REDEVELOPMENT AGENCY MEETING PACKET

DATE:

November 22, 2022

AGENDA
KANE COUNTY REDEVELOPMENT AGENCY/ CRA
MEETING TO BE HELD TUESDAY November 22, 2022, 2:15 p.m.
IN THE KANE COUNTY COMMISSION CHAMBERS

WE WELCOME EVERYONE TO ATTEND ELECTRONICALLY BY PHONE.
CALL IN INFORMATION: Meeting call in # 435-676-9000 participant code 168030# (This is a local call within the South Central service area)

CONSENT AGENDA: Approval of May 24, 2022 Minutes

REGULAR AGENDA:

1. **Approval of Resolution No. RDA-2022-9 a Resolution Establishing Tax Year 2023 as Year One for the East Zion Community Reinvestment Project Area and Authorizing the Issuance of a Letter to the Kane County Auditor to Trigger Collection and Distribution of Tax Increment**

2. **Approval of Resolution No. RDA-2022-10 a Resolution Designating a Survey Area for the Glen Canyon Solar Project, Authorizing the Preparation of a Draft Community Reinvestment Project Area Plan and Budget, and Authorizing and Directing all Necessary Action by the Agency, Staff, and Counsel**

Closed Session

- Discussing an individual's character, professional competence, or physical or mental health.
- Strategy sessions to discuss collective bargaining, pending or reasonably imminent litigation, or the purchase, exchange lease or sale of real property.
- Discussions regarding security personnel, devices or systems.
- Investigative proceedings regarding allegations of criminal misconduct.

NOTICE OF SPECIAL ACCOMMODATION DURING PUBLIC MEETINGS:
In compliance with the Americans with Disabilities Act, individuals needing special accommodations (including auxiliary communicative aids and services) during this meeting should notify Karla Johnson at (435) 644-2458.
Agenda items may be accelerated or taken out of order without notice as the Administration deems appropriate.
All items to be placed on the agenda must be submitted to the Clerk's office by noon Tuesday, prior to the meeting date.

CONSENT AGENDA

Minutes of:

MBA Meeting Minutes for May 24, 2022

MINUTES OF THE
KANE COUNTY REDEVELOPMENT AGENCY/ CRA
MEETINGS TO BE HELD TUESDAY May 24, 2022 2:00 P.M.
IN THE KANE COUNTY COMMISSION CHAMBERS

CALL MEETING TO ORDER & WELCOME: Member Chamberlain

CONSENT AGENDA: Approval of April 26, 2022 Minutes

Motion to approve the Consent Agenda and Minutes from April 26, 2022 made by Board Member Gant and motion carried with all Board Members present voting in favor.

REGULAR AGENDA:

1. **Consideration of a Resolution Authorizing the Redevelopment Agency of Kane County to enter into an Interlocal Agreement with Kane County, and related matters. RDA-2022-5 (Amended to RDA-2022-3)**

   Member Chamberlain said that the RDA as well as the Commission has already approved the Interlocal Agreement with the Second Amendment which is what this is concerning. This is just formalizing the approval of the Amended Interlocal Agreement that has already been passed.

   Motion to approve RDA-2022-3 as amended on the current agenda made by Member Gant and motion carried with all Members present voting in favor.

2. **Consideration of a Resolution Authorizing the Redevelopment Agency of Kane County to enter into an Interlocal Agreement with Kane County Water Conservancy District, and related matters. RDA-2022-6 (Amended to RDA-2022-4)**

   Motion to approve RDA-2022-4 as amended on the current agenda made by Member Gant and motion carried with all Members present voting in favor.

3. **Consideration of a Resolution Clarifying the Timing of the Tax Increment Trigger Year for East Zion Community Reinvestment Project Area. RDA-2022-7 (Amended to RDA-2022-5)**

Member Chamberlain said that we started collecting taxes in 2021 but they didn't take all the formal steps. He said that it would have been better for the overall project to delay the start of the collection until 2023.

Attorney Van Dyke stated that from a legal standpoint the RDA has to do a resolution to trigger the tax collection. He said that everything is in place to trigger it and they can wait up to five years. This resolution is clarifying that it hasn't been triggered yet and that it is likely to happen in 2023. The resolution also mentions that it will still require another formal action to trigger the TIF.

Motion to approve RDA-2022-5 as amended on the current agenda made by Member Gant and motion carried with all Members present voting in favor.

Motion to recess until after Commission Meeting made by Member Gant and motion carried with all Members present voting in favor.

4. Consideration of a Resolution Authorizing the Redevelopment Agency of Kane County to enter into a Tax Increment Participation Agreement with Zion Mountain Ranch regarding the Hotel/Lodge. RDA-2022-8 (Amended to RDA-2022-6

Member Chamberlain said that what has happened through a previous amended Interlocal Agreement we have agreed to establishing a prioritization of the funding that will be collected for the CRA that can be used for redevelopment or incentives and others to pay for development within the CRA area. This prioritizes it first for the visitor's center, second for a water treatment facility and third would be some assistance with the funding on the lodge. That is what this one is discussing. The maximum amount of money that the visitor's center will use is a little over $18 million to service the debt on it. He said that it is still too early to know on the water treatment facility but it is budgeted to be as high as $9 million this will be a different number when it is finalized. The consideration for the lodge is a maximum of $27 million. It is a percentage of 48.8% of the total of the life of the CRA.

Member Gant clarified that this is all money generated on new tax in the CRA. It is not tax payer revenue from Kane County citizens, so if you don't live in that CRA boundary this doesn't affect you.

Member Heaton said that the concept of this is that we have got individuals that want to come into this area in the County and invest a couple hundred million dollars. This assists with them a little bit of an incentive to help get that ball rolling but in the long term the majority of this rolls back into the County after the CRA ends. He said that we have three participation agreements in front of them that there will be other money in the CRA that would be available for other projects as well. At any point for however long the CRA runs if other investors/land owners within the CRA want to come and apply to the CRA for a project, these funds will be available for these other projects.

Member Chamberlain said that while this is new tax money that is generated in the area, it does not increase anybody's taxes. You will still pay the same amount of taxes you would otherwise, even if you are in the area. If you are in the CRA area you still pay the same taxes you would've, it is just that a portion of that is set aside to help incentivize or pay for growth and development.

Attorney Van Dyke said that he was able to complete his review of the resolutions that passed but with the three participation agreements he needs some additional time to finalize his legal review. He said that if they are ready to approve these today he would ask that they do them on the condition of final legal review. Attorney Van Dyke said that the structure of the prioritization of the funds would be that first there is only the 80% of the TIF that goes to the RDA and the 20% remains with the taxing entities, the County and the Water Conservancy District. Of the 80% there is first the 2.5% that will always remain with the RDA for administrative costs, there is 10% of the funds that are required to be spent on low income housing and so the remaining money that is left are the dollars that we are talking about in this agreement. They are the available funds. The structure of the agreement is that all of the available funds will first go to pay the lien for the visitor's center and the CIB obligation and the way it is currently drafted there is no time limitation or dollar limitation on that amount but that is the priority, to pay the CIB obligation for the visitor's center. Attorney Van Dyke said that it is important to remember that if the RDA does not receive funding that is sufficient to cover the obligation then the County is not on the hook, they are only on the hook to pay as much money as they can. If there is money left after paying the visitor's center CIB obligations, then the money goes on second status to the Water Reclamation Facility which will be through a CIB loan. He said that there is a cap on this that any year that you would only contribute 17% of the remaining funds after the first obligation is done. There is also a maximum of the $10.7 million over a 20-year period. After those two obligations are satisfied then the money would then go to the hotel which is only 66% of the remaining funds at that point after obligations one and two are satisfied. This also has a cap of time and dollars. It is only for 15 years and a cap of $27.1 million. After those three priorities are satisfied either by the annual percentage, by the number of years or by the maximum cap, anything leftover during any year at that point can go to other projects that the RDA deems necessary. These agreements are also the leverage point for the County to have any other restrictions or conditions places on those projects.

Member Chamberlain said that if they are generally in agreement on the terms with the stipulation that it still requires legal review. He said if they are in agreement of the terms with the Interlocal Agreement then there is no reason to not pass it today which is helpful in the lodge situation because they are waiting for this document to be approved to go out and secure the financing for the lodge. They are prepared to make that step right away.

Member Heaton stated that if they do pass one or all the agreements today, if other things arise we can come back to this and if it is mutually agreed upon changes by both parties and amend this?

Attorney Van Dyke said if there is an issue that comes up and both parties agree and both parties are giving something then you can change it. If only one side needs something and the other side isn't getting something, then there is not really any consideration for that which can cause an issue only if there is subsequent litigation.

Member Heaton said that if at some point the School District decided they wanted to join into this, could we come back and amend this to include it?

Attorney Van Dyke said that you wouldn't necessarily need to because what that would do is just give additional funds to the RDA to spend within the project area. He stated that if these are the only funds necessary for the projects they wouldn't necessarily need more money from you.

Member Chamberlain said that the current projection and the numbers they have been working with have been developed by Zions Public Finance. They are projecting that over the 20-year life of this project around $96 million will be generated, available for the CRA and then the 10% and 2.5% have to come off of that leaving the remainder.

Attorney Van Dyke said that from his understanding the last projection was $84 million.

Member Chamberlain said that the $84 million is what is available to the TIF. He said what would happen if the School District decides to participate all that would do is increase the $84 million.

Attorney Van Dyke asked if they had an estimate presented to him at this time on what the hotel or lodge would cost in total.

Kevin Mclaws said that when they did a cost review he thought for the hard costs it was around $84 million for the lodge and then the soft costs pushed it over $100 million.

Scott said that it was $130 million to build the lodge and this consists of everything.

Attorney Van Dyke said that was an interesting figure to look at because they are dedicating under the current terms of this agreement they are looking at $27 million of that $130 million.

Scott clarified that you are not dedicating $27 million to that capital stack because the TIF participation doesn't start until after the $130 million has been spent.

Member Chamberlain said that the lodge itself generates more than $27 million in revenue to the TIF over the 20-year period of time that they are talking and then it continues to generate money for this.

Member Heaton said that at the end of the CRA, the lodge will have contributed around 70% of the total funds back into the CRA.

Attorney Van Dyke said that is a good number to look at because some people in the public, seeing this $27 million figure for the lodge would think that the tax funds are paying for the lodge in total and the numbers you are hearing today is that it is paying for less than a quarter of that and there are other sources of revenue to pay for the rest of it.

Member Heaton said that one of the things he loves about the lodge piece is that the intent of it is to be a B-Corp which is a Benefit Corp where the vast majority of profits come back and are redistributed throughout the community. It is almost like a non-profit feel. He said that it is very different than anything they have ever had in the County but he likes that. Member Heaton asked if this should be something that they include in part of the Participation Agreement or is that too much of an overreach for a Participation Agreement.

Member Chamberlain asked Kevin and Scott how they would feel about language that stipulated that the corporation would be established as a B-Corp that owned and operated the lodge.

Kevin said that he didn't have a problem with that and that they have already retained the attorney and drafted the operating agreement for the B-Corp.

There was further talk from the Commission about the lodge and how it was going to be set up and then they made a motion.

Motion to approve Resolution RDA-2022-6 the Tax Increment Participation Agreement as written and agreed upon, conditional upon legal review made by Member Gant and motion carried with all Members present voting in favor.

5. **Consideration of a Resolution Authorizing the Redevelopment Agency of Kane County to enter into a Tax Increment Participation Agreement with Zion Mountain Local Service District regarding the Visitors Center. RDA-2022-9 (Amended to RDA-2022-7)**

Attorney Van Dyke said that any discussion they need to have is if there are stipulations or requirements that they want to put on Zion Mountain Local District regarding building the visitor's center.

Member Chamberlain stated that if there are additional items like an observatory, then they will need to find another way to fund them because that is not what the CIB loan is for. He also mentioned that he feels it should be called the East Zions Visitor's Contact Station or something like that. He feels that it does have "Zion" in it.

Member Heaton said that a part of him wants to micromanage this and have a vote in this but he is not sure that we get it both ways. We decided the County wasn't going to do this so we passed it to the ZMLSD, so to him they should get to do everything.

Member Gant said that he feels the same way that Member Heaton does. He said that the whole idea was to not make it a County project.

Motion to approve Resolution RDA-2022-7 a Resolution Authorizing the Redevelopment Agency of Kane County to enter into a Tax Increment Participation Agreement with Zion Mountain Local Service District regarding the Visitors Center pending legal review made by Member Heaton and motion carried with all Members present voting in favor.

6. **Consideration of a Resolution Authorizing the Redevelopment Agency of Kane County to enter into a Tax Increment Participation Agreement with Zion Mountain Local Service District regarding the Water Reclamation Facility. RDA-2022-10 (Amended to RDA-2022-8)**

Member Chamberlain clarified that nothing can be open without this project.

Kevin Mclaws mentioned that Zion Ponderosa has operated for 15-20 years with sewer lagoons and as they have grown they have had problems. This will solve the problems and take it off of the community. He said that it is an old system that needs to go.

Motion to approve Resolution RDA-2022-8 the RDA's Tax Increment Participation Agreement with Zion Mountain Local Service District regarding the Water Reclamation Facility pending legal review made by Member Gant and motion carried with all Members present voting in favor.

Motion to adjourn made by Member Heaton and motion carried with all Members present voting in favor.

WHEREUPON MEETING ADJOURNED

_________________________   _________________________

Chairman Brent Chamberlain   Secretary Karla Johnson

AGENDA

ITEMS

ITEM # 1

Approval of Resolution No. RDA-2022-9 a Resolution Establishing Tax Year 2023 as Year One for the East Zion Community Reinvestment Project Area and Authorizing the Issuance of a Letter to the Kane County Auditor to Trigger Collection and Distribution of Tax Increment

KANE COUNTY REDEVELOPMENT AGENCY
RESOLUTION NO. RDA 2022-9

A RESOLUTION ESTABLISHING TAX YEAR 2023 AS YEAR ONE FOR THE EAST ZION COMMUNITY REINVESTMENT PROJECT AREA AND AUTHORIZING ISSUANCE OF A LETTER TO THE KANE COUNTY AUDITOR TO TRIGGER COLLECTION AND DISTRIBUTION OF TAX INCREMENT.

WHEREAS, the Kane County Redevelopment Agency ("Agency") created the East Zion Community Reinvestment Project Area, and on April 12, 2022 adopted a Second Amended Project Area Plan, attached as **Exhibit A**, and Second Amended Project Area Budget, attached as **Exhibit B**; and

WHEREAS, the Agency entered into a Second Amended Interlocal Cooperation Agreement with Kane County, attached as **Exhibit C**, and a Second Amended Interlocal Cooperation Agreement with the Kane County Water Conservancy District, attached as **Exhibit D**, on April 26, 2022 ("Interlocal Agreement"); and

WHEREAS, in accordance with Section 5 of the Interlocal Agreement, the Agency has discretion to establish Year One for the payment of Tax Increment and to trigger the collection of the tax by issuing a letter to the County Auditor, so long as it is done by March 1, 2025; and

WHEREAS, the Agency has received support letters from Zion Mountain Lodge and the Zion Mountain Local Service District, attached collectively as **Exhibit E** urging the triggering of tax increment in accordance with the three (3) separate Tax Increment Participation Agreements ("Agreements"), with one (1) between the Agency and Zion Mountain Ranch, and two (2) Agreements between the Agency and Zion Mountain Local Service District, signed on May 24, 2022, between the Agency and Zion Mountain Ranch and the Agency and Zion Mountain Local Service District, attached as **Exhibits F, G, and H**, respectively; and

WHEREAS, the Agency desires to establish 2023 as Year One for the East Zion community Reinvestment Project Area and to send a letter to the County Auditor triggering the Project Area for Tax Increment collection;

NOW, THEREFORE, BE IT RESOLVED BY GOVERNING BOARD OF THE KANE COUNTY REDEVELOPMENT AGENCY, AS FOLLOWS:

1. Tax Year 2023 is established as Year One for the East Zion Community Reinvestment Project Area.
2. The Secretary of the Agency is authorized to issue a letter to the Kane County Auditor giving her notice of this action and triggering collection of the Tax Increment.
3. The Kane County Assessor, Kane County Auditor, and Kane County Treasurer are requested to begin the calculation, collection, and disbursement of the Tax Increment in

accordance with the Project Area Budget, the Interlocal Agreements, and relevant State law.

4. This Resolution is effective immediately.

APPROVED AND ADOPTED this 22nd day of November, 2022.

