099	$14,329,722	$13,785,402	$13,322,730	$12,929,459		
[illegible]ess Existing Base Year Improvements Value			$44,000,600	$44,000,600	$44,000,600	$44,000,600	$44,000,600	$44,000,600	$44,000,600	$44,000,600	$44,000,600	$44,000,600	$44,000,600	$44,000,600	$44,000,600	$44,000,600	$44,000,600	$44,000,600	$44,000,600	$44,000,600	$44,000,600	$44,000,600	$44,000,600		
TOTAL PROJECT TAXABLE INCREMENTAL VALUE				$195,529,743	$377,471,718	$439,072,709	$501,336,199	$556,994,671	$604,220,039	$630,319,168	$652,053,469	$670,066,658	$686,680,829	$702,960,064	$718,892,330	$734,656,526	$750,398,260	$766,121,743	$781,091,842	$795,421,564	$809,206,966	$822,529,696	$835,459,154		
EXPENDITURES REIMBURSABLE FROM TAX INCREMENT Operating Expenses Redevelopment Agency Administration		$1,429,073	$2,408,278	$36,138	$69,764	$81,149	$92,656	$102,943	$111,671	$116,495	$120,612	$123,841	$125,911	$129,920	$132,865	$135,778	$138,688	$141,594	$144,360	$147,009	$149,657	$152,019	$154,409		
Housing (20% Annuity)		$11,432,586	$19,266,221	$289,101	$558,111	$649,191	$741,251	$823,545	$893,370	$931,958	$964,094	$990,727	$1,015,292	$1,039,362	$1,062,918	$1,086,226	$1,109,501	$1,132,749	$1,154,883	$1,176,071	$1,196,453	$1,216,151	$1,235,266		
Tax increment for public infrastructure and other improvements in & outside the project area & other eligible expenditures		$44,301,272	$74,656,608	$1,120,264	$2,162,679	$2,515,615	$2,872,346	$3,191,236	$3,461,807	$3,611,339	$3,735,863	$3,839,067	$3,934,256	$4,027,526	$4,118,808	$4,209,127	$4,299,318	$4,389,404	$4,475,173	$4,557,273	$4,636,255	$4,712,586	$4,786,664		
TOTAL EXPENDITURES REIMBURSABLE FROM TAX INCREMENT		$57,162,931	$96,331,107	$1,445,503	$2,790,554	$3,245,955	$3,706,253	$4,117,724	$4,466,848	$4,659,792	$4,820,468	$4,953,635	$5,076,460	$5,196,808	$5,314,591	$5,431,132	$5,547,507	$5,663,747	$5,774,417	$5,880,353	$5,982,265	$6,080,756	$6,176,341	100%	$96,331,108
TOTAL PROJECT EXPENDITURES			$975,790,862	$240,975,846	$184,732,529	$64,846,945	$65,969,744	$59,776,396	$51,692,016	$30,756,921	$26,554,770	$22,966,924	$21,690,631	$21,476,043	$21,246,857	$21,195,329	$21,289,240	$21,387,229	$20,744,515	$20,210,075	$19,767,867	$19,403,496	$19,105,799		
PROPERTY TAX																									NPV
Holladay City - 14.6%	0.001436	$11,103,577	$18,711,774	$280,781	$542,049	$630,508	$719,919	$799,845	$867,660	$905,138	$936,349	$962,216	$986,074	$1,009,461	$1,032,329	$1,054,967	$1,077,572	$1,100,151	$1,121,548	$1,142,225	$1,162,021	$1,181,153	$1,198,719	14.6%	$6,453,954
Salt Lake County - 20.2%	0.001994	$15,418,198	$25,982,784	$389,886	$752,679	$875,511	$999,664	$1,110,646	$1,204,815	$1,266,856	$1,300,195	$1,336,113	$1,369,242	$1,401,702	$1,433,471	$1,464,906	$1,498,294	$1,527,647	$1,557,497	$1,586,071	$1,613,659	$1,640,124	$1,665,906	20.2%	$8,961,828
Granite School District - 54.9%	0.005411	$41,839,454	$70,507,946	$1,058,011	$2,042,499	$2,375,822	$2,712,730	$3,013,899	$3,259,435	$3,410,657	$3,528,261	$3,625,731	$3,715,630	$3,803,717	$3,889,926	$3,975,226	$4,060,405	$4,145,455	$4,225,468	$4,304,026	$4,375,619	$4,450,708	$4,520,669	54.9%	$24,319,182
South Salt Lake Valley Mosquito Abatement District - .2%	0.000023	$177,843	$299,701	$4,497	$8,682	$10,099	$11,531	$12,811	$13,897	$14,497	$14,997	$15,412	$15,794	$16,168	$16,535	$16,897	$17,259	$17,621	$17,965	$18,296	$18,612	$18,918	$19,216	0.2%	$103,371
Salt Lake Suburban Sanitary District #1 - 1.8%	0.000174	$1,345,420	$2,267,304	$34,022	$65,680	$76,399	$87,232	$96,917	$105,134	$109,676	$113,457	$116,592	$119,482	$122,315	$125,067	$127,830	$130,569	$133,305	$135,910	$138,403	$140,802	$143,120	$145,370	1.8%	$782,025
Central Utah Water Conservancy District - 3.1%	0.000302	$2,335,153	$3,935,206	$59,050	$113,996	$132,600	$151,404	$166,212	$182,474	$190,356	$196,920	$202,360	$207,378	$212,294	$217,105	$221,866	$226,520	$231,369	$235,890	$240,217	$244,381	$248,404	$252,309	3.1%	$1,357,308
Salt Lake County Libraries - 5.2%	0.000517	$3,997,597	$6,736,760	$101,089	$195,153	$227,001	$259,191	$287,966	$312,382	$325,675	$337,112	$346,424	$355,014	$363,430	$371,657	$379,817	$387,956	$396,085	$403,824	$411,233	$418,360	$425,248	$431,932	5.2%	$2,323,603
TOTAL PROPERTY TAX	0.009857	$76,217,242	$128,441,476	$1,927,337	$3,720,739	$4,327,940	$4,941,671	$5,490,298	$5,955,797	$6,213,056	$6,427,291	$6,604,847	$6,768,613	$6,929,077	$7,086,122	$7,241,509	$7,396,676	$7,551,662	$7,699,222	$7,840,470	$7,976,353	$8,107,675	$8,235,121	100.0%	$44,301,272
TOTAL PROPERTY TAX INCREMENT		$76,217,242	$128,441,476	$1,927,337	$3,720,739	$4,327,940	$4,941,671	$5,490,298	$5,955,797	$6,213,056	$6,427,291	$6,604,847	$6,768,613	$6,929,077	$7,086,122	$7,241,509	$7,396,676	$7,551,662	$7,699,222	$7,840,470	$7,976,353	$8,107,675	$8,235,121	100.0%	$44,301,272
																								5.1%	