Brent Chamberlain, Chair
Kane County Redevelopment Agency

ATTEST:

Karla Johnson
Agency Secretary

APPROVED AS TO FORM:

Robert Van Dyke
Attorney for the Agency

EXHIBIT A Part I
Ordinance Adopting Second Amended Plan

ORDINANCE NO. 0-2022-24

AN ORDINANCE ADOPTING THE SECOND AMENDED EAST ZION COMMUNITY REINVESTMENT PROJECT AREA PLAN, AS APPROVED BY THE KANE COUNTY REDEVELOPMENT AGENCY, AS THE OFFICIAL COMMUNITY REINVESTMENT PROJECT AREA PLAN FOR THE PROJECT AREA AND DIRECTING THAT NOTICE OF THE ADOPTED AMENDMENTS BE GIVEN AS REQUIRED BY STATUTE.

WHEREAS the Board of the Kane County Redevelopment Agency (the "Agency"), having prepared the Second Amended Project Area Plan ("Second Amended Plan") and Second Amended Project Area Budget to the Project Area ("Second Amended Budget") for the East Zion Community Reinvestment Project Area (the "Project Area"), the legal description attached hereto as **EXHIBIT A**, pursuant to Utah Code Annotated ("UCA") § 17C-5-112, and having held the required public hearing on the Plan on April 12, 2022, pursuant to UCA § 17C-5-104, adopted the Plan as the Official Community Reinvestment Plan for the Project Area attached hereto as **EXHIBIT B**; and

WHEREAS the Utah Community Reinvestment Agency Act (the "Act") mandates that, before the community reinvestment project area plan approved by an agency under UCA § 17C-5-104 may take effect, it must be adopted by ordinance of the legislative body of the community that created the agency in accordance with UCA § 17C-5-109; and

WHEREAS the Act also requires that notice is to be given by the community legislative body upon its adoption of a community reinvestment project area plan under UCA § 17C-5-110.

NOW, THEREFORE, BE IT ORDAINED BY THE KANE COUNTY COMMISSION AS FOLLOWS:

1. Kane County hereby adopts and designates the Second Amended Project Area Plan and Second Amended Project Area Budget, as approved by the Agency Board, as the official community reinvestment plan for the Project Area (the "Official Plan").

2. County staff and consultants are hereby authorized and directed to publish or cause to be published the notice required by UCA § 17C-5-110, whereupon the Official Plan shall become effective pursuant to UCA § 17C-5-110(2).

3. Pursuant to UCA § 17C-5-109, the Agency may proceed to carry out the Official Plan upon its adoption.

4. This ordinance shall take effect upon publication.

APPROVED AND ADOPTED this 12 day of April 2022.

Commission Chairman

Attest:

Karla Johnson

County Clerk

KANE COUNTY CLERK OFFICIAL DOCUMENT KANE COUNTY STATE OF UTAH

EXHIBIT A Part II
Resolution Adopting Second Amended Plan

RESOLUTION NO. RDA 2022-1

RESOLUTION OF THE KANE COUNTY REDEVELOPMENT AGENCY ADOPTING THE SECOND AMENDED PROJECT AREA PLAN FOR THE EAST ZION COMMUNITY REINVESTMENT PROJECT AREA.

WHEREAS, the Kane County Redevelopment Agency (the "Agency") was created to transact the business and exercise the powers provided for in the current Limited Purpose Local Government Entities - Community Reinvestment Agency Act, Title 17C of the Utah Code amended May 10, 2016, (the "Act"); and

WHEREAS, Kane County (the "County") has a planning commission and has adopted a general 10, 2019, approved the original Project Area Plan for the East Zion Community Reinvestment area, and a First Amended Project Area Plan for the East Zion Community Reinvestment area was approved on May 11, 2021, with the Second Amended Project Area Plan to be adopted concurrently with the Second Amended Project Area Budget; and

WHEREAS, Kane County (the "County") and the Agency, by Resolution and the County, by ordinance on September 10, 2019, approved the original Project Area Budget for the East Zion Community Reinvestment area, and a First Amended Project Area Budget for the East Zion Community Reinvestment area was approved on May 11, 2021, with the Second Amended Project Area Budget to be adopted concurrently with the Second Amended Project Area Plan; and

WHEREAS, pursuant to Section 17C-5-112 of the Act, the Agency has (a) prepared a Second Amended East Zion Community Reinvestment Project Area Plan, dated April 2022 (the "Second Amended Project Area Plan" or "Second Amended Plan"), attached as **Exhibit C**, replacing in its entirety the May 11, 2021, Official Plan and (b) made the Second Amended Plan available to the public at the Agency's offices during normal business hours; and

WHEREAS, the Agency provided notice of the public hearing in strict compliance with Sections 17C-1-805, 806, and 808; and

WHEREAS, the Agency has held a public hearing on the Second Amended Project Area Plan and at that hearing (a) allowed public comment on the Second Amended Plan and whether the Second Amended Plan should be revised, approved or rejected, and (b) received all written and heard all oral objections to the Second Amended Plan; and

WHEREAS, after holding the public hearing, and at the same meeting, the Agency considered the oral and written objections to the Second Amended Project Area Plan, and whether to revise, approve or reject the Amended Plan.

NOW, THEREFORE, BE IT RESOLVED BY THE KANE COUNTY REDEVELOPMENT AGENCY:

Section I. Adoption of the Second Amended Project Area Plan. It has become necessary and desirable to adopt the Second Amended Project Area Plan for the Project Area. The Second Amended Project Area Plan, in the form attached hereto as **Exhibit C**, and together with any changes to the Second Amended Plan as may be indicated in the minutes of this meeting (if any), is hereby designated, and adopted as the official Project Area Plan for the Project Area. The Agency shall submit the Second Amended Plan, together with a copy of this Resolution, to the Kane County Commission requesting that the Amended Plan be adopted by ordinance of the legislative body of the County in accordance with the provisions of the Act.

Section 2. Legal Description of the Project Area Boundaries. The legal description of the boundaries of the Project Area covered by the Amended Project Area Plan is attached hereto and incorporated herein as **Exhibit A.** A map of the Project Area is attached and incorporated herein as **Exhibit B.**

Section 3. Agency's Purposes and Intent. The Agency's purposes and intent with respect to the Second Amended Plan is to accomplish the following:

A. Encourage and accomplish private development and community reinvestment activities within the Project Area, including a grand lodge, workforce housing, restaurants, retail, and other accommodation services; and

B. Support the development of public amenities, including expanding and improving public trails, constructing a visitors' center, and expanding shuttle service.

Section 4. Second Amended Project Area Plan Incorporated by Reference. The Second Amended Project Area Plan, together with supporting documents, in the form attached as **Exhibit C**, and together with any changes to the Second Amended Plan as may be indicated in the minutes of this meeting (if any), is hereby incorporated herein by reference, and made a part of this Resolution. Copies of the Second Amended Project Area Plan shall be filed and maintained in the office of the Agency and the County Recorder for public inspection.

Section 5. Agency Board Findings. The Agency Board hereby determines and finds as follows:

The adoption of the Second Amended Project Area Plan will:

A. Satisfy a public purpose by, among other things, providing new and expanding existing public amenities which will be enjoyed by County residents and additional visitors to the County and within the Project Area; and

B. Benefit the public in the form of additional housing for the County's workforce. The additional residents will increase the property and sales tax base for the County and other taxing entities; and

C. Be economically sound and feasible; in that the revenue needed to support the public amenities contemplated within the Second Amended Project Area Plan will come from incremental taxes generated by new private development within the Project Area, all as further shown and supported by the analysis contained in the Second Amended Project Area Plan; and

D. Conform to the County's general plan in that, among other things, the Second Amended Project Area Plan provide that all development in the Project Area is to be in accordance with the County's zoning ordinances and requirements, and the development activities contemplated are in harmony with the County's general plan; and

E. Promote the public peace, health, safety and welfare of the citizens of the County.

Section 6. Financing. Subject to any limitations required by currently existing law (unless a limitation is subsequently eliminated), this Resolution hereby specifically incorporates all of the provisions of the Act that authorize or permit the Agency to receive funding for the Project Area and that authorize the various uses of such funding by the Agency, and to the extent greater (or more beneficial to the Agency) authorization for receipt of funding by the Agency or use thereof by the Agency is provided by any amendment of the Act or by any successor provision, law or act, those are also specifically incorporated herein. It is the intent of this Resolution that the Agency shall have the broadest authorization and permission for receipt of and use of tax increment and other funding as is authorized by law, whether by existing or amended provisions of law. This Resolution also incorporates the specific provisions relating to funding of community development project areas permitted by Chapter 5 of the Act.

Section 7. Effective Date. This Resolution shall take effect immediately upon adoption, and pursuant to the provisions of the Act, the Project Area Plan shall become effective upon adoption by Ordinance of the legislative body of the County.

IN WITNESS WHEREOF, the Governing Board of the Kane County Redevelopment Agency has approved, passed and adopted this Resolution this 12th day of April, 2022.

Agency Chair

ATTEST:

Karla Johnson

KANE COUNTY CLERK
OFFICIAL
DOCUMENT
KANE COUNTY STATE OF UTAH

EXHIBIT B
Resolution Adopting Second Amended Budget

RESOLUTION NO. RDA 2022-2

RESOLUTION OF THE KANE COUNTY REDEVELOPMENT AGENCY APPROVING THE SECOND AMENDED PROJECT AREA BUDGET FOR THE EAST ZION COMMUNITY REINVESTMENT PROJECT AREA

WHEREAS, the Kane County Redevelopment Agency (the "Agency") was created to transact the business and exercise the powers provided for in the current Limited Purpose Local Government Entities - Community Reinvestment Agency Act, Title 17C of the Utah Code Ann. 1953, as amended (the "Act"); and

WHEREAS, Kane County (the "County") has a planning commission and has adopted a general plan pursuant to applicable law, and the Agency, by Resolution and the County, by ordinance on September 10, 2019, approved the original Project Area Plan for the East Zion Community Reinvestment area, and a First Amended Project Area Plan for the East Zion Community Reinvestment area was approved on May 11, 2021, with the Second Amended Project Area Plan to be adopted concurrently with the Second Amended Project Area Budget; and

WHEREAS, Kane County (the "County") and the Agency, by Resolution and the County, by ordinance on September 10, 2019, approved the original Project Area Budget for the East Zion Community Reinvestment area, and a First Amended Project Area Budget for the East Zion Community Reinvestment area was approved on May 11, 2021, with the Second Amended Project Area Budget to be adopted concurrently with the Second Amended Project Area Plan; and

WHEREAS, the Second Amended Project Area Plan allows for the Agency to collect tax increment created within the Project Area to assist in the development of public amenities which will support the community, providing workforce housing that will support the creation of jobs, and meet other goals and objectives as outlined in the Plan, to promote development, and provide a public benefit within Kane County and the Project Area; and

WHEREAS, pursuant to Section 17C-5-112 of the Act, the Agency has (a) prepared a Second Amended East Zion Community Reinvestment Project Area Budget, dated April 2022 (the "Second Amended Project Area Budget" or "Second Amended Budget"), attached as **Exhibit A,** to be adopted concurrently with the Second Amended Project Area Plan, replacing in its entirety the May 11, 2021 Official Budget and (b) made the Second Amended Budget available to the public at the Agency's offices during normal business hours; and

WHEREAS, the Agency provided notice of the public hearing in strict compliance with Sections 17C-1-805, 806, and 808; and

WHEREAS, the Agency has held a public hearing on the Second Amended Project Area Budget and at that hearing (a) allowed public comment on the Second Amended Budget and whether the Second Amended Budget should be revised, approved or rejected, and (b) received all written and heard all oral objections to the Second Amended Budget; and

WHEREAS, after holding the public hearing, and at the same meeting, the Agency considered the oral and written objections to the Second Amended Project Area Budget, and whether to revise, approve or reject the Second Amended Budget.

NOW, THEREFORE BE IT RESOLVED BY THE KANE COUNTY REDEVELOPMENT AGENCY:

1. The Second Amended Project Area Budget attached hereto as **Exhibit A**, and together with any changes, revisions, or modifications to the Second Amended Project Area Budget as may be indicated in the minutes of this meeting (if any), is hereby designated, and adopted as the official Project Area Budget for the Project Area.

2. The Agency staff will include in the November 1st report, the taking of tax increment from the East Zion Community Reinvestment Project Area beginning with the tax year before the Agency requests funding.

3. The Agency staff is authorized to begin to negotiate with the taxing entities that levy a certified rate in the Project Area, to participate with the Agency in the implementation and funding of the Second Amended Budget in accordance with Sections 17C-5-201, 202, 203, 204, 205 and 206 of the Act.

4. This Resolution shall take effect immediately upon adoption.

IN WITNESS WHEREOF, the Governing Board of the Kane County Redevelopment Agency has approved, passed and adopted this Resolution this 12th day of April, 2022.

Agency Chair

ATTEST:
Karla Johnson

KANE COUNTY CLERK
OFFICIAL
KANE COUNTY
DOCUMENT
KANE COUNTY STATE OF UTAH

ENTRY NO. 00199788
08/01/2022 11:52:56 AM B: 0587 P: 0163
Amended Agreement PAGE 1 / 56
VERJEAN CARUSO, KANE COUNTY RECORDER
FEE $ 0.00 BY KANE CO CLERK

EXHIBIT C
Agency-County Second Amended Interlocal Cooperation Agreement

SECOND AMENDED INTERLOCAL COOPERATION AGREEMENT

RELATED TO EAST ZION COMMUNITY REINVESTMENT PROJECT AREA

THIS SECOND AMENDED INTERLOCAL COOPERATION AGREEMENT (the "Agreement") is made and entered into this 26th day of April, 2022, by and between the **KANE COUNTY REDEVELOPMENT AGENCY**, a community reinvestment agency and political subdivision of the State of Utah (the "Agency"), and **KANE COUNTY**, a political subdivision of the State of Utah (the "County") in contemplation of the following facts and circumstances:

A. **WHEREAS**, the Agency was created and organized pursuant to the provisions of the Limited Purpose Local Government Entities - Community Reinvestment Agency Act, Title 17C of the UCA (the "Act"), and is authorized and empowered under the Act to undertake, among other things, various community development activities pursuant to the Act, including, among other things, assisting the County in development activities that are likely to advance the policies, goals and objectives of the County's general plan, contributing to capital improvements and investments which substantially benefit the County, creating economic benefits to the County, and improving the public health, safety and welfare of its residents; and

B. **WHEREAS**, this Agreement is made pursuant to the provisions of the Act and the Interlocal Cooperation Act (UCA Title 11, Chapter 13) (the "Cooperation Act"); and

C. **WHEREAS**, the Agency has established the EAST ZION COMMUNITY REINVESTMENT PROJECT AREA (the "Project Area") located within the County, as outlined in **Exhibit A** (the "Property"), through the adoption of the East Zion Community Reinvestment Project Area Plan (the "Project Area Plan") in 2019, located within the County, and adopted the First Amended Project Area Plan adopted in 2021, and adopted the Second Amended Project Area Plan on April 12, 2022, as described in **Exhibit B** and incorporated herein by this reference; and

D. **WHEREAS**, the Project Area contains mostly vacant and underutilized land, which is anticipated to include more developments, with encouragement and planning by the Agency, such as additional hotel, retail, workforce housing, adventure and tourism business space, and a water reclamation facility to provide necessary services for the development. The Agency may enter into one or more participation agreements with one or more developer(s) or property owners which will provide certain terms and conditions upon which the Project Area will be developed using, in part, "Tax Increment" (as that term is defined in the Act), generated from the Project Area; and

E. **WHEREAS**, using the Base Taxable Value of the Base Year (as defined in the Act and further referenced herein) and applying the estimated tax rates in effect as of the Base Year, the Project Area generated an estimated total property tax of $300,616, which included the various taxing entities: Kane County (the "County"), and the Kane County Water Conservancy District (the "Water District"). The estimated property taxes generated annually for the County is $108,547; and

F. **WHEREAS**, using the Base Year, the Project Area generates an estimated total of $533,455 per year in sales taxes, restaurant taxes, and transient rooms taxes for the County. Because fewer than ten vendors exist within the Project Area, detailed tax information cannot be provided in order to comply with state laws concerning businesses' confidential sales data; and

G. **WHEREAS**, upon full development as contemplated in the Second Amended Project Area Plan, property tax increment produced by the Project Area for the County, and the Water District are projected to total approximately $3,771,367 per year, with $1,359,243 going to the County; and

H. **WHEREAS,** upon full development as contemplated in the Second Amended Project Area Plan, sales tax, restaurant tax, and transient room tax increment produced by the Project Area for the County are projected to total approximately $7,824,251 per year; and

I. **WHEREAS,** the Agency has requested the County and the Water District participate in the promotion of development in the Project Area by agreeing to remit to the Agency for a specified period of time portions of the increased taxes (i.e., Tax Increment,) which will be generated by the Project Area; and

J. **WHEREAS,** it is in the best interest of the residents of the County for the County to remit such payments to the Agency to permit the Agency to leverage private development within the Project Area; and

K. **WHEREAS,** the Agency has retained Lewis Young Robertson & Burningham, Inc., an independent financial consulting firm with substantial experience regarding community reinvestment projects and tax increment funding across the State of Utah, to prepare the Second Amended Project Area Plan; and

L. **WHEREAS,** the Agency prepared and adopted the East Zion Community Reinvestment Project Area Budget (the "Project Area Budget") in 2019, and the First Amended Project Area Budget in 2021, and attached hereto is a copy of the Second Amended Project Area Budget as described in **Exhibit C**, which Second Amended Project Area Budget, generally speaking, outlines the anticipated generation, payment and use of Tax Increment within the Project Area;

M. **WHEREAS,** the parties desire to set forth in writing their agreements regarding the nature and timing of such assistance; and

NOW, THEREFORE, the parties agree that this Second Amended Interlocal Agreement shall repeal and replace the Original and First Amended Interlocal Agreement in their entirety, and shall be as follows:

1. **Additional Tax Revenue**. The County has determined that significant additional property tax, sales tax, restaurant tax, and transient room tax revenue (*i.e.*, Tax Increment, as defined by the Act and outlined in this Agreement) will likely be generated by the development of public amenities within the Project Area as described in further detail in the Second Amended Project Area Plan and Second Amended Project Area Budget. Each of the parties acknowledge, however, that the development activity required for the generation of the Tax Increment is not likely to occur within the foreseeable future or to the degree possible or desired without Tax Increment participation in order to induce and encourage such development activity.