Note:

TAX INCREMENT YEAR ONE MAY OCCUR ANYTIME FROM 2011 TO 2017 AT THE DETERMINATION AND ELECTION OF THE REDEVELOPMENT AGENCY. TAX INCREMENT WILL BE COLLECTED FOR 20 YEARS FROM THE FIRST YEAR IN WHICH TAX INCREMENT IS RECEIVED.

amended June 16, 2011

ATTACHMENT NO. 4

City shall install and construct or cause to be installed and constructed the following specific public improvements in accordance with the following provisions and schedule, and in compliance with all applicable City codes and regulations:

To be completed at appropriate times to be negotiated between Developer and City:

Improvements ($2,500,000.00)

- Highland Drive/Meadowmoor Road Signal Reconstruction
- 1910 E. Murray Holladay Road Signal Reconstruction
- Signal Modification 48thS and Highland Drive
- Murray Holladay Road/Highland Drive Signal Upgrades
- Curb/Gutter and Sidewalk/ADA access improvements installation along east side of Highland from Murray Holladay Road to north side of BCC/Highland bridge crossing.[2]
- Pavement preservation along Murray Holladay Road and Highland Drive , to be completed prior to significant construction.
- Pavement Restoration along Murray Holladay Road and Highland Drive, including pavement markings and signage.
- Right Turn Pocket on northeast corner of Murray Holladay Road and Highland Drive
- Murray Holladay Road Sidewalk Rehabilitation (ADA access)
- Highland Drive Curb and Gutter from BCC bridge cross to Arbor Lane (subject to continued discussion)
- Median strips along segments of Highland Drive
- Transit Enhancements (two bus stops) Storm drain improvements on Highland Drive
- Decorative street lighting

[2] There will be no sidewalk installed along the east side of Highland Drive so long as there is public access along the trail located within the Site and along the east side of Big Cottonwood Creek. If public access along the aforementioned trail is prohibited or terminated, then Developer shall install a sidewalk along Highland Drive.