2. **Offset of Development Costs and Expenses**. The County has determined that it is in the best interests of its residents to pay or reimburse specified portions of its Tax Increment to the Agency in order for the Agency to support the construction of public amenities such as a water reclamation facility and other development related costs needed to serve the Project Area, to the extent permitted by the Act, the Second Amended Project Area Plan, and the Second Amended Project Area Budget, each as adopted and amended from time to time.

3. **Base Year and Base Year Value**. The Base Year, for purposes of calculation of the Base Taxable Value (as these terms are defined in the Act), shall be tax year 2020, meaning the Base Taxable Value shall, to the extent and in the manner defined by the Act, be equal to the equalized taxable value shown on the 2020 Kane County assessment rolls for all property located within the Project Area (which is currently estimated to be $33,502,278, but is subject to final adjustment and verification by the County and Agency).

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4. **Agreement(s) with Developer(s).** The Agency is authorized to enter into one or more participation agreements with one or more participants which may provide for the payment of certain amounts of Tax Increment (to the extent such Tax Increment is actually paid to and received by the Agency from year to year) to the participant(s) conditional upon the participant (s)'s meeting of certain performance measures as outlined in said agreement. Such agreement shall be consistent with the terms and conditions of this Agreement, shall require as a condition of the payment to the participant(s) that the respective participant or its approved successors in title as owners of all current and subsequent parcels within the Project Area, shall pay any and all taxes and assessments which shall be assessed against the Property in accordance with levies made by applicable municipal entities in accordance with the laws of the state of Utah applicable to such levies, and such other performance measures as the Agency may deem appropriate.

5. **Payment Trigger.** The first year ("Year One") of payment of Tax Increment from the County to the Agency shall be determined by the Agency, but the Agency will trigger the Project Area for collection no later than by March 1, 2025. Each subsequent year, beginning with the first year after Year One, shall be defined in sequence as Year Two through Year Twenty. The Agency may trigger the collection of Tax Increment by timely delivering a letter or other written request to the Kane County Auditor's office

6. **Total Payment to Agency.** The County shall remit to the Agency, beginning with property tax receipts in Year One, and continuing through Year Twenty, 80% as specified in the Second Amended Project Area Budget, of the annual Property Tax, Sales Tax, Restaurant Tax, and Transient Room Tax Increment generated from within the Project Area, including the real (*i.e.*, building, land, and fixtures), personal, and centrally assessed property within the Project Area.

7. **Property Tax Increase.** This Agreement provides for the payment of the increase in real property, personal property, and centrally assessed property taxes collected from the Project Area by the County. Without limiting the foregoing, this Agreement includes Tax Increment resulting from an increase in the tax rate of the County, which is hereby expressly approved as being included in Tax Increment as required by Section 17C-1-407 of the Act. It is expressly understood that the taxes which are the subject of this Agreement are only those taxes actually collected by the County from the Project Area.

8. **Prohibition of Reduction of Funds by Taxing Entities.** As required under 17C-5-204(6), this agreement prohibits the County from proportionately reducing the amount of project area funds the County consents to pay to the Agency by the amount of any direct expenditures the County makes within the Project Area for the benefit of the Project Area or the Agency.

9. **No Independent Duty.** The County shall be responsible to remit to the Agency only Tax Increment actually received by the County. The County shall have no independent duty to pay any amount to the Agency other than the Tax Increment actually received by the County on an annual basis.

10. **Authority to Bind.** Each individual executing this Agreement represents and warrants that such person is authorized to do so, and, that upon executing this Agreement, this Agreement shall be binding and enforceable in accordance with its terms upon the party for whom such person is acting.

11. **Further Documents and Acts.** Each of the parties hereto agrees to cooperate in good faith with the others, and to execute and deliver such further documents and perform such other acts as may be reasonably necessary or appropriate to consummate and carry into effect the transactions contemplated under this Agreement.

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12. __Notices__. Any notice, request, demand, consent, approval or other communication required or permitted hereunder or by law shall be validly given or made only if in writing and delivered to an officer or duly authorized representative of the other party in person or by Federal Express, private commercial delivery or courier service for next business day delivery, or by United States mail, duly certified or registered (return receipt requested), postage prepaid, and addressed to the party for whom intended, as follows:

If to Kane County:
Kane County
Attn: County Commission
76 N Main St
Kanab, Utah 84741
Phone: (435) 644-4900

If to Agency:
Kane County Redevelopment Agency
Attn: Agency Board
76 N Main St
Kanab, Utah 84741
Phone: (435) 644-4900

Any party may from time to time, by written notice to the others as provided above, designate a different address which shall be substituted for that specified above. Notice sent by mail shall be deemed served or delivered seventy-two (72) hours after mailing. Notice by any other method shall be deemed served or delivered upon actual receipt at the address or facsimile number listed above. Delivery of courtesy copies noted above shall be as a courtesy only and failure of any party to give or receive a courtesy copy shall not be deemed to be a failure to provide notice otherwise properly delivered to a party to this Agreement.

13. __Entire Agreement__. This Agreement is the final expression of and contains the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior understandings with respect thereto. This Agreement may not be modified, changed, supplemented or terminated, nor may any obligations hereunder be waived, except by written instrument signed by the party to be charged or by its agent duly authorized in writing or as otherwise expressly permitted herein. This Agreement and its exhibits constitute the entire agreement between the parties hereto pertaining to the subject matter hereof, and the final, complete and exclusive expression of the terms and conditions thereof. All prior agreements, representations, negotiations and understandings of the parties hereto, oral or written, express or implied, are hereby superseded and merged herein.

14. __No Third-Party Benefit__. The parties do not intend to confer any benefit hereunder on any person, firm or corporation other than the parties hereto. There are no intended third-party beneficiaries to this Agreement.

15. __Construction__. Headings at the beginning of each paragraph and subparagraph are solely for the convenience of the parties and are not a part of the Agreement. Whenever required by the context of this Agreement, the singular shall include the plural and the masculine shall include the feminine and vice versa. Unless otherwise indicated, all references to paragraphs and subparagraphs are to this Agreement. In the event the date on which any of the parties is required to take any action under the terms of this Agreement is not a business day, the action shall be taken on the next succeeding business day.

16. __Partial Invalidity__. If any term or provision of this Agreement or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as

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to which it is held invalid or unenforceable, shall not be affected thereby, and each such term and provision of this Agreement shall be valid and shall be enforced to the fullest extent permitted by law.

17. Amendments. No addition to or modification of any provision contained in this Agreement shall be effective unless fully set forth in writing executed by each of the parties hereto.

18. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute but one and the same instrument.

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

20. Governing Law. This Agreement and the exhibits attached hereto shall be governed by and construed under the laws of the State of Utah. In the event of any dispute hereunder, it is agreed that the sole and exclusive venue shall be in a court of competent jurisdiction in Kane County, Utah, and the parties hereto agree to submit to the jurisdiction of such court.

21. Declaration of Invalidity. In the event that a court of competent jurisdiction declares that the County cannot pay and/or that the Agency cannot receive payments of the Tax Increment, declares that the Agency cannot pay the Tax Increment to developers, or takes any other action which has the effect of eliminating or reducing the payments of Tax Increment received by the Agency, the Agency's obligation to pay the Tax Increment to developers shall be reduced or eliminated accordingly, the Agency, and the County shall take such steps as are reasonably required to not permit the payment and/or receipt of the Tax Increment to be declared invalid.

22. No Separate Legal Entity. No separate legal entity is created by this Agreement.

23. Duration. This Agreement shall terminate after the final payment of Tax Increment to the Agency for Year Twenty.

24. Assignment. No party may assign its rights, duties or obligations under this Agreement without the prior written consent first being obtained from all parties. Notwithstanding the foregoing, such consent shall not be unreasonably withheld or delayed so long as the assignee thereof shall be reasonably expected to be able to perform the duties and obligations being assigned.

25. Termination. Upon any termination of this Agreement resulting from the uncured default of any party, the order of any court of competent jurisdiction or termination as a result of any legislative action requiring such termination, then any funds held by the Agency and for which the Agency shall not be required to disburse to developers in accordance with the agreements which govern such disbursement, then such funds shall be returned to the party originally remitting same to the Agency and upon such return this Agreement shall be deemed terminated and of no further force or effect.

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

a) This Agreement shall be authorized and adopted by resolution of the legislative body of each Party pursuant to and in accordance with the provisions of Section 11-13-202.5 of the Cooperation Act;

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

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c) A duly executed original counterpart of this Agreement shall be filed immediately with the keeper of records of each Party pursuant to Section 11-13-209 of the Cooperation Act;

d) The Chair of the Agency is hereby designated the administrator for all purposes of the Cooperation Act, pursuant to Section 11-13-207 of the Cooperation Act; and

e) Should a party to this Agreement desire to terminate this Agreement, in part or in whole, each party to the Agreement must adopt, by resolution, an amended Interlocal Cooperation Agreement stating the reasons for such termination. Any such amended Interlocal Cooperation Agreement must be in harmony with any development/participation agreement(s) entered into by the Agency as described in this Agreement.

f) Immediately after execution of this Agreement by both Parties, the Agency shall, on behalf of both parties, cause to be published notice regarding this Agreement pursuant to Section 11-13-219 of the Cooperation Act.

g) This Agreement makes no provision for the parties acquiring, holding and disposing of real and personal property used in the joint undertaking as such action is not contemplated as part of this Agreement nor part of the undertaking. Any such provision would be outside the parameters of the current undertaking. However, to the extent that this Agreement may be construed as providing for the acquisition, holding or disposing of real and/or personal property, all such property shall be owned by the Agency upon termination of this Agreement.

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IN WITNESS WHEREOF, the parties have executed this Agreement on the day specified above.

County: KANE COUNTY

Attest:

By: ______________________

Andrew Gant, County Commission Chair

Karla Johnson, County Clerk

Approved as to form:

Rob Van Dyke, Attorney for County

KANE COUNTY CLERK OFFICIAL DOCUMENT KANE COUNTY STATE OF UTAH

Andy Gant
April 26th

Agency: KANE COUNTY REDEVELOPMENT AGENCY

Attest:

By: ______________________

Brent Chamberlain, Agency Chair

Karla Johnson, Agency Secretary

Approved as to form:

Rob Van Dyke, Attorney for Agency

KANE COUNTY REDEVELOPMENT AGENCY CORPORATE SEAL 2014 UTAH

Brent Chamberlain
April 26th

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EXHIBIT D
Agency-Kane County Water Conservancy District Second Amended Interlocal Agreement

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SECOND AMENDED
INTERLOCAL COOPERATION AGREEMENT

RELATED TO
EAST ZION COMMUNITY REINVESTMENT PROJECT AREA

THIS SECOND AMENDED INTERLOCAL COOPERATION AGREEMENT (the "Agreement") is made and entered into this 26 day of April, 2022, by and between the **KANE COUNTY REDEVELOPMENT AGENCY**, a community reinvestment agency and political subdivision of the State of Utah (the "Agency"), and the **KANE COUNTY WATER CONSERVANCY DISTRICT**, a political subdivision of the State of Utah (the "Water District") in contemplation of the following facts and circumstances:

A. **WHEREAS**, the Agency was created and organized pursuant to the provisions of the Limited Purpose Local Government Entities - Community Reinvestment Agency Act, Title 17C of the UCA (the "Act"), and is authorized and empowered under the Act to undertake, among other things, various community development activities pursuant to the Act, including, among other things, assisting Kane County (the "County") in development activities that are likely to advance the policies, goals and objectives of the County's general plan, contributing to capital improvements and investments which substantially benefit the County, creating economic benefits to the County, and improving the public health, safety and welfare of its residents; and

B. **WHEREAS**, this Agreement is made pursuant to the provisions of the Act and the Interlocal Cooperation Act (UCA Title 11, Chapter 13) (the "Cooperation Act"); and

C. **WHEREAS**, the Agency has established the EAST ZION COMMUNITY REINVESTMENT PROJECT AREA (the "Project Area") located within the County, as outlined in **Exhibit A** (the "Property"), through the adoption of the East Zion Community Reinvestment Project Area Plan (the "Project Area Plan") in 2019, located within the County, and adopted the First Amended Project Area Plan adopted in 2021, and adopted the Second Amended Project Area Plan on April 12, 2022, attached hereto and described in **Exhibit B** and incorporated herein by this reference; and

D. **WHEREAS**, the Project Area contains mostly vacant and underutilized land, which is anticipated to include more developments, with encouragement and planning by the Agency, such as additional hotel, retail, workforce housing, adventure and tourism business space, and a water reclamation facility which is necessary for development. The Agency may enter into one or more participation agreements with one or more developer(s) which will provide certain terms and conditions upon which the Project Area will be developed using, in part, "Tax Increment" (as that term is defined in the Act), generated from the Project Area; and

E. **WHEREAS**, using the Base Taxable Value of the Base Year (as defined in the Act and further referenced herein) and applying the estimated tax rates in effect as of the Base Year, the Project Area generated an estimated total property tax of $300,616, which included the following taxing entities: Kane County (the "County"), and the Kane County Water Conservancy District (the "Water District"). The estimated property taxes generated annually for the Water District is $19,934; and

F. **WHEREAS**, upon full development as contemplated in the Project Area Plan, property tax increment produced by the Project Area for the County, and the Water District are projected to total approximately $3,771,367 per year, with $249,540 going to the Water District; and

G. **WHEREAS**, the Agency has requested the County, and the Water District to participate in the promotion of development in the Project Area by agreeing to remit to the Agency for a specified period

H. **WHEREAS**, it is in the best interest of the constituents of the Water District for the Water District to remit such payments to the Agency to permit the Agency to leverage private development within the Project Area; and

I. **WHEREAS**, the Agency has retained Lewis Young Robertson & Burningham, Inc., an independent financial consulting firm with substantial experience regarding community reinvestment projects and tax increment funding across the State of Utah, to prepare the Second Amended Project Area Plan; and

J. **WHEREAS**, the Agency prepared and adopted the East Zion Community Reinvestment Project Area Budget (the "Project Area Budget") in 2019 located within the County, and the First Amended Project Area Budget in 2021, and attached hereto is a copy of the Second Amended Project Area Budget as described in **Exhibit C**, which Second Amended Project Area Budget, generally speaking, outlines the anticipated generation, payment and use of Tax Increment within the Project Area;

K. **WHEREAS**, the parties desire to set forth in writing their agreements regarding the nature and timing of such assistance;

NOW, THEREFORE, the parties agree that this Second Amended Interlocal Agreement shall repeal and replace the Original and First Amended Interlocal Agreement in their entirety, and shall be as follows:

1. **Additional Tax Revenue**. The Water District has determined that significant additional property tax revenue (*i.e.*, Tax Increment, as defined by the Act and outlined in this Agreement) will likely be generated by the development of public amenities within the Project Area as described in further detail in the Project Area Plan and Project Area Budget. Each of the parties acknowledge, however, that the development activity required for the generation of the Tax Increment is not likely to occur within the foreseeable future or to the degree possible or desired without Tax Increment participation in order to induce and encourage such development activity.

2. **Offset of Development Costs and Expenses**. The Water District has determined that it is in the best interests of its constituents to pay or reimburse specified portions of its Tax Increment to the Agency in order for the Agency to support the construction of public amenities such as a water reclamation facility and other development related costs needed to serve the Project Area, to the extent permitted by the Act, the Project Area Plan, and the Project Area Budget, each as adopted and amended from time to time.

3. **Base Year and Base Year Value**. The Base Year, for purposes of calculation of the Base Taxable Value (as the terms are defined in the Act), shall be tax year 2020, meaning the Base Taxable Value shall, to the extent and in the manner defined by the Act, be equal to the equalized taxable value shown on the 2020 Kane County assessment rolls for all property located within the Project Area (which is currently estimated to be $33,502,278, but is subject to final adjustment and verification by the County and Agency).