ATTACHMENT NO. 5
AGREED UPON IMPACT FEE SCHEDULE

The following impact fees will be generated pursuant to applicable city ordinances.

	Minimum	Maximum	Total Range	
Park & Rec*				
Commercial	0	0		
Residential	$1,136,911	$1,537,585		
			$1,136,911	$1,537,858
Storm Water*				
Commercial		795,700	--	
				$ 795,700
Public Safety				
Police				
Commercial	74,470	99,293		
Residential	29,887	40,420		
			104,357	$ 139,713
Fire				
Commercial	71,150	94,866		
Residential	87,723	118,685		
			$158,873	$ 213,551

* These fees will not be collected. The Developer will install or cause to be constructed the required improvements in-kind in lieu of the City causing the construction to occur. The improvements installed will equal or exceed the fees that would be imposed pursuant to applicable ordinances.

ATTACHMENT NO. 6

TAXING ENTITY COMMITTEE RESOLUTION 2011-01

RESOLUTION TEC 2011-01

RESOLUTION OF THE TAXING ENTITY COMMITTEE FOR THE REDEVELOPMENT AGENCY OF THE CITY OF HOLLADAY APPROVING THE COTTONWOOD MALL URBAN RENEWAL AMENDED PROJECT AREA BUDGET

WHEREAS, in 2008 the Redevelopment Agency of the City of Holladay (the "Redevelopment Agency") has adopted the "Cottonwood Mall Urban Renewal Project Area Plan" (the "Plan") and the Cottonwood Mall Urban Renewal Project Area Budget (the "Project Area Budget"); and

WHEREAS, the Agency proposes to amend the Project Area Budget by extending from 2013 to 2017 the end of the trigger period for commencement of the 20 year Project Area Budget;

WHEREAS, the Taxing Entity Committee has been created pursuant to the provisions of applicable law; and

WHEREAS, the Community Development and Renewal Agencies Act (the "Act") provides that the Redevelopment Agency must obtain the consent of the Taxing Entity Committee for the Amended Project Area Budget before the Redevelopment Agency may collect any tax increment from the Project Area pursuant to the Amended Project Area Budget, which consent requires the affirmative vote of 2/3 of all Taxing Entity Committee members present at a Taxing Entity Committee meeting at which a quorum is present; and

WHEREAS, the Redevelopment Agency has submitted to the Taxing Entity Committee the proposed Amended Project Area Budget for the Project Area; and

WHEREAS, the Taxing Entity Committee has reviewed the proposed Amended Project Area Budget and finds that the Amended Project Area Budget is consistent with the Act.

NOW, THEREFORE, be it resolved by the Taxing Entity Committee that:

(1) The Taxing Entity Committee hereby approves and consents to the Amended Project Area Budget, as a multiyear cumulative budget, a copy of which is attached as Exhibit "A" and incorporated herein by reference, by a 2/3 majority vote, pursuant to Sections 17C-1-402, 17C-2-201 and 17C-2-206 of the Act and authorizes and consents that the Redevelopment Agency may collect tax increment from the Project Area in accordance with the Amended Project Area Budget, subject to the following conditions which were established in connection with approval of the original Project Area Budget:

(a) Holladay City shall commit to use for the Project Area expenses, at least 75% of the sales tax increment of Holladay City's local point of sale sales tax revenue received by Holladay

City that is attributable to businesses within the Project Area, using a sales tax base year of 2007.

(b) When the total project revenues received from both the tax increment paid to the Agency under the Amended Project Area Budget and the sales tax proceeds referred to in (a) above equal $122,497,175, then no further contribution from any entity is required.

(c) In the event that prior to completion of the project Holladay City terminates payment/use of the sales tax proceeds referred to in (a) above for the Project Area expenses, except in case of elimination of said sales tax proceeds due to legislation or other cause beyond Holladay City's control, then the obligations of all other entities to contribute revenue shall also terminate.