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participation agreements with one or more participants which may provide for the payment of certain amounts of Tax Increment (to the extent such Tax Increment is actually paid to and received by the Agency from year to year) to the participant(s) conditional upon the participant (s)'s meeting of certain performance measures as outlined in said agreement. Such agreement shall be consistent with the terms and conditions of this Agreement, shall require as a condition of the payment to the participant(s) that the respective participant or its approved successors in title as owners of all current and subsequent parcels within the Project Area, shall pay any and all taxes and assessments which shall be assessed against the Property in accordance with levies made by applicable municipal entities in accordance with the laws of the state of Utah applicable to such levies, and such other performance measures as the Agency may deem appropriate.

5. <u>Payment Trigger.</u> The first year ("Year One") of payment of Tax Increment from the Water District to the Agency shall be determined by the Agency, but the Agency will trigger the Project Area for collection no later than by March 1, 2025. Each subsequent year, beginning with the first year after Year One, shall be defined in sequence as Year Two through Year Twenty. The Agency may trigger the collection of Tax Increment by timely delivering a letter or other written request to the Kane County Auditor's office

6. <u>Total Payment to Agency</u>. The Water District shall authorize the County to remit to the Agency, beginning with property tax receipts in Year One, and continuing through Year Twenty, 80%, as specified in the Project Area Budget, of the annual Property Tax Increment generated from within the Project Area, including the real (*i.e.*, building, land, and fixtures), personal, and centrally assessed property within the Project Area.

7. <u>Property Tax Increase</u>. This Agreement provides for the payment of the increase in real property, personal property, and centrally assessed property taxes collected from the Project Area by the County acting as the tax collection agency for the Water District. Without limiting the foregoing, this Agreement includes Tax Increment resulting from an increase in the tax rate of the Water District, which is hereby expressly approved as being included in Tax Increment as required by Section 17C-1-407 of the Act. It is expressly understood that the Property Taxes which are the subject of this Agreement are only those Property Taxes actually collected by the County from the Project Area.

8. <u>Prohibition of Reduction of Funds by Taxing Entities</u>. As required under 17C-5-204(6), this agreement prohibits the Water District from proportionately reducing the amount of project area funds the Water District consents to pay to the Agency by the amount of any direct expenditures the Water District makes within the Project Area for the benefit of the Project Area or the Agency.

9. <u>No Independent Duty</u>. The County shall be responsible to remit to the Agency only Tax Increment actually received by the County acting as the tax collecting agency for the Water District. The County shall have no independent duty to pay any amount to the Agency other than the Tax Increment actually received by the County, on behalf of the Water District on an annual basis.

10. <u>Authority to Bind</u>. Each individual executing this Agreement represents and warrants that such person is authorized to do so, and, that upon executing this Agreement, this Agreement shall be binding and enforceable in accordance with its terms upon the party for whom such person is acting.

11. <u>Further Documents and Acts</u>. Each of the parties hereto agrees to cooperate in good faith with the others, and to execute and deliver such further documents and perform such other acts as may be reasonably necessary or appropriate to consummate and carry into effect the transactions contemplated under this Agreement.

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VERJEAN CAUSEY, KANE COUNTY RECORDER
FEE $ 0.00 BY KANE CO CLERK

12. Notices. Any notice, request, demand, consent, approval or other communication required or permitted hereunder or by law shall be validly given or made only if in writing and delivered to an officer or duly authorized representative of the other party in person or by Federal Express, private commercial delivery or courier service for next business day delivery, or by United States mail, duly certified or registered (return receipt requested), postage prepaid, and addressed to the party for whom intended, as follows:

If to Water District:
Kane County Water Conservancy District
Attn: Water Conservancy Board
725 E Kaneplex Dr.,
Kanab, Utah 84741
Phone: (435) 644-3997

If to Agency:
Kane County Redevelopment Agency
Attn: Agency Board
76 N Main St
Kanab, Utah 84741
Phone: (435) 644-4900

Any party may from time to time, by written notice to the others as provided above, designate a different address which shall be substituted for that specified above. Notice sent by mail shall be deemed served or delivered seventy-two (72) hours after mailing. Notice by any other method shall be deemed served or delivered upon actual receipt at the address or facsimile number listed above. Delivery of courtesy copies noted above shall be as a courtesy only and failure of any party to give or receive a courtesy copy shall not be deemed to be a failure to provide notice otherwise properly delivered to a party to this Agreement.

13. Entire Agreement. This Agreement is the final expression of and contains the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior understandings with respect thereto. This Agreement may not be modified, changed, supplemented or terminated, nor may any obligations hereunder be waived, except by written instrument signed by the party to be charged or by its agent duly authorized in writing or as otherwise expressly permitted herein. This Agreement and its exhibits constitute the entire agreement between the parties hereto pertaining to the subject matter hereof, and the final, complete and exclusive expression of the terms and conditions thereof. All prior agreements, representations, negotiations and understandings of the parties hereto, oral or written, express or implied, are hereby superseded and merged herein.

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14. No Third-Party Benefit. The parties do not intend to confer any benefit hereunder on any person, firm or corporation other than the parties hereto. There are no intended third-party beneficiaries to this Agreement.

15. Construction. Headings at the beginning of each paragraph and subparagraph are solely for the convenience of the parties and are not a part of the Agreement. Whenever required by the context of this Agreement, the singular shall include the plural and the masculine shall include the feminine and vice versa. Unless otherwise indicated, all references to paragraphs and subparagraphs are to this Agreement. In the event the date on which any of the parties is required to take any action under the terms of this Agreement is not a business day, the action shall be taken on the next succeeding business day.

16. Partial Invalidity. If any term or provision of this Agreement or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this

Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each such term and provision of this Agreement shall be valid and shall be enforced to the fullest extent permitted by law.

17. **Amendments.** No addition to or modification of any provision contained in this Agreement shall be effective unless fully set forth in writing executed by each of the parties hereto.

18. **Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute but one and the same instrument.

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

20. **Governing Law.** This Agreement and the exhibits attached hereto shall be governed by and construed under the laws of the State of Utah. In the event of any dispute hereunder, it is agreed that the sole and exclusive venue shall be in a court of competent jurisdiction in Kane County, Utah, and the parties hereto agree to submit to the jurisdiction of such court.

21. **Declaration of Invalidity.** In the event that a court of competent jurisdiction declares that the County or the Water District cannot pay and/or that the Agency cannot receive payments of the Tax Increment, declares that the Agency cannot pay the Tax Increment to developers, or takes any other action which has the effect of eliminating or reducing the payments of Tax Increment received by the Agency, the Agency's obligation to pay the Tax Increment to developers shall be reduced or eliminated accordingly, the Agency, and the Water District shall take such steps as are reasonably required to not permit the payment and/or receipt of the Tax Increment to be declared invalid.

22. **No Separate Legal Entity.** No separate legal entity is created by this Agreement.

23. **Duration.** This Agreement shall terminate after the final payment of Tax Increment to the Agency for Year Twenty.

24. **Assignment.** No party may assign its rights, duties or obligations under this Agreement without the prior written consent first being obtained from all parties. Notwithstanding the foregoing, such consent shall not be unreasonably withheld or delayed so long as the assignee thereof shall be reasonably expected to be able to perform the duties and obligations being assigned.

25. **Termination.** Upon any termination of this Agreement resulting from the uncured default of any party, the order of any court of competent jurisdiction or termination as a result of any legislative action requiring such termination, then any funds held by the Agency and for which the Agency shall not be required to disburse to developers in accordance with the agreements which govern such disbursement, then such funds shall be returned to the party originally remitting same to the Agency and upon such return this Agreement shall be deemed terminated and of no further force or effect.

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

a) This Agreement shall be authorized and adopted by resolution of the legislative body of each Party pursuant to and in accordance with the provisions of Section 11-13-202.5 of the Cooperation Act;

ENTRY NO. 00199789
08/01/2022 12:12:33 PM B: 0567 P: 0225
Amended Agreement PAGE 5 / 56
VERJEAN CARUSO, KANE COUNTY RECORDER
FEE $ 0.00 BY KANE CO CLERK

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

c) A duly executed original counterpart of this Agreement shall be filed immediately with the keeper of records of each Party pursuant to Section 11-13-209 of the Cooperation Act;

d) The Chair of the Agency is hereby designated the administrator for all purposes of the Cooperation Act, pursuant to Section 11-13-207 of the Cooperation Act; and

e) Should a party to this Agreement desire to terminate this Agreement, in part or in whole, each party to the Agreement must adopt, by resolution, an amended Interlocal Cooperation Agreement stating the reasons for such termination. Any such amended Interlocal Cooperation Agreement must be in harmony with any development/participation agreement(s) entered into by the Agency as described in this Agreement.

f) Immediately after execution of this Agreement by both Parties, the Agency shall, on behalf of both parties, cause to be published notice regarding this Agreement pursuant to Section 11-13-219 of the Cooperation Act.

g) This Agreement makes no provision for the parties acquiring, holding and disposing of real and personal property used in the joint undertaking as such action is not contemplated as part of this Agreement nor part of the undertaking. Any such provision would be outside the parameters of the current undertaking. However, to the extent that this Agreement may be construed as providing for the acquisition, holding or disposing of real and/or personal property, all such property shall be owned by the Agency upon termination of this Agreement.

ENTRY NO. 00199789
08/01/2022 12:12:33 PM B: 0587 P: 0228
Amended Agreement PAGE 6 / 56
KARLJEAN CARUSO, KANE COUNTY RECORDER
FEE $ 0.00 BY KANE CO CLERK

IN WITNESS WHEREOF, the parties have executed this Agreement on the day specified above.

Water District: KANE COUNTY WATER CONSERVANCY DISTRICT

Attest:

Amanda Fuller
Secretary

By: Michael E. Noel

~~Its: Board President~~ General Manager.

Approved as to form:

Attorney for Water District

Agency: KANE COUNTY REDEVELOPMENT AGENCY

Attest:

Karla Johnson
Karla Johnson, Agency Secretary

By:

Brent Chamberlain, Agency Chair

KANE COUNTY REDEVELOPMENT AGENCY CORPORATE SEAL 2014 UTAH

Approved as to form:

Rob Van Dyke, Attorney for Agency

Brent Chamberlain
April 26, 2022

KANE COUNTY CLERK OFFICIAL DOCUMENT KANE COUNTY STATE OF UTAH

ENTRY NO. 00199789
05/01/2022 12:12:33 PM B: 0587 P: 0227
Amended Agreement PAGE 7 / 58
VERJEAN CARUSO, KANE COUNTY RECORDER
FEE $ 0.00 BY KANE CO CLERK

EXHIBIT E
Support Letters from Zion Mountain Ranch and Zion Mountain Local Service District

EXHIBIT F
Agency -Zion Mountain Ranch Participation Agreement

TAX INCREMENT PARTICIPATION AGREEMENT

By and Between
KANE COUNTY REDEVELOPMENT AGENCY AND
ZION MOUNTAIN RANCH

THIS TAX INCREMENT PARTICIPATION AGREEMENT (the "Agreement") is made effective as of May 24, 2022 (the "Effective Date"), by and between **KANE COUNTY REDEVELOPMENT AGENCY** (the "Agency"), operating for the benefit of Kane County, Utah (the "County") and organized and existing under the laws of the State of Utah (the "State"), and **ZION MOUNTAIN RANCH LLC** (the "Company"), a limited liability corporation organized and existing under the laws of the State.

RECITALS:

(a) In furtherance of the objectives of the "Limited Purpose Local Government Entities-Community Reinvestment Agencies Act," UTAH CODE ANN. Title 17C, Chapters 1 through 5 (including any future amendments or successors, the "Act"), the Agency has created and amended the East Zion Community Reinvestment Project Area (known hereafter as the "Project Area" or the "East Zion CRA"). The Project Area is in Kane County, Utah and is comprised of approximately 6,518 acres. A description of the Project Area is included as **Exhibit A** and incorporated into this Agreement by this reference.

(b) On April 12, 2022, the Agency adopted the Second Amended East Zion CRA Project Area Plan as the official Project Area Plan (the "Project Area Plan", which is included as **Exhibit B** and incorporated into this Agreement by this reference) and the Second Amended East Zion CRA Project Area Budget (the "Project Area Budget", which is included as **Exhibit C** and incorporated into this Agreement by this reference). In part, a purpose of the Project Area Plan and Project Area Budget is to outline the provision of Tax Increment Financing ("Tax Increment" or "Tax Increment Financing"), which is the collection of property tax and/or sales tax revenues received above and beyond an established baseline level, to encourage and facilitate the development of a Visitor Center and a 4-star Hotel Project as a crucial and complimentary component of the larger East Zion CRA, through methods such as issuing Zion Mountain Local Service District (the "District") bonds through the State of Utah Permanent Community Impact Fund Board ("CIB") and a Debt Service Reserve Fund ("Debt Service Reserve Fund"), funded through the collection of Tax Increment collected in the Project Area. The Visitor Center will help alleviate pressure on the western entrance of Zion National Park and its related infrastructure and attract tourist activity to and throughout the eastern side of Zion National Park. The Visitor Center is envisioned to increase lodging demand and direct such demand to a 4-star hotel, other lodging developments, abundant outdoor recreation opportunities, and retail amenities, as outlined in the Project Area Plan, which will enhance the experience of residents and visitors to the County and the Project Area. In order to sustain these development and tourist activities, a water reclamation facility is critical to ensuring that water is sustainably collected, purified, and distributed for the benefit of residents and visitors.

(c) As outlined in the Project Area Plan, the East Zion CRA also includes a Hotel, outdoor recreation improvements via parks and trail development, and related transportation infrastructure. This is vital in ensuring that Kane County be suitably prepared to address increased tourist activities and demands. With increased interest in southern Utah and the various national parks located in the region, Kane County is suitably primed to capitalize upon this increased activity but requires additional infrastructure investments to occur. The Visitor Center, Hotel, and other planned accommodations and infrastructure improvements such as a water reclamation facility will provide Kane County with the capacity to manage this increased tourism demand. This will provide additional economic opportunities for the community and expanded recreational opportunities for residents and visitors alike.

(d) The Agency has prepared, and the County has approved (pursuant to its Ordinance No. 0-2022-24, dated April 12, 2022) the Second Amended East Zion CRA Project Area Plan as the official plan governing the use of Tax Increment Financing to promote the development of real property located within the Project Area and the future uses of such land, which Project Area Plan has been filed with both the County and the Agency.

(e) The Agency heretofore has entered or anticipates entering into interlocal agreements with taxing entities to fund the Project Area Plan with Tax Increment Financing (the "Interlocal Agreements"). The purpose of this Agreement is to outline the obligations of the Company in building the Hotel Project and associated amenities as outlined in the Project Area Plan, and the conditions whereby the Agency will reimburse the Company for costs incurred in installing, improving, and constructing the Hotel Project.

(f) The Agency believes that the development of the Project Area, and related Hotel Project with its associated amenities, are of value to the Agency and County and are in the best interests of the health, safety, and welfare of County's residents; and is in accordance with the public purposes and provisions of the Act, applicable State laws, and requirements under which the Project Area and its development is undertaken.

(g) The Agency desires to enter into this Agreement to enable the Agency to achieve the objectives of the Project Area Plan, and to encourage the Company to develop the Project Area, including the provision for public improvements.

(h) The Company desires to enter into this Agreement to outline the terms and conditions under which it is entitled to receive Agency Funds from the Agency predicated upon the completion of the Hotel Project and the development of the Project Area.

WITNESSETH:

The Agency and the Company agree as follows:

Section 1. Definitions.

(a) "Tax Increment" means the same as that term is defined by Utah Code § 17C-1-102(61).

(b) "Project Area Funds" means the same as that term is defined by Utah Code § 17C-1-102(49).

(c) "Agency Funds" means the same as that term is defined by Utah Code § 17C-1-102(5).

Section 2. Agency Funds and Distribution of Agency Funds.

(a) The Company intends to develop, own, and operate within the Project Area a 182-key hotel and associated retail and recreation related amenities, including a sit-down restaurant, a gift shop, a health and wellness center, a creamery, and an outfitter post (the "Hotel Project"). The Hotel Project is further described in the Plan, with the legal land description described in **Exhibit A** attached hereto, and currently covers the list of parcel identification numbers attached hereto as **Exhibit D**.

(b) In order to support the Company in financing the construction of the Hotel Project within the Project Area, the Agency agrees to remit to the Company a portion of Agency Funds generated within the Project Area and in accordance with this Section. Not all of the taxing entities that levy taxes within the Project Area are contributing Tax Increment under the Project Area Plan. Kane County School District has decided to opt out of the Project Area Plan and will not remit any incremental tax revenue to the Agency. The Kane County Water Conservancy District ("Water Conservancy District") and Kane County, through interlocal agreements with the Agency have agreed to contribute 80% of their portion of incremental tax revenues generated within the Project Area for purposes of implementing the Project Area Plan. For purposes of clarifying and defining what "tax increment" consists of in this Agreement, the following outline is provided.

(c) Not all of the taxing entities that levy taxes within the Project Area are contributing Project Area Funds under the Project Area Plan. Kane County School District is not participating in the Project Area Plan and will not remit any tax revenue to the Agency. The Kane County Water Conservancy District ("Water Conservancy District") and Kane County, through interlocal agreements with the Agency have agreed to contribute 80% of their portion of Tax Increment and/or Project Area Funds generated within the Project Area for purposes of implementing the Project Area Plan.

(d) The collection of Agency Funds from the taxing entities is not governed by this Agreement but is governed by State law, the Project Area Plan and Budget, and the interlocal agreements between the Agency and the taxing entities. A summary of the collection of Agency Funds is provided as follows for informational purposes only:

(i) The Agency Funds within the Project Area includes Water Conservancy District assessed property tax, County assessed property tax, County direct transient room tax ("TRT"), County restaurant tax, and County sales tax;

(ii) Taxes that are currently collected within the Project Area are not part of Agency Funds. Agency Funds will be collected for a period of twenty years following a resolution that triggers collection of the Agency Funds, which is anticipated to be adopted sometime in 2023.

(iii) Agency Funds do not include "Base Taxes." Once the collection of Agency Funds is triggered by the Agency, the taxing entities will continue to receive Base Taxes, which is summarized as the amount of property taxes generated due the 2020 assessed valuation of property taxes and the amount of taxes generated in 2020 from sales tax, restaurant tax, and TRT tax;

(iv) Once the Agency triggers the collection of Agency Funds, the taxing entities will continue to receive Base Taxes and 20% of Tax Increment and Project Area Funds that are generated in excess of Base Taxes as calculated by state law. 80% of the Tax Increment and Project Area Funds will be provided to the Agency. This amount constitutes Agency Funds; and

(e) The Agency will retain or distribute (or cause to be distributed) Agency Funds collected each year as follows:

(i) 2.5% of Agency Funds will be retained by the Agency for administrative purposes as allowed by Utah Code §17C-1-409(1)(a)(ii);

(ii) 10% of Agency Funds will be retained by the Agency for purposes of housing projects as set forth in Utah Code §§17C-1-411, 17C-1-412, and 17C-5-307(3). 40% of these housing project funds will be distributed to Company to contribute towards the cost of workforce housing at the Zion Mountain Lodge. 60% of these housing project funds will be retained by the Agency for other authorized housing projects; and

(iii) the remaining 87.5% of Agency Funds collected each year by the Agency will be distributed as follows:

(A) A first lien pledge to satisfy the Visitor Center obligations listed below, before any Agency Funds are available to finance other purposes or improvements as outlined in the Second Amended Project Area Plan and Budget:

(1) The annual Visitor Center CIB debt service payment and Debt Service Reserve Fund requirements for the Community Impact Fund Board ("CIB") loan, as outlined in **Exhibit F**. This is anticipated to be $18,216,210 of Agency Funds distributed over the life of the Project Area and is approximately 21.5% of the total Agency Funds, as outlined in **Exhibit H**;

(2) The establishment of a Debt Service Reserve Fund over six years, which annual amount shall be $106,293.33, totaling $637,760.00 which is the lesser value of 10% of the par amount of bonds, the maximum annual debt service amount, and 125% of the average annual debt service on the bonds, and shall be released at the final payment year to pay the last principal payment with any surplus being used for other development activities; and

(3) Reimbursement to the Agency for any deficits existing from the Visitor Center annual debt service payment or Debt Service Reserve Fund, until brought current; and

(B) After the first lien pledge has been met, a second lien pledge to satisfy the Water Reclamation Facility Project obligations listed below, before any Agency Funds are available to finance other purposes or improvements as outlined in the Second Amended Project Area Plan and Budget, not to exceed a maximum of an annual average of 17% of the remaining Agency Funds after the annual first lien pledge has been met, and not to exceed $10,777,655 over the life of the 20-year life of Project Area:

(1) The annual Water Reclamation Facility CIB debt service payment and Debt Service Reserve Fund requirements for the Community Impact Fund Board ("CIB") loan, as outlined in **Exhibit G**. It is estimated that this amount shall be approximately 16.2% of the total Agency Funds available for distribution after the Visitor Center obligation has been met, and is further described in **Exhibit H**; and

(2) The establishment of a Debt Service Reserve Fund over six years, which annual amount shall be $63,057.47, totaling $378,344.81 which is the lesser value of 10% of the par amount of bonds, the maximum annual debt service amount, and 125% of the average annual debt service on the bonds, and shall be released at the final payment year to pay the last principal payment with any surplus being used for other development activities; and

(3) Reimbursement to the Agency for any deficits existing from the Water Reclamation Facility annual debt service payment or Debt Service Reserve Fund, until brought current; and

(C) After the first and second lien pledges have been met, a third lien pledge to contribute funds to Company for the construction of the Hotel Project not to exceed an annual average of 66% of the remaining Agency Funds after the after the annual first and second lien pledges have been met, for a period not to exceed 15-years commencing upon completion of the Hotel Project, and not to exceed $27,100,000 over the 15-year period. It is anticipated that this amount shall be approximately 48.7% of the total Agency Funds available for distribution after the Visitor Center and Water Treatment Facility obligations have been met over the life of the Project Area, as described in **Exhibit H**; and

(D) After the above stated obligations have been funded, any remaining Agency Funds may be used for other development activities as allowed under the Second Amended Project Area Plan and Budget or the contribution of additional principal towards debt service to pay off any of the above loans early, at the discretion of the Agency.

(iv) All the above calculations will be utilized based upon available Agency Funds.

(v) The Agency shall cause the County to pay to the Company its distribution of the Agency Funds on March 1 of each year.

Section 3. Project Financing.

(a) The Company is solely responsible for all the costs of acquisition, development, construction, maintenance, ownership, repair, etc., of the Hotel Project.

Section 4. Participating Jurisdictions. The parties acknowledge that as of the Effective Date, the only taxing entities that have agreed to participate in the Project Area are the County and the Water Conservancy District. Neither the County nor the Agency are responsible to solicit the participation of any additional jurisdictions.

Section 5. Limitations/Clarifications on Tax Increment Participation. Despite anything in this Agreement to the contrary:

(a) all obligations of the Agency and the County to pay any amounts hereunder to the Company are conditioned on property owners timely and properly paying all taxes assessed, including but not necessarily limited to real property, personal property, ad valorem, TRT, and sales taxes, to the appropriate taxing authorities;

(b) the Company acknowledges the Agency's participation is provided solely on a post-performance basis, meaning that the Company must first increase the assessed value of the Land by improving the Land; and

(c) the Company reserves all, and does not waive or relinquish any, rights available at law or in equity to appeal or contest any taxes or assessments on the Land or its property.

(d) in the event that the Company submits an appeal or other form of contest regarding a property tax assessment for its property contained in the Project Area and successfully receives a significant reduction in tax liability, the Agency may elect to reduce the distribution of Agency Funds to Company in an amount equal to the reduction of Agency Funds received due to the reduction in property taxes paid by Company.

Section 6. Payments and Notices. Payments by the parties hereto shall be made pursuant to the wire instructions attached hereto as **Exhibit E**. Notices shall be given to the Agency and the Company at the addresses set forth in **Exhibit E** attached hereto.

Section 7. Limitations on Agency Authority. The Company acknowledges that:

(a) the Agency is a political subdivision of the State operating and existing under Title 17C of the Utah Code Ann., separate and distinct from the County, for the purpose of, among other things, promoting the urban renewal, economic development and community development in the County;

(b) the County is not a party to this Agreement and the County will not have any commitments, obligations, duties, liabilities or obligations under this Agreement;

(c) the Agency has no independent taxing power, and therefore the Agency's sole source of revenue, at least for purposes of this Agreement, is the Agency Funds as provided under State law;

(d) if State law is amended or superseded by any new law that has the effect of reducing or eliminating the amount of Agency Funds to be paid to the Agency, the Agency's obligation to pay any Agency Funds to the Company will be accordingly reduced or eliminated;

(e) if a court of competent jurisdiction declares that the Agency cannot receive Agency Funds, or make payments to the Company from Agency Funds as provided in this Agreement, or takes any other action which eliminates or reduces the amount of Agency Funds paid to the Agency, the Agency's obligation to make Agency Fund payments to the Company shall be accordingly reduced or eliminated;

(f) the Agency has no power or authority to grant any land use approvals;

(g) nothing in this Agreement creates, implies, or guarantees any land use approvals; and

(h) all land use approvals are subject to the standard requirements of applicable law and County policies and procedures.

Section 8. Agreement Term/Default/Remedies.

(a) This Agreement shall terminate 20 years after the date when the project area tax increment collection period is triggered.

(b) If the Company or the Agency is believed to be in default for failing to perform its respective obligations hereunder or to comply with the terms hereof, the Party believing that a default has occurred shall provide written notice to the Party that is believed to be in default. The notice of default shall:

(i) Specify the claimed event of default;

(ii) Identify with particularity the provision(s) of this Agreement that is claimed to be in default;

(iii) Identify why the default is claimed to be material; and

(iv) If elected by the Party delivering the notice of default, in its discretion, the notice of default may propose a method and period for curing the default, which period of time shall be not more than ninety (90) days.

(c) Upon the issuance of a notice of default the Parties shall engage in a "Meet and Confer" process, which means that the Parties and/or their representatives shall meet in person (or by telephone if meeting in person is not reasonably possible in a timely manner) to discuss the claimed default and shall attempt, in good faith, to reach a mutually acceptable resolution. If the Parties are not able to resolve the default through the "Meet and Confer" process, then the parties may pursue the following remedies:

(i) Any and all remedies that are available at law or in equity.

(ii) The right to withhold those certain Agency Funds payments, in the case of a default by the Company, until the default has been cured. If any default cannot be reasonably cured within ninety (90) days, then such cure period shall be extended by the non-defaulting Party so long as the defaulting Party is pursuing a cure with reasonable diligence.

(d) The rights and remedies set forth herein shall be cumulative. Any waiver by either Party of any breach of any kind or character whatsoever by the other, whether such be direct or implied, shall not be construed as a continuing waiver of, or consent to, any subsequent breach of this Agreement

(e) If a Party is prevented from complying with a duty hereunder due to causes occurring beyond its control and without its fault or negligence, including acts of God, acts of the public enemy or terrorists, wrongful acts of the other Party, fires, floods, earthquake, epidemics, quarantine restrictions, strikes, freight embargoes, wars, labor disputes, inability to obtain labor, materials, equipment or reasonable substitutes therefor; inability to obtain reasonable financing in the event of significant changes in the credit markets, acts of nature, governmental restrictions, regulations or controls, judicial orders, civil commotions, and unusually severe weather or delays of subcontractors due to such causes, or other casualties or other causes beyond the reasonable control of the Party obligated to perform hereunder, then the time for that Party to fulfill such duty shall be correspondingly extended; provided, however, that in order to obtain the benefit of this Section, the Party seeking such "force majeure" extension shall, within thirty (30) calendar days after becoming aware of any such delay, shall have notified the other Party in writing stating the cause(s) for the delay and the probable duration of the delay.

Section 9. Indemnification. The Company agrees to indemnify, pay for the cost of defense, and hold the Agency and the County, including their respective officers, directors, agents, employees, contractors, and consultants, harmless from and against all liability, loss, damage, costs or expenses, including attorneys' fees and court costs, arising from or as a result of death, injury, accident, loss or damage of any kind caused to any person or property because of the act(s), error(s), or omission(s) of the Company, including its officers, directors, agents, employees, contractors, and consultants, upon or in connection with the Land or in connection in any way with this Agreement, except in each case to the extent arising out of the negligence, willful misconduct, illegal acts, bad faith or breach of this Agreement by the Agency or the County, including their respective officers, directors, agents, employees, contractors, and consultants.

Section 10. Parties; Successors and Assigns. Except for the County, which is an intended third-party beneficiary as described in the immediately preceding paragraph regarding indemnification, this Agreement is intended solely for the benefit of the Agency and the Company and there are no intended third-party beneficiaries. The Company has no right to assign this Agreement or its obligations under this Agreement without the Agency's advance written consent, in the Agency's sole and absolute discretion. This Agreement will be binding upon and inure to the benefit of the parties and their respective permitted successors and assigns. Notwithstanding the forgoing, the Company may assign this Agreement to the bond trustee serving in such capacity under the trust indenture pursuant to which the bonds are issued to finance the Hotel Project.

Section 11. No Liability of Officials/Employees. No director, officer, agent, employee, or consultant of the Agency or the Company shall be personally liable to the other party hereto, or any successor in interest, in the event of any default or breach by the Agency or Company or for any amount which may become due to the Company or its successors or on any obligations under the terms of this Agreement.

Section 12. No Legal Relationship. The parties disclaim any partnership, joint venture, fiduciary, agency or employment status or relationship between them. No party has the authority to make any representation or warranty or incur any obligation or liability on behalf of the other party, nor shall they make any representation to any third party inconsistent with this paragraph.

Section 13. No Public Dedication. Nothing contained in this Agreement shall be deemed to be a gift or dedication of all or any portion of the Land or Project for the general public or for any public purpose whatsoever.

Section 14. Attorneys' Fees. In the event of litigation between the parties related to this Agreement, the unsuccessful party in such litigation must pay the other party's costs, expenses, and reasonable attorneys' fees.

Section 15. Governing Law. The laws of the State of Utah will govern this Agreement. Any action pertaining to or arising under this Agreement must be brought in the Sixth District Court in and for Kane County, State of Utah.

Section 16. Waiver. The waiver by any party of any right granted to it hereunder shall not be deemed a waiver of any other right or of a subsequent right obtained by reason of the matter previously waived.

Section 17. Amendment. This Agreement may be modified or amended only by a written instrument authorized and executed by the Company and the Agency, respectively, each in their sole discretion.

Section 18. Entire Agreement/Amendment/Counterparts. The recitals, and all exhibits, schedules and attachments attached hereto, are incorporated and made an integral part of this Agreement. This Agreement constitutes the entire agreement of the parties with respect to the subject matter addressed. There are no other contracts or agreements, written or verbal, between the parties relating in any way to the subject matter of this Agreement. No party is relying on any verbal or written statements of the other than those expressly in this Agreement.

Section 19. Construction/ Headings. The parties waive the application of any rule of law relating to the construction of this Agreement that provides in effect that ambiguous or conflicting terms or provisions should be construed against the party who prepared this Agreement or any earlier draft thereof. The headings in this Agreement are for reference only and shall not limit or define the meaning of any provision of this Agreement.

Section 20. Severability. If any provision (or portion of any provision) of this Agreement shall be deemed to be invalid or unenforceable, such invalidity or unenforceability shall not alter the remaining portion of such provision, or any other provision hereof, as each provision of this Agreement shall be deemed severable from all other provisions hereof provided the removal of same does not materially alter the overall intent of this Agreement.

Section 21. Time is of the Essence. Time is of the essence with respect to each and every term, condition, obligation and provision hereof.

Section 22. Documentation for Payment Processing. Prior to issuing Agency Funds payments as set forth in Section 2 of this agreement, the Company will provide at the Agency's request any or all of the following:

(a) An updated W9, Request for Taxpayer Identification Number and Certification Form; and

(b) Documentation in order to verify completion of public improvements as identified in the Project Area Plan. This documentation can be copies of receipts, invoices, statements, or other appropriate documentation of such qualifying costs to illustrate completion of construction of improvements within the Project Area.

Section 23. County Position on Company Board. The County shall have at least one position on the operations board of the Company filled by a County commissioner.

Section 24. Further Assurances. The parties shall cooperate, take such additional actions, sign such additional documentation, and provide such additional information as reasonably necessary to accomplish the objectives set forth in this Agreement.

[End of Terms - Signature Page Follows]

IN WITNESS WHEREOF, the Agency and the Company have executed this Tax Increment Reimbursement Agreement effective as of the date shown above.

For ZION MOUNTAIN RANCH LLC

By:
Name: KEVIN MCLAWS
Title: MANAGER

For Kane County Redevelopment Agency:

Brent Chamberlain
Kane County RDA Chair

ATTEST:

Karla Johnson
Kane County RDA Clerk

Approved as to Form and Legal Content:

Robert Van Dyke
Kane County RDA Attorney

KANE COUNTY REDEVELOPMENT AGENCY
CORPORATE SEAL 2014
UTAH

EXHIBIT G

Agency-Zion Mountain Local Service District Agreement for Visitor Center

TAX INCREMENT PARTICIPATION AGREEMENT

By and Between
KANE COUNTY REDEVELOPMENT AGENCY AND
ZION MOUNTAIN LOCAL SERVICE DISTRICT

THIS TAX INCREMENT PARTICIPATION AGREEMENT (the "Agreement"), is made effective as of May 24, 2022 (the "Effective Date"), by and between **KANE COUNTY REDEVELOPMENT AGENCY** (the "Agency"), operating for the benefit of Kane County, Utah (the "County") and organized and existing under the laws of the State of Utah (the "State"), and the **ZION MOUNTAIN LOCAL SERVICE DISTRICT** (the "District"), a political subdivision of the State organized and existing under the laws of the State.