(d) Holladay City agrees to provide 100 units of affordable housing at or below 80% Area Median Income (AMI), such units to remain affordable for a period of 20 years, unless other applicable rules or regulations relating to financing the affordable housing units require that the units remain affordable for a period longer than 20 years, in which case the longer period shall apply. This will require the creation of an implementation plan and could include new construction, purchase and rehabilitation, the rehabilitation of existing housing, potential development of purchase to own ("Crown") units, possible funding sources, and the establishment of a committee to enforce the plan. All of the above as referenced in this subparagraph (d) is to be accomplished as soon as economically feasible but must be completed within 10 years after the Redevelopment Agency starts to receive tax increment pursuant to the Amended Project Area Budget. Salt Lake County agrees to provide technical assistance and will help coordinate the identification of possible projects and/or development partners.

The Amended Project Area Budget is a multi-year cumulative budget. This means that the annual amounts of projected tax increment revenue to the Agency as shown in each year of the Amended Project Area Budget are not limitations but are for informational purposes only, and that the Agency is authorized to receive 75% of the annual tax increment for twenty (20) tax years, up to a maximum cumulative total of tax increment received by the Agency of $96,331,107. Under the approved Amended Project Area Budget the Redevelopment Agency is given the option to begin taking (to trigger) the taking of tax increment beginning with any year from 2011 to as late as 2017. The Taxing Entity Committee hereby specifically approves and consents to the following maximum dollar amounts and percentages for the multiyear cumulative Amended Project Area Budget, applying the line item descriptions, and maximum dollar amounts shown in the columns entitled "ALLOCATED AGENCY % 20 YEARS" and "ALLOCATED AGENCY $ 20 YEARS", and the percentages derived therefrom (or the percentages indicated in the Amended Budget), of the attached Amended Project Area Budget as follows:

The maximum total of all tax increment payable to the Agency over the twenty (20) year Amended Project Area Budget is 75% of the total tax increment but not to exceed $96,331,107. From the total of all tax increment actually received by the

Agency pursuant to this Amended Project Area Budget, 20% thereof, using appropriate net present value calculations, if applicable, shall be allocated to housing purposes as required by and under Sections 17C-1-412 and 17C-2-203 of the Act, and up to $2,408,278 but not to exceed 2.5% of the total tax increment received by the Agency over the entire twenty (20) year period may be used by the Agency for administration purposes.

(3) The Redevelopment Agency may collect tax increment from all or a part of the Project Area. The tax increment shall be paid to the Redevelopment Agency to finance or refinance, in whole or in part, the development of the project area and publicly owned or publicly maintained and operated infrastructure and improvements within and outside the Project Area that benefit the Project Area, according to the amounts established by the Taxing Entity Committee as shown in the approved Amended Project Area Budget attached as Exhibit "A" and in this resolution.

(4) The Taxing Entity Committee does not approve, pursuant to Section 17C-1-407(2)(a) of the Act, the inclusion of any increase in the tax rate after the time the Amended Project Area Budget is approved. The portion of the taxes, if any, due to an increase in a taxing entity's tax rate following lawful hearing procedures that occurs after the Taxing Entity Committee's approval of the Amended Project Area Budget, shall not be distributed by the county to the Redevelopment Agency in the same manner as other property taxes are paid to the Redevelopment Agency, but rather, the county shall distribute to the taxing entity the taxes attributable to the tax rate increase in the same manner as other property taxes.

(5) The Redevelopment Agency has previously prepared and provided to the Taxing Entity Committee a Housing Plan which shows how the 20% of tax increment for certain qualified housing will be used pursuant to Sections 17C-1-412 and 17C-2-203 of the Act. Said Housing Plan was provided to the Taxing Entity Committee in connection with the Agency's adoption of the Olympus Economic Development Project Area.

(6) The Amended Project Area Budget may be amended from time to time as provided in the Act by obtaining the consent of a 2/3 majority of a quorum of the Taxing Entity Committee, or pursuant to the provisions of any amended or replacement law or act. If any further amendment is proposed and the Taxing Entity Committee does not consent to the amendment, the Redevelopment Agency will continue to operate under the approved Amended Project Area Budget attached as Exhibit "A" as approved by this resolution.

(7) (a) Subject to modifications of the Act by amendments or by any successor act or law, the amount of the base taxable value to be used in determining tax increment shall be:

(i) increased or decreased by the amount of an increase or decrease that results from:

(A) a statute enacted by the Utah State Legislature or by the people through an initiative;

(B) a judicial decision;

(C) an order from the Utah State Tax Commission to a County to adjust or factor its assessment rate under Subsection 59-2-704(2);

(D) a change in exemption provided in Utah Constitution, Article XIII, Section 2, or Section 59-2-103; or

(E) an increase or decrease in the percentage of fair market value, as defined under Section 59-2-102; and

(ii) reduced for any year to the extent necessary, even if below zero, to provide an agency with approximately the same amount of money the agency would have received without a reduction in the county's certified tax rate if:

(A) in that year there is a decrease in the county's certified tax rate under Subsection 59-2-924(2)(c) or (d)(i);

(B) the amount of the decrease is more than 20% of the county's certified tax rate of the previous year; and

(C) the decrease would result in a reduction of the amount of tax increment to be paid to the agency.

(b) Notwithstanding an increase or decrease under Subsection (a), the amount of tax increment paid to an agency each year for payment of bonds or other indebtedness may not be less than would have been paid to the agency each year if there had been no increase or decrease under Subsection (a).

(8) This Resolution shall become effective immediately.

DATED this 15th day of June 2011.

Lynn Pace, Chair
Taxing Entity Committee for the Redevelopment Agency of the City of Holladay

Record of committee vote and consent:

Lynn Pace	_X_ Yes	__ No
Jim Palmer	_X_ Yes	__ No
David Delquadro	_X_ Yes	__ No
Emily Farmer	_X_ Yes	__ No
Dave Martin	_X_ Yes	__ No
Kieth Bradshaw	_X_ Yes	__ No
David Garrett	_X_ Yes	__ No
Larry Newton	__ Yes	_X_ No

MINUTES OF THE BOARD OF DIRECTORS
OF THE REDEVELOPMENT AGENCY OF THE
CITY OF HOLLADAY

Thursday, August 26, 2021
City Council Chambers

Board of Directors*:*

Daniel Gibbons, Chair
Sabrina Petersen - *excused*
Rob Dahle
Matt Durham
Drew Quinn
Paul Fotheringham

City Staff:
Gina Chamness, Executive Director
Stephanie Carlson, RDA Secretary
Todd Godfrey, Legal Counsel

1. **Call to Order –** Chairman Gibbons.

Chair Gibbons called the RDA Meeting to order at approximately 6:45 p.m.

2. Public Comments

There were no public comments.

3. **Consideration of a Request from Holladay Hills Developer to Support a Request to the Salt Lake County Assessor for an Adjustment to the Base Year Tax Value for the Holladay Hills Project Area.**

Chair Gibbons noted that he, Mayor Dahle, Wade Budge from Snell & Wilmer, and Mr. Godfrey had some meetings related to the topic. Mr. Godfrey reported that the Cottonwood Mall Project Area was created in traditional means using tax increment financing to support the redevelopment of the project. Tax increment was created by fixing a base-year property tax value within the project area. When redevelopment occurred, an added value would come in. The difference between the base year tax and the new valuation was called tax increment money and that was paid to the RDA through the County. When the Cottonwood Mall Project Area was created, a base year tax value was set in 2007 and the budgeted estimated amount was $38 million. Unfortunately, that was not the actual valuation of the property for the base year. This issue was complicated by an amendment that was made to the project area budget in 2011. That amendment was done to extend the life of the project area because no development was occurring between 2008 and 2011 due to the recession. Mr. Godfrey explained that the actual assessed value from the Assessor's Office for the project area was $44 million and so there was a significant difference between the $38 million and $44 million.

The developer based their projections for the project and obtained financing based on a number that now could not be achieved. As a result, they had gone to the County Assessor to ask for an adjustment. The developer had sent a letter to the RDA asking for support. Their position was that the County participated in the amendment of the budget in 2011 and knew what the assessed valuation was at that point and they did not make any adjustments to the budget. The developer was asking the County to recognize the estimated base year value of $38 million as opposed to the $44 million.

Board Member Fotheringham wondered if the rate would change over time. Ms. Chamness explained that the rate would be the same over time. The rate set was multiplied by the base value for any tax year. Council Member Fotheringham explained that he was trying to confirm that the project area had a base rate that did not change. Ms. Chamness confirmed that it was fixed. Council Member Fotheringham pointed out that there was a delay between when the base was set and when the development was going to take place. He noted that the difference between the $38 million and $44 million had been created and he wanted to ensure that it was not created as the result of value being added to the property but was due to a change in land values.