RECITALS:

(a) In furtherance of the objectives of the "Limited Purpose Local Government Entities-Community Reinvestment Agencies Act," UTAH CODE ANN. Title 17C, Chapters 1 through 5 (including any future amendments or successors, the "Act"), the Agency has created and amended the East Zion Community Reinvestment Project Area (known hereafter as the "Project Area" or the "East Zion CRA"). The Project Area is in Kane County, Utah and is comprised of approximately 6,518 acres. A description of the Project Area is included as Exhibit A and incorporated into this Agreement by this reference.

(b) On April 12, 2022, the Agency adopted the Second Amended East Zion CRA Project Area Plan as the official Project Area Plan (the "Project Area Plan", which is included as Exhibit B and incorporated into this Agreement by this reference) and the Second Amended East Zion CRA Project Area Budget (the "Project Area Budget", which is included as Exhibit C and incorporated into this Agreement by this reference). In part, a purpose of the Project Area Plan and Project Area Budget is to outline the provision of Tax Increment Financing ("Tax Increment" or "Tax Increment Financing"), which is the collection of property tax and/or sales tax revenues received above and beyond an established baseline level, to encourage and facilitate the development of a Visitor Center as a crucial component of the larger East Zion CRA, through methods such as issuing Zion Mountain Local Service District (the "District") bonds through the State of Utah Permanent Community Impact Fund Board ("CIB") and a Debt Service Reserve Fund ("Debt Service Reserve Fund"), funded through the collection of Tax Increment collected in the Project Area. The Visitor Center will help alleviate pressure on the western entrance of Zion National Park and its related infrastructure and attract tourist activity to and throughout the eastern side of Zion National Park. The Visitor Center is envisioned to serve as a catalyst for the development of a 4-star hotel, other lodging developments, abundant outdoor recreation opportunities, and retail amenities, as outlined in the Project Area Plan, which will enhance the experience of residents and visitors to the County and the Project Area. In order to sustain these development and tourist activities, a water reclamation facility is critical to ensuring that water is sustainably collected, purified, and distributed for the benefit of residents and visitors.

(c) As outlined in the Project Area Plan, the East Zion CRA also includes a Hotel, outdoor recreation improvements via parks and trail development, and related transportation infrastructure. This is vital in ensuring that Kane County be suitably prepared to address increased tourist activities and demands. With increased interest in southern Utah and the various national parks located in the region, Kane County is suitably primed to capitalize upon this increased activity but requires additional infrastructure investments to occur. The Visitor Center, Hotel, and other planned accommodations and infrastructure improvements such as a water reclamation facility will provide Kane County with the capacity to manage this increased tourism demand. This will provide additional economic opportunities for the community and expanded recreational opportunities for residents and visitors alike.

(d) The Agency has prepared, and the County has approved (pursuant to its Ordinance No. 0-2022-24 dated April 12, 2022) the Second Amended East Zion CRA Project Area Plan as the official plan governing the use of Tax Increment Financing to promote the development of real property located within the Project Area and the future uses of such land, which Project Area Plan has been filed with both the County and the Agency.

(e) The Agency heretofore has entered or anticipates entering into interlocal agreements with taxing entities to fund the Project Area Plan with Tax Increment Financing (the "Interlocal Agreements"). The purpose of this Agreement is to outline the obligations of the District in building the Visitor Center and associated amenities as outlined in the Project Area Plan, and the conditions whereby the Agency will reimburse the District for costs incurred in installing, improving, and constructing the Visitor Center.

(f) The Agency believes that the development of the Project Area, and related Visitor Center with its associated amenities, are of value to the Agency and County and are in the best interests of the health, safety, and welfare of County's residents; and is in accordance with the public purposes and provisions of the Act, applicable State laws, and requirements under which the Project Area and its development is undertaken.

(g) The Agency desires to enter into this Agreement to enable the Agency to achieve the objectives of the Project Area Plan, and to encourage the District to develop the Project Area, including the provision for public improvements.

(h) The District desires to enter into this Agreement to outline the terms and conditions under which it is entitled to receive Agency Funds from the Agency predicated upon the completion of the Visitor Center and the development of the Project Area.

WITNESSETH:

The Agency and the District agree as follows:

Section 1. Definitions.

(a) "Tax Increment" means the same as that term is defined by Utah Code § 17C-1-102(61).

(b) "Project Area Funds" means the same as that term is defined by Utah Code § 17C-1-102(49).

(c) "Agency Funds" means the same as that term is defined by Utah Code § 17C-1-102(5).

Section 2. Agency Funds and Distribution of Agency Funds.

(a) The District agrees to develop, own, operate, and finance a Visitor Center and associated amenities (the "Visitor Center") that will be located within the Project Area, which legal description is described in **Exhibit A** attached hereto, and currently covers the list of parcel identification numbers attached hereto as **Exhibit D**.

(b) In order to support the District in financing the construction of the Visitor Center within the Project Area, the Agency agrees to remit to the District a portion of Agency Funds generated within the Project Area in accordance with this Section.

(c) Not all of the taxing entities that levy taxes within the Project Area are contributing Project Area Funds under the Project Area Plan. Kane County School District is not participating in the Project Area Plan and will not remit any tax revenue to the Agency. The Kane County Water Conservancy District ("Water Conservancy District") and Kane County, through interlocal agreements with the Agency have agreed to contribute 80% of their portion of Tax Increment and/or Project Area Funds generated within the Project Area for purposes of implementing the Project Area Plan.

(d) The collection of Agency Funds from the taxing entities is not governed by this Agreement but is governed by State law, the Project Area Plan and Budget, and the interlocal agreements between the Agency and the taxing entities. A summary of the collection of Agency Funds is provided as follows for informational purposes only:

(i) The Agency Funds within the Project Area includes Water Conservancy District assessed property tax, County assessed property tax, County direct transient room tax ("TRT"), County restaurant tax, and County sales tax;

(ii) Taxes that are currently collected within the Project Area are not part of Agency Funds. Agency Funds will be collected for a period of twenty years following a resolution that triggers collection of the Agency Funds, which is anticipated to be adopted sometime in 2023.

(iii) Agency Funds do not include "Base Taxes." Once the collection of Agency Funds is triggered by the Agency, the taxing entities will continue to receive Base Taxes, which is summarized as the amount of property taxes generated due the 2020 assessed valuation of property taxes and the amount of taxes generated in 2020 from sales tax, restaurant tax, and TRT tax;

(iv) Once the Agency triggers the collection of Agency Funds, the taxing entities will continue to receive Base Taxes and 20% of Tax Increment and Project Area Funds that are generated in excess of Base Taxes as calculated by state law. 80% of the Tax Increment and Project Area Funds will be provided to the Agency. This amount constitutes Agency Funds; and

(e) The Agency will retain or distribute (or cause to be distributed) Agency Funds collected each year as follows:

(i) 2.5% of Agency Funds will be retained by the Agency for administrative purposes as allowed by Utah Code §17C-1-409(1)(a)(ii);

(ii) 10% of Agency Funds will be retained by the Agency for purposes of housing projects as set forth in Utah Code §§17C-1-411, 17C-1-412, and 17C-5-307(3). 40% of these housing project funds will be distributed to Zion Mountain Ranch LLC to contribute towards the cost of workforce housing at the Zion Mountain Lodge. 60% of these housing project funds will be retained by the Agency for other authorized housing projects; and

(iii) the remaining 87.5% of Agency Funds collected each year by the Agency will be distributed as follows:

(A) A first lien pledge to satisfy the Visitor Center obligations listed below, before any Agency Funds are available to finance other purposes or improvements as outlined in the Second Amended Project Area Plan and Budget:

(1) The annual Visitor Center CIB debt service payment and Debt Service Reserve Fund requirements for the Community Impact Fund Board ("CIB") loan, as outlined in Exhibit F. This is anticipated to be $18,216,210 of Agency Funds distributed over the life of the Project Area and is approximately 21.5% of the total Agency Funds, as outlined in Exhibit H;

(2) The establishment of a Debt Service Reserve Fund over six years, which annual amount shall be $106,293.33, totaling $637,760.00 which is the lesser value of 10% of the par amount of bonds, the maximum annual debt service amount, and 125% of the average annual debt service on the bonds, and shall be released at the final payment year to pay the last principal payment with any surplus being used for other development activities; and

(3) Reimbursement to the Agency for any deficits existing from the Visitor Center annual debt service payment or Debt Service Reserve Fund, until brought current; and

(B) After the first lien pledge has been met, a second lien pledge to satisfy the Water Reclamation Facility Project obligations listed below, before any Agency Funds are available to finance other purposes or improvements as outlined in the Second Amended Project Area Plan and Budget, not to exceed a maximum of an annual average of 17% of the remaining Agency Funds after the annual first lien pledge has been met, and not to exceed $10,777,655 over the life of the 20-year life of Project Area:

(1) The annual Water Reclamation Facility CIB debt service payment and Debt Service Reserve Fund requirements for the Community Impact Fund Board ("CIB") loan, as outlined in Exhibit G. It is estimated that this amount shall be approximately 16.2% of the total Agency Funds available for distribution after the Visitor Center obligation has been met, and is further described in Exhibit H; and

(2) The establishment of a Debt Service Reserve Fund over six years, which annual amount shall be $63,057.47, totaling $378,344.81 which is the lesser value of 10% of the par amount of bonds, the maximum annual debt service amount, and 125% of the average annual debt service on the bonds, and shall be released at the final payment year to pay the last principal payment with any surplus being used for other development activities; and

(3) Reimbursement to the Agency for any deficits existing from the Water Reclamation Facility annual debt service payment or Debt Service Reserve Fund, until brought current; and

(C) After the first and second lien pledges have been met, a third lien pledge to contribute funds to Zion Mountain Ranch LLC for the construction of the Zion Mountain Lodge not to exceed an annual average of 66% of the remaining Agency Funds after the after the annual first and second lien pledges have been met, for a period not to exceed 15-years commencing upon completion of the Zion Mountain Lodge, and not to exceed $27,100,000 over the 15-year period. It is anticipated that this amount shall be approximately 48.7% of the total Agency Funds available for distribution after the Visitor Center and Water Treatment Facility obligations have been met over the life of the Project Area, as described in Exhibit H; and

(D) After the above stated obligations have been funded, any remaining Agency Funds may be used for other development activities as allowed under the Second Amended Project Area Plan and Budget or the contribution of additional principal towards debt service to pay off any of the above loans early, at the discretion of the Agency.

(iv) All the above calculations will be utilized based upon available Agency Funds.

(v) The Agency shall cause the County to pay to the District its distribution of the Agency Funds on March 1 of each year.

Section 3. Project Financing.

(a) The District is solely responsible for all the costs of acquisition, development, construction, maintenance, ownership, repair, etc., of the Visitor Center.

Section 4. Participating Jurisdictions. The parties acknowledge that as of the Effective Date, the only taxing entities that have agreed to participate in the Project Area are the County and the Water Conservancy District. Neither the County nor the Agency are responsible to solicit the participation of any additional jurisdictions.

Section 5. Limitations/Clarifications on Tax Increment Participation. Despite anything in this Agreement to the contrary:

(a) all obligations of the Agency and the County to pay any amounts hereunder to the District are conditioned on property owners timely and properly paying all taxes assessed, including but not necessarily limited to real property, personal property, ad valorem, TRT, and sales taxes, to the appropriate taxing authorities;

(b) the District acknowledges the Agency's participation is provided solely on a post-performance basis, meaning that the District must first increase the assessed value of the Land by improving the Land; and

Section 6. Payments and Notices. Payments by the parties hereto shall be made pursuant to the wire instructions attached hereto as Exhibit E. Notices shall be given to the Agency and the District at the addresses set forth in Exhibit E attached hereto.

Section 7. Limitations on Agency Authority. The District acknowledges that:

(a) the Agency is a political subdivision of the State operating and existing under Title 17C of the Utah Code Ann., separate and distinct from the County, for the purpose of, among other things, promoting the urban renewal, economic development and community development in the County;

(b) the County is not a party to this Agreement and the County will not have any commitments, obligations, duties, liabilities or obligations under this Agreement;

(c) the Agency has no independent taxing power, and therefore the Agency's sole source of revenue, at least for purposes of this Agreement, is the Agency Funds as provided under State law;

(d) if State law is amended or superseded by any new law that has the effect of reducing or eliminating the amount of Agency Funds to be paid to the Agency, the Agency's obligation to pay any Agency Funds to the District will be accordingly reduced or eliminated;

(e) if a court of competent jurisdiction declares that the Agency cannot receive Agency Funds, or make payments to the District from Agency Funds as provided in this Agreement, or takes any other action which eliminates or reduces the amount of Agency Funds paid to the Agency, the Agency's obligation to make Agency Fund payments to the District shall be accordingly reduced or eliminated;

(f) the Agency has no power or authority to grant any land use approvals;

(g) nothing in this Agreement creates, implies, or guarantees any land use approvals; and

(h) all land use approvals are subject to the standard requirements of applicable law and County policies and procedures.

Section 8. Agreement Term/Default/Remedies.

(a) This Agreement shall terminate 20 years after the date when the project area tax increment collection period is triggered.

(b) If the District or the Agency is believed to be in default for failing to perform its respective obligations hereunder or to comply with the terms hereof, the Party believing that a default has occurred shall provide written notice to the Party that is believed to be in default. The notice of default shall:

(i) Specify the claimed event of default;

(ii) Identify with particularity the provision(s) of this Agreement that is claimed to be in default;

(iii) Identify why the default is claimed to be material; and

(iv) If elected by the Party delivering the notice of default, in its discretion, the notice of default may propose a method and period for curing the default, which period of time shall be not more than ninety (90) days.

(c) Upon the issuance of a notice of default the Parties shall engage in a "Meet and Confer" process, which means that the Parties and/or their representatives shall meet in person (or by telephone if meeting in person is not reasonably possible in a timely manner) to discuss the claimed default and shall attempt, in good faith, to reach a mutually acceptable resolution. If the Parties are not able to resolve the default through the "Meet and Confer" process, then the parties may pursue the following remedies:

(i) Any and all remedies that are available at law or in equity.

(ii) The right to withhold those certain Agency Funds payments, in the case of a default by the District, until the default has been cured. If any default cannot be reasonably cured within ninety (90) days, then such cure period shall be extended by the non-defaulting Party so long as the defaulting Party is pursuing a cure with reasonable diligence.

(d) The rights and remedies set forth herein shall be cumulative. Any waiver by either Party of any breach of any kind or character whatsoever by the other, whether such be direct or implied, shall not be construed as a continuing waiver of, or consent to, any subsequent breach of this Agreement.

(e) If a Party is prevented from complying with a duty hereunder due to causes occurring beyond its control and without its fault or negligence, including acts of God, acts of the public enemy or terrorists, wrongful acts of the other Party, fires, floods, earthquake, epidemics, quarantine restrictions, strikes, freight embargoes, wars, labor disputes, inability to obtain labor, materials, equipment or reasonable substitutes therefor; inability to obtain reasonable financing in the event of significant changes in the credit markets, acts of nature, governmental restrictions, regulations or controls, judicial orders, civil commotions, and unusually severe weather or delays of subcontractors due to such causes, or other casualties or other causes beyond the reasonable control of the Party obligated to perform hereunder, then the time for that Party to fulfill such duty shall be correspondingly extended; provided, however, that in order to obtain the benefit of this Section, the Party seeking such "force majeure" extension shall, within thirty (30) calendar days after becoming aware of any such delay, shall have notified the other Party in writing stating the cause(s) for the delay and the probable duration of the delay.

Section 9. Indemnification. The District agrees to indemnify, pay for the costs of defense, and hold the Agency and the County, including their respective officers, directors, agents, employees, contractors, and consultants, harmless from and against all liability, loss, damage, costs or expenses, including attorneys' fees and court costs, arising from or as a result of death, injury, accident, loss or damage of any kind caused to any person or property because of the act(s), error(s), or omission(s) of the District, including its officers, directors, agents, employees, contractors, and consultants, upon or in connection with the Land or in connection in any way with this Agreement, except in each case to the extent arising out of the negligence, willful misconduct, illegal acts, bad faith or breach of this Agreement by the Agency or the County, including their respective officers, directors, agents, employees, contractors, and consultants.