Board Member Dahle believed the only issue had to do with the base value. Mr. Godfrey explained that at the time it went through the first budget amendment process in 2011, where representatives from the School District, Utah Association of Special Districts, County, and City all had to approve an amended budget, the base year number was no longer an estimate. Board Member Dahle wondered what the County had said about this issue. Mr. Godfrey explained that the County had not said much at the current point.

Mr. Budge thanked the Board for their time. He explained that there had been preliminary discussions with the County Attorney's Office to familiarize them with the issue. Their point was that while they were on the Tech Committee, the Tech Committee did not talk to the Assessors and Auditors. If the County had agreed to a base year in 2011, that message did not get communicated to those departments. Mr. Budge reported that they intended to go to the Assessor and Auditor and state that in 2011, it was agreed upon by every taxing entity that this was the base year and the amended budget had been attached. It was a reasonable expectation that this would be the base year for purposes of planning. They would ask the Assessor to adjust the base year to what was agreed to.

Mr. Budge added that the purpose of the Agreement for the Development of Land ("ADL") was to incentivize good development and the building of infrastructure. The faster they continued to develop, the more revenue and increment in the area that would be created. Mr. Budge reported that they would move forward and engage the County, but they wanted RDA support because they believed in the importance of that incentive. A draft of the letter had been shared with City Council Members for review. He noted that they were not looking to change anything, but to honor what was discussed back in 2008 when the 2007 base year was used and then what was discussed in 2011 when the TEC Committee approved the resolution, which included the attached amended budget.

Board Member Durham understood that adopting the base year would increase the increment that went to the RDA. He wondered if that would be passed to the developer during the initial development period. Mr. Budge stated that if values continue to increase, there will be more increment available. As long as the development can reach various benchmarks in terms of the square footage that needs to be built and other requirements related to infrastructure, they would be reimbursed faster. That benefits the development because it means they could move capital out of having to pay interest and they were able to devote that to new infrastructure. He explained that the increased increment would accelerate the rate by which they were able to be reimbursed.

Board Member Fotheringham wondered how important RDA participation would be to the success of the developer during this process. Mr. Godfrey was not sure how important the RDA position would be but imagined it would add weight.

Board Member Gibbons believed this was essentially an accounting matter that was overlooked by the developer, the City, and the County when the 2011 revisiting took place. He noted that the developer was already engaged and partners with the City concerning development of the property. The developer was asking the RDA Board to specify that the number had been misapprehended and needed to be fixed. He did not see a downside in the RDA supporting the letter that would go to the County. He asked if Mr. Godfrey would be opposed to the RDA sharing their support. Mr. Godfrey stated that he would not be against that and did not see a downside to either the RDA or the City to show support, as requested by the developer. Mr. Godfrey felt it would be beneficial if the RDA Board were to forward a motion directing staff to send a letter to the Salt Lake County Auditor in support of the Holladay Hills request.

Board Member Gibbons explained that there was a draft letter signed by Mr. Budge. The letter was addressed to the Salt Lake County Auditor, Brad Johnson, regarding the base value amount for the Cottonwood Mall Urban Renewal Project Area. It was suggested that the RDA entertain a motion to direct City Staff and the City Attorney to write a letter in support of the June 9, 2021 Draft Letter included in the packet. Mr. Godfrey stated that the RDA could make a motion during the current meeting, given the nature of the language on the agenda.

Board Member Fotheringham moved to Direct the City Attorney of Holladay to draft a letter on behalf of the Holladay RDA Board in support of the Developer Letter to the Salt Lake County Auditor. Board Member Dahle seconded the motion. Vote on motion: Board Member Fotheringham-Aye; Board Member Quinn-Aye; Mayor Dahle-Aye; Chair Gibbons-Aye. The motion passed unanimously.

4. Approval of Minutes – May 6, 2021, June 3, and June 17, 2021.
Board Member Fotheringham moved to approve the RDA Board Minutes as presented. Council Member Quinn seconded the motion. The motion passed with the unanimous consent of the Board.

5. Other Business.
There was no additional business.

6. Adjourn RDA Meeting.
Board Member Quinn moved to recess the RDA Board Meeting and reconvene in a City Council Work Meeting. Board Member Dahle seconded the motion. The motion passed with the unanimous consent of the Board.

The RDA meeting adjourned at 8:11 pm.

I hereby certify that the foregoing represents a true, accurate and complete record of the Holladay City Redevelopment Agency meeting held Thursday, August 26, 2021

Stephanie N. Carlson, MMC RDA Secretary	Dan Gibbons, Chair