Section 10. Parties; Successors and Assigns. Except for the County, which is an intended third-party beneficiary as described in the immediately preceding paragraph regarding indemnification, this Agreement is intended solely for the benefit of the Agency and the District and there are no intended third-party beneficiaries. The District has no right to assign this Agreement or its obligations under this Agreement without the Agency's advance written consent, in the Agency's sole and absolute discretion. This Agreement will be binding upon and inure to the benefit of the parties and their respective permitted successors and assigns.

Section 11. No Liability of Officials/Employees. No director, officer, agent, employee, or consultant of the Agency or the District shall be personally liable to the other party hereto, or any successor in interest, in the event of any default or breach by the Agency or District or for any amount which may become due to the District or its successors or on any obligations under the terms of this Agreement.

Section 12. No Legal Relationship. The parties disclaim any partnership, joint venture, fiduciary, agency or employment status or relationship between them. No party has the authority to make any representation or warranty or incur any obligation or liability on behalf of the other party, nor shall they make any representation to any third party inconsistent with this paragraph.

Section 13. No Public Dedication. Nothing contained in this Agreement shall be deemed to be a gift or dedication of all or any portion of the Land or Project for the general public or for any public purpose whatsoever.

Section 14. Attorneys' Fees. In the event of litigation between the parties related to this Agreement, the unsuccessful party in such litigation must pay the other party's costs, expenses, and reasonable attorneys' fees.

Section 15. Governing Law. The laws of the State of Utah will govern this Agreement. Any action pertaining to or arising under this Agreement must be brought in the Sixth District Court in and for Kane County, State of Utah.

Section 16. Waiver. The waiver by any party of any right granted to it hereunder shall not be deemed a waiver of any other right or of a subsequent right obtained by reason of the matter previously waived.

Section 17. Amendment. This Agreement may be modified or amended only by a written instrument authorized and executed by the District and the Agency, respectively, each in their sole discretion.

Section 18. Entire Agreement/Amendment/Counterparts. The recitals, and all exhibits, schedules and attachments attached hereto, are incorporated and made an integral part of this Agreement. This Agreement constitutes the entire agreement of the parties with respect to the subject matter addressed. There are no other contracts or agreements, written or verbal, between the parties relating in any way to the subject matter of this Agreement. No party is relying on any verbal or written statements of the other than those expressly in this Agreement.

Section 19. Construction/ Headings. The parties waive the application of any rule of law relating to the construction of this Agreement that provides in effect that ambiguous or conflicting terms or provisions should be construed against the party who prepared this Agreement or any earlier draft thereof. The headings in this Agreement are for reference only and shall not limit or define the meaning of any provision of this Agreement.

Section 20. Severability. If any provision (or portion of any provision) of this Agreement shall be deemed to be invalid or unenforceable, such invalidity or unenforceability shall not alter the remaining portion of such provision, or any other provision hereof, as each provision of this Agreement shall be deemed severable from all other provisions hereof provided the removal of same does not materially alter the overall intent of this Agreement.

Section 21. Time is of the Essence. Time is of the essence with respect to each and every term, condition, obligation and provision hereof.

Section 22. Documentation for Payment Processing. Prior to issuing Agency Fund payments as set forth in Section 2, the District will provide at the Agency's request any or all of the following:

(a) An updated W9, Request for Taxpayer Identification Number and Certification Form; and

(b) Documentation in order to verify completion of public improvements as identified in the Project Area Plan. This documentation can be copies of receipts, invoices, statements, or other appropriate documentation of such qualifying costs to illustrate completion of construction of improvements within the Project Area.

Section 23. Further Assurances. The parties shall cooperate, take such additional actions, sign such additional documentation, and provide such additional information as reasonably necessary to accomplish the objectives set forth in this Agreement.

[End of Terms – Signature Page Follows]

IN WITNESS WHEREOF, the Agency and the District have executed this Tax Increment Reimbursement Agreement effective as of the date shown above.

For Zion Mountain Local Service District:

Todd McLaws
ZMLSD Board of Trustees Chair

ATTEST:

By:
ZMLSD Clerk

Approved as to Form and Legal Content:

By:
ZMLSD Attorney

For Kane County Redevelopment Agency:

Brent Chamberlain
Kane County RDA Chair

ATTEST:

Karla Johnson
Kane County RDA Clerk

KANE COUNTY REDEVELOPMENT AGENCY
CORPORATE
SEAL
2014
UTAH

Approved as to Form and Legal Content:

Robert Van Dyke
Kane County RDA Attorney

EXHIBIT H

Agency-Zion Mountain Local Service District Agreement for Water Reclamation Project

TAX INCREMENT PARTICIPATION AGREEMENT

By and Between
KANE COUNTY REDEVELOPMENT AGENCY AND
ZION MOUNTAIN LOCAL SERVICE DISTRICT

THIS TAX INCREMENT PARTICIPATION AGREEMENT (the "Agreement"), is made effective as of May 24, 2022 (the "Effective Date"), by and between **KANE COUNTY REDEVELOPMENT AGENCY** (the "Agency"), a political subdivision of the State of Utah (the "State"), operating for the benefit of Kane County, Utah (the "County") and **ZION MOUNTAIN LOCAL SERVICE DISTRICT** (the "District"), a political subdivision of the State organized and existing under the laws of the State.

RECITALS:

(a) In furtherance of the objectives of the "Limited Purpose Local Government Entities-Community Reinvestment Agencies Act," UTAH CODE ANN. Title 17C, Chapters 1 through 5 (including any future amendments or successors, the "Act"), the Agency has created and amended the East Zion Community Reinvestment Project Area (known hereafter as the "Project Area" or the "East Zion CRA"). The Project Area is in Kane County, Utah and is comprised of approximately 6,518 acres. A description of the Project Area is included as Exhibit A and incorporated into this Agreement by this reference.

(b) On April 12, 2022, the Agency adopted the Second Amended East Zion CRA Project Area Plan as the official Project Area Plan (the "Project Area Plan", which is included as Exhibit B and incorporated into this Agreement by this reference) and the Second Amended East Zion CRA Project Area Budget (the "Project Area Budget", which is included as Exhibit C and incorporated into this Agreement by this reference). In part, a purpose of the Project Area Plan and Project Area Budget is to outline the provision of Tax Increment Financing ("Tax Increment" or "Tax Increment Financing"), which is the collection of property tax and/or sales tax revenues received above and beyond an established baseline level, to encourage and facilitate the development of a Visitor Center and a 4-star Hotel Project as a crucial and complimentary component of the larger East Zion CRA, through methods such as issuing Zion Mountain Local Service District (the "District") bonds through the State of Utah Permanent Community Impact Fund Board ("CIB") and a Debt Service Reserve Fund ("Debt Service Reserve Fund"), funded through the collection of Tax Increment collected in the Project Area. The Visitor Center will help alleviate pressure on the western entrance of Zion National Park and its related infrastructure and attract tourist activity to and throughout the eastern side of Zion National Park. The Visitor Center is envisioned to increase lodging demand and direct such demand to a 4-star hotel, other lodging developments, abundant outdoor recreation opportunities, and retail amenities, as outlined in the Project Area Plan, which will enhance the experience of residents and visitors to the County and the Project Area. In order to sustain these development and tourist activities, a water reclamation facility is critical to ensuring that water is sustainably collected, purified, and distributed for the benefit of residents and visitors.

(c) As outlined in the Project Area Plan, the East Zion CRA also includes a Hotel, outdoor recreation improvements via parks and trail development, and related transportation infrastructure. This is vital in ensuring that Kane County be suitably prepared to address increased tourist activities and demands. With increased interest in southern Utah and the various national parks located in the region, Kane County is suitably primed to capitalize upon this increased activity but requires additional infrastructure investments to occur. The Visitor Center, Hotel, and other planned accommodations and infrastructure improvements such as the water reclamation facility will provide Kane County with the capacity to manage this increased tourism demand. The East Zion Initiative will provide additional economic opportunities for the community and expanded recreational opportunities for residents and visitors alike.

(d) The Agency has prepared, and the County has approved (pursuant to its Ordinance No. 0-2022-24, dated April 12, 2022) the Second Amended East Zion CRA Project Area Plan as the official plan governing the use of Tax Increment Financing to promote the development of real property located within the Project Area and the future uses of such land, which Project Area Plan has been filed with both the County and the Agency.

(e) The Agency heretofore has entered or anticipates entering into interlocal agreements with taxing entities to fund the Project Area Plan with Tax Increment Financing (the "Interlocal Agreements"). The purpose of this Agreement is to outline the obligations of the District in building the Water Reclamation Facility and the conditions whereby the Agency will reimburse the District for construction costs in excess of the CIB loan amount.

(f) The Agency believes that the development of the Project Area, and related Visitor Center with its associated amenities, are of value to the Agency and County and are in the best interests of the health, safety, and welfare of County's residents; and is in accordance with the public purposes and provisions of the Act, applicable State laws, and requirements under which the Project Area and its development is undertaken.

(g) The Agency desires to enter into this Agreement to, *inter alia*, enable the Agency to achieve the objectives of the Project Area Plan, and to encourage the District to develop the Project Area, including the provision for public improvements.

(h) The District desires to enter into this Agreement to outline the terms and conditions under which it is entitled to receive Agency Funds from the Agency predicated upon the completion of the Water Reclamation Facility and the development of the Project Area.

WITNESSETH:

The Agency and the District agree as follows:

Section 1. Definitions.

(a) "Tax Increment" means the same as that term is defined by Utah Code § 17C-1-102(61).

(b) "Project Area Funds" means the same as that term is defined by Utah Code § 17C-1-102(49).

(c) "Agency Funds" means the same as that term is defined by Utah Code § 17C-1-102(5).

Section 2. Agency Funds and Distribution of Agency Funds.

(a) The District intends to develop, own and operate within the Project Area a Water Reclamation Facility (the "Facility"). The District will build the Facility within the Project Area, which legal description is described in Exhibit A attached hereto, and currently covers the list of parcel identification numbers attached hereto as Exhibit D.

(b) In order to support the District in financing the construction of the Water Reclamation Facility within the Project Area, the Agency agrees to remit to the District a portion of Agency Funds generated within the Project Area in accordance with this Section.

(c) Not all of the taxing entities that levy taxes within the Project Area are contributing Project Area Funds under the Project Area Plan. Kane County School District is not participating in the Project Area Plan and will not remit any tax revenue to the Agency. The Kane County Water Conservancy District ("Water Conservancy District") and Kane County, through interlocal agreements with the Agency have agreed to contribute 80% of their portion of Tax Increment and/or Project Area Funds generated within the Project Area for purposes of implementing the Project Area Plan.

(d) The collection of Agency Funds from the taxing entities is not governed by this Agreement but is governed by State law, the Project Area Plan and Budget, and the interlocal agreements between the Agency and the taxing entities. A summary of the collection of Agency Funds is provided as follows for informational purposes only:

(i) The Agency Funds within the Project Area includes Water Conservancy District assessed property tax, County assessed property tax, County direct transient room tax ("TRT"), County restaurant tax, and County sales tax;

(ii) Taxes that are currently collected within the Project Area are not part of Agency Funds. Agency Funds will be collected for a period of twenty years following a resolution that triggers collection of the Agency Funds, which is anticipated to be adopted sometime in 2023.

(iii) Agency Funds do not include "Base Taxes." Once the collection of Agency Funds is triggered by the Agency, the taxing entities will continue to receive Base Taxes, which is summarized as the amount of property taxes generated due the 2020 assessed valuation of property taxes and the amount of taxes generated in 2020 from sales tax, restaurant tax, and TRT tax;

(iv) Once the Agency triggers the collection of Agency Funds, the taxing entities will continue to receive Base Taxes and 20% of Tax Increment and Project Area Funds that are generated in excess of Base Taxes as calculated by state law.

80% of the Tax Increment and Project Area Funds will be provided to the Agency. This amount constitutes Agency Funds; and

(e) The Agency will retain or distribute (or cause to be distributed) Agency Funds collected each year as follows:

(i) 2.5% of Agency Funds will be retained by the Agency for administrative purposes as allowed by Utah Code §17C-1-409(1)(a)(ii);

(ii) 10% of Agency Funds will be retained by the Agency for purposes of housing projects as set forth in Utah Code §§17C-1-411, 17C-1-412, and 17C-5-307(3). 40% of these housing project funds will be distributed to Zion Mountain Ranch LLC to contribute towards the cost of workforce housing at the Zion Mountain Lodge. 60% of these housing project funds will be retained by the Agency for other authorized housing projects; and

(iii) the remaining 87.5% of Agency Funds collected each year by the Agency will be distributed as follows:

(A) A first lien pledge to satisfy the Visitor Center obligations listed below, before any Agency Funds are available to finance other purposes or improvements as outlined in the Second Amended Project Area Plan and Budget:

(1) The annual Visitor Center CIB debt service payment and Debt Service Reserve Fund requirements for the Community Impact Fund Board ("CIB") loan, as outlined in **Exhibit F**. This is anticipated to be $18,216,210 of Agency Funds distributed over the life of the Project Area and is approximately 21.5% of the total Agency Funds, as outlined in **Exhibit H**;

(2) The establishment of a Debt Service Reserve Fund over six years, which annual amount shall be $106,293.33, totaling $637,760.00 which is the lesser value of 10% of the par amount of bonds, the maximum annual debt service amount, and 125% of the average annual debt service on the bonds, and shall be released at the final payment year to pay the last principal payment with any surplus being used for other development activities; and

(3) Reimbursement to the Agency for any deficits existing from the Visitor Center annual debt service payment or Debt Service Reserve Fund, until brought current; and

(B) After the first lien pledge has been met, a second lien pledge to satisfy the Water Reclamation Facility Project obligations listed below, before any Agency Funds are available to finance other purposes or improvements as outlined in the Second Amended Project Area Plan and Budget, not to exceed a maximum of an annual average of 17% of the remaining Agency Funds after the annual first lien pledge has been met, and not to exceed $10,777,655 over the life of the 20-year life of Project Area:

(1) The annual Water Reclamation Facility CIB debt service payment and Debt Service Reserve Fund requirements for the Community Impact Fund Board ("CIB") loan, as outlined in <u>**Exhibit G**</u>. It is estimated that this amount shall be approximately 16.2% of the total Agency Funds available for distribution after the Visitor Center obligation has been met, and is further described in <u>**Exhibit H**</u>; and

(2) The establishment of a Debt Service Reserve Fund over six years, which annual amount shall be $63,057.47, totaling $378,344.81 which is the lesser value of 10% of the par amount of bonds, the maximum annual debt service amount, and 125% of the average annual debt service on the bonds, and shall be released at the final payment year to pay the last principal payment with any surplus being used for other development activities; and

(3) Reimbursement to the Agency for any deficits existing from the Water Reclamation Facility annual debt service payment or Debt Service Reserve Fund, until brought current; and

(C) After the first and second lien pledges have been met, a third lien pledge to contribute funds to Zion Mountain Ranch LLC for the construction of the Zion Mountain Lodge not to exceed an annual average of 66% of the remaining Agency Funds after the after the annual first and second lien pledges have been met, for a period not to exceed 15-years commencing upon completion of the Zion Mountain Lodge, and not to exceed $27,100,000 over the 15-year period. It is anticipated that this amount shall be approximately 48.7% of the total Agency Funds available for distribution after the Visitor Center and Water Treatment Facility obligations have been met over the life of the Project Area, as described in <u>**Exhibit H**</u>; and

(D) After the above stated obligations have been funded, any remaining Agency Funds may be used for other development activities as allowed under the Second Amended Project Area Plan and Budget or the contribution of additional principal towards debt service to pay off any of the above loans early, at the discretion of the Agency.

(iv) All the above calculations will be utilized based upon available Agency Funds.

(v) The Agency shall cause the County to pay to the District its distribution of the Agency Funds on March 1 of each year.

Section 3. Project Financing.

(a) The District is solely responsible for all the costs of acquisition, development, construction, maintenance, ownership, repair, etc., of the Facility.

Section 4. Participating Jurisdictions. The parties acknowledge that as of the Effective Date, the only taxing entities that have agreed to participate in the Project Area are the County and the Water Conservancy District. Neither the County nor the Agency are responsible to solicit the participation of any additional jurisdictions.

Section 5. Limitations/Clarifications on Tax Increment Participation. Despite anything in this Agreement to the contrary:

(a) all obligations of the Agency and the County to pay any amounts hereunder to the District are conditioned on property owners timely and properly paying all taxes assessed, including but not necessarily limited to real property, personal property, ad valorem, TRT, and sales taxes, to the appropriate taxing authorities;

(b) the District acknowledges the Agency's participation is provided solely on a post-performance basis, meaning that the District must first increase the assessed value of the Land by improving the Land; and

Section 6. Payments and Notices. Payments by the parties hereto shall be made pursuant to the wire instructions attached hereto as Exhibit E. Notices shall be given to the Agency and the District at the addresses set forth in Exhibit E attached hereto.

Section 7. Limitations on Agency Authority. The District acknowledges that:

(a) the Agency is a political subdivision of the State operating and existing under Title 17C of the Utah Code Ann., separate and distinct from the County, for the purpose of, among other things, promoting the urban renewal, economic development and community development in the County;

(b) the County is not a party to this Agreement and the County will not have any commitments, obligations, duties, liabilities or obligations under this Agreement;

(c) the Agency has no independent taxing power, and therefore the Agency's sole source of revenue, at least for purposes of this Agreement, is the Agency Funds as provided under State law;

(d) if State law is amended or superseded by any new law that has the effect of reducing or eliminating the amount of Agency Funds to be paid to the Agency, the Agency's obligation to pay any Tax Increment to the District will be accordingly reduced or eliminated;

(e) if a court of competent jurisdiction declares that the Agency cannot receive Agency Funds, or make payments to the District from Agency Funds as provided in this Agreement, or takes any other action which eliminates or reduces the amount of Agency Funds paid to the Agency, the Agency's obligation to make Agency Fund payments to the District shall be accordingly reduced or eliminated;

(f) the Agency has no power or authority to grant any land use approvals;

(g) nothing in this Agreement creates, implies, or guarantees any land use approvals; and

(h) all land use approvals are subject to the standard requirements of applicable law and County policies and procedures.

Section 8. Agreement Term/Default/Remedies.

(a) This Agreement shall terminate 20 years after the date when the project area tax increment collection period is triggered.

(b) If the District or the Agency is believed to be in default for failing to perform its respective obligations hereunder or to comply with the terms hereof, the Party believing that a default has occurred shall provide written notice to the Party that is believed to be in default. The notice of default shall:

(i) Specify the claimed event of default;

(ii) Identify with particularity the provision(s) of this Agreement that is claimed to be in default;

(iii) Identify why the default is claimed to be material; and

(iv) If elected by the Party delivering the notice of default, in its discretion, the notice of default may propose a method and period for curing the default, which period of time shall be not more than ninety (90) days.

(c) Upon the issuance of a notice of default the Parties shall engage in a "Meet and Confer" process, which means that the Parties and/or their representatives shall meet in person (or by telephone if meeting in person is not reasonably possible in a timely manner) to discuss the claimed default and shall attempt, in good faith, to reach a mutually acceptable resolution. If the Parties are not able to resolve the default through the "Meet and Confer" process, then the parties may pursue the following remedies:

(i) Any and all remedies that are available at law or in equity.

(ii) The right to withhold those certain Agency Funds payments, in the case of a default by the District, until the default has been cured. If any default cannot be reasonably cured within ninety (90) days, then such cure period shall be extended by the non-defaulting Party so long as the defaulting Party is pursuing a cure with reasonable diligence.

(d) The rights and remedies set forth herein shall be cumulative. Any waiver by either Party of any breach of any kind or character whatsoever by the other, whether such be direct or implied, shall not be construed as a continuing waiver of, or consent to, any subsequent breach of this Agreement.

(e) If a Party is prevented from complying with a duty hereunder due to causes occurring beyond its control and without its fault or negligence, including acts of God, acts of the public enemy or terrorists, wrongful acts of the other Party, fires, floods, earthquake, epidemics, quarantine restrictions, strikes, freight embargoes, wars, labor disputes, inability to obtain labor, materials, equipment or reasonable substitutes therefor; inability to obtain reasonable financing in the event of significant changes in the credit markets, acts of nature, governmental restrictions, regulations or controls, judicial orders, civil commotions, and unusually severe weather or delays of subcontractors due to such causes, or other casualties or other causes beyond the reasonable control of the Party obligated to perform hereunder, then the time for that Party to fulfill such duty shall be correspondingly extended; provided, however, that in order to obtain the benefit of this Section, the Party seeking such "force majeure" extension shall, within thirty (30) calendar days after becoming aware of any such delay, shall have notified the other Party in writing stating the cause(s) for the delay and the probable duration of the delay.

Section 9. Indemnification. The District agrees to indemnify, pay for the cost of defense, and hold the Agency and the County, including their respective officers, directors, agents, employees, contractors, and consultants, harmless from and against all liability, loss, damage, costs or expenses, including attorneys' fees and court costs, arising from or as a result of death, injury, accident, loss or damage of any kind caused to any person or property because of the act(s), error(s), or omission(s) of the District, including its officers, directors, agents, employees, contractors, and consultants, upon or in connection with the Land or in connection in any way with this Agreement, except in each case to the extent arising out of the negligence, willful misconduct, illegal acts, bad faith or breach of this Agreement by the Agency or the County, including their respective officers, directors, agents, employees, contractors, and consultants.

Section 10. Parties; Successors and Assigns. Except for the County, which is an intended third-party beneficiary as described in the immediately preceding paragraph regarding indemnification, this Agreement is intended solely for the benefit of the Agency and the District and there are no intended third-party beneficiaries. The District has no right to assign this Agreement or its obligations under this Agreement without the Agency's advance written consent, in the Agency's sole and absolute discretion. This Agreement will be binding upon and inure to the benefit of the parties and their respective permitted successors and assigns.

Section 11. No Liability of Officials/Employees. No director, officer, agent, employee, or consultant of the Agency or the District shall be personally liable to the other party hereto, or any successor in interest, in the event of any default or breach by the Agency or District or for any amount which may become due to the District or its successors or on any obligations under the terms of this Agreement.

Section 12. No Legal Relationship. The parties disclaim any partnership, joint venture, fiduciary, agency or employment status or relationship between them. No party has the authority to make any representation or warranty or incur any obligation or liability on behalf of the other party, nor shall they make any representation to any third party inconsistent with this paragraph.

Section 13. No Public Dedication. Nothing contained in this Agreement shall be deemed to be a gift or dedication of all or any portion of the Land or Project for the general public or for any public purpose whatsoever.

Section 14. Attorneys' Fees. In the event of litigation between the parties related to this Agreement, the unsuccessful party in such litigation must pay the other party's costs, expenses, and reasonable attorneys' fees.

Section 15. Governing Law. The laws of the State of Utah will govern this Agreement. Any action pertaining to or arising under this Agreement must be brought in the Sixth District Court in and for Kane County, State of Utah.

Section 16. Waiver. The waiver by any party of any right granted to it hereunder shall not be deemed a waiver of any other right or of a subsequent right obtained by reason of the matter previously waived.

Section 17. Amendment. This Agreement may be modified or amended only by a written instrument authorized and executed by the District and the Agency, respectively, each in their sole discretion.

Section 18. Entire Agreement/Amendment/Counterparts. The recitals, and all exhibits, schedules and attachments attached hereto, are incorporated and made an integral part of this Agreement. This Agreement constitutes the entire agreement of the parties with respect to the subject matter addressed. There are no other contracts or agreements, written or verbal, between the parties relating in any way to the subject matter of this Agreement. No party is relying on any verbal or written statements of the other than those expressly in this Agreement.

Section 19. Construction/ Headings. The parties waive the application of any rule of law relating to the construction of this Agreement that provides in effect that ambiguous or conflicting terms or provisions should be construed against the party who prepared this Agreement or any earlier draft thereof. The headings in this Agreement are for reference only and shall not limit or define the meaning of any provision of this Agreement.

Section 20. Severability. If any provision (or portion of any provision) of this Agreement shall be deemed to be invalid or unenforceable, such invalidity or unenforceability shall not alter the remaining portion of such provision, or any other provision hereof, as each provision of this Agreement shall be deemed severable from all other provisions hereof provided the removal of same does not materially alter the overall intent of this Agreement.

Section 21. Time is of the Essence. Time is of the essence with respect to each and every term, condition, obligation and provision hereof.

Section 22. Documentation for Payment Processing. Prior to issuing Agency Fund payments as set forth in Section 2 of this agreement, the District will provide at the Agency's request any or all of the following:

(a) An updated W9, Request for Taxpayer Identification Number and Certification Form; and

(b) Documentation in order to verify completion of Public Improvements as identified in the Project Area Plan. This documentation can be copies of receipts, invoices, statements, or other appropriate documentation of such qualifying costs to illustrate completion of construction of improvements within the Project Area.

Section 23. Further Assurances. The parties shall cooperate, take such additional actions, sign such additional documentation, and provide such additional information as reasonably necessary to accomplish the objectives set forth in this Agreement.

[End of Terms – Signature Page Follows]

IN WITNESS WHEREOF, the Agency and the District have executed this Tax Increment Reimbursement Agreement effective as of the date shown above.

For Zion Mountain Local Service District:

Todd McLaws
ZMLSD Board of Trustees Chair

ATTEST:

By:
ZMLSD Clerk

Approved as to Form and Legal Content:

By:
ZMLSD Attorney

For Kane County Redevelopment Agency:

Brent Chamberlain
Kane County RDA Chair

ATTEST:

Karla Johnson
Kane County RDA Clerk

Approved as to Form and Legal Content:

Robert Van Dyke
Kane County RDA Attorney

ITEM # 2

Approval of Resolution No. RDA-2022-10 a Resolution Designating a Survey Area for the Glen Canyon Solar Project, Authorizing the Preparation of a Draft Community Reinvestment Project Area Plan and Budget, and Authorizing and Directing all Necessary Action by the Agency, Staff, and Counsel

KANE COUNTY REDEVELOPMENT AGENCY

RESOLUTION NO. RDA 2022-10

A RESOLUTION DESIGNATING A SURVEY AREA FOR THE GLEN CANYON SOLAR PROJECT, AUTHORIZING THE PREPARATION OF A DRAFT COMMUNITY REINVESTMENT PROJECT AREA PLAN AND BUDGET, AND AUTHORIZING AND DIRECTING ALL NECESSARY ACTION BY THE AGÈNCY, STAFF, AND COUNSEL.

WHEREAS, Kane County (the "County") created the Kane County Redevelopment Agency (the "Agency") pursuant to the provisions of, and the Agency continues to operate under, Title 17C of the Utah Code, the Limited Purpose Local Government Entities-Community Reinvestment Agency Act and its predecessor statutes (the "Act") for the purposes of conducting urban renewal, economic development, community development, and community reinvestment activities, as contemplated by the Act; and

WHEREAS, the Agency, having made a preliminary investigation and conducted initial studies and inquiries, desires now to conduct community development activities in connection with the potential development of one or more solar energy development projects (collectively, the "Glen Canyon Solar Project") on all or a portion of the land set forth in the legal descriptions attached hereto as Exhibit A, with the map attached hereto as Exhibit B, (the "Glen Canyon Survey Area") pursuant to UCA § 17C-5-103, from which the Agency anticipates creating one or more community reinvestment project areas (collectively, the "Proposed Project Area"); and

WHEREAS, the Agency desires to begin the process of adopting one or more project area plans (each, a "Project Area Plan") for the Proposed Project Area by adopting this Resolution authorizing the preparation of a Project Area Plan, pursuant to UCA § 17C-5-103.

THEREFORE, BE IT RESOLVED BY THE GOVERNING BOARD OF THE KANE COUNTY REDEVELOPMENT AGENCY AS FOLLOWS:

1. The Agency finds that the Glen Canyon Survey Area requires examination, investigation and study to determine whether project area development and, in particular, the Glen Canyon Solar Project, is feasible within one or more proposed community reinvestment project areas to be located within the Glen Canyon Survey Area;

2. The boundaries of the Proposed Project Area and the Glen Canyon Solar Project will be within the Glen Canyon Survey Area;

3. Agency counsel, consultants, and staff, are hereby authorized and directed, for each proposed community reinvestment project area within the Glen Canyon Survey Area deemed appropriate by the Agency:

   a. to prepare a draft community reinvestment project area plan;

   b. to prepare a draft community reinvestment project area budget;

c. to undertake all such actions as may be required by the Act, or which may otherwise be necessary or desirable to the successful establishment of the proposed community reinvestment project area, including, without limitation, the negotiation of agreements with taxing entities and participants, the preparation for all necessary hearings and the preparation, publication, and/or mailing of statutorily required notices; and

4. This Resolution shall take effect upon adoption.

APPROVED AND ADOPTED on the ____ day of ___________, 2022.

____

Name: Brent Chamberlain
Title: Agency Chair

Attest:

____

Name:
Title:

Exhibit A
GLEN CANYON SOLAR SURVEY

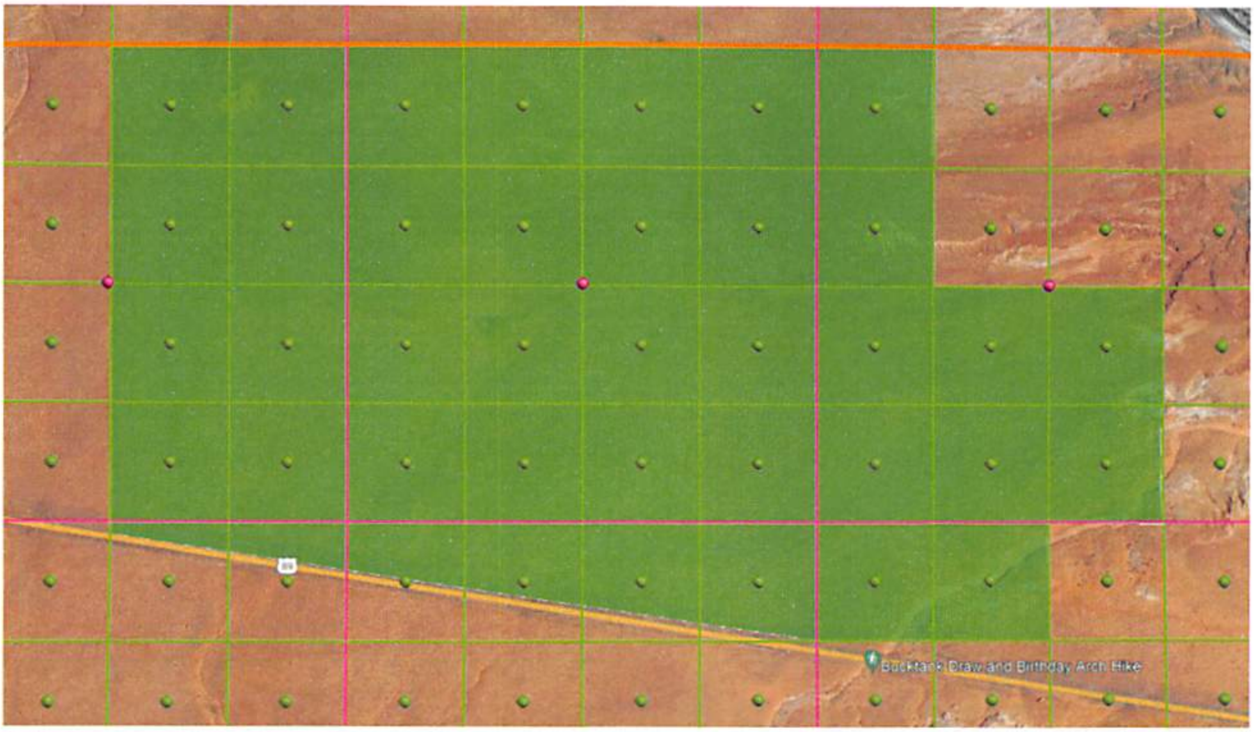
The Property is located in Kane County, Utah and described as follows:

Township 43 South, Range 2 East, SLB&M
- Section 4: Lot 8, SW¼ NW¼, SW¼, W½SE¼ (321.08 acres)
- Section 5: All (644.48 acres)
- Section 6: E½ (322.16 acres)
- Section 7: that portion of the NENE and the NWNE lying north of US 89 (21.50 acres)
- Section 8: that portion of the N½N½ lying north of US 89 (120 acres)
- Section 9: N½NW¼ (80 Acres)

Containing approximately 1,509.22 acres, more or less

Exhibit B

GLEN CANYON SOLAR SURVEY AREA MAP



Drawer 410127, 60 N Aaron Burr, Big Water, UT 84741-2127
Office (435) 675-3760 Fax (435) 675-3736 Fire Department (435) 675-5837 Police (435) 644-4900

September 29, 2022

76 North Main St.
Kanab UT 84741

Dear Karla Johnson,

The Big Water Town Hall met September 21, 2022. It was voted on by the Town Council and approved unanimously in support of the ERA solar project.

We look forward to working with the county in support of this project.

Sincerely,

Katie Joseph

Katie Joseph
Big Water Municipal Clerk

CHURCH WELLS SPECIAL SERVICE DISTRICT

1785 Wells Road * Kanab, UT 84741 * 435-675-5897

October 20th, 2022

1785 Wells Road

Kanab, UT 84741

435-675-5897

Dear Karla Johnson,

The Church Wells SSD Administrative Board has met, voted on, and unanimously approved support for the Solar Project, and the CRA opportunity it offers.

We look forward to working with the County in support of this project.

Sincerely,

Brandon Jensen

Church Wells SSD Administrative Board – Vice Chair