

**INTERLOCAL AGREEMENT  
BETWEEN THE MILLCREEK COMMUNITY REINVESTMENT AGENCY AND  
BOARD OF EDUCATION OF GRANITE SCHOOL DISTRICT**

**THIS INTERLOCAL AGREEMENT** is entered into as of the \_\_\_ day of \_\_\_\_\_ 2019, by and between the **MILLCREEK COMMUNITY REINVESTMENT AGENCY** (the “**Agency**”) and the **BOARD OF EDUCATION OF GRANITE SCHOOL DISTRICT**, a body corporate and politic of the state of Utah (the “**Taxing Entity**”) (collectively, the “**Parties**”).

**RECITALS**

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

B. The governing body of the Agency adopted a resolution on May 14, 2018 authorizing the Agency to commence the process under the Act to create the Millcreek Center Community Reinvestment Project Area (which includes parcels along both sides of 3300 South, between 900 East to the west and Highland Drive to the east, a map of which is attached hereto as Exhibit A, the “**Project Area**”). The Agency and the City Council of Millcreek have prepared a proposed community reinvestment project area plan for the Project Area, (a copy of which is attached hereto as Exhibit B, the “**Proposed Project Area Plan**” and, once adopted, the “**Project Area Plan**”), pursuant to which the Agency plans to encourage and promote economic development in the Project Area and in the surrounding community.

C. The Act authorizes funding of community reinvestment project areas and plans—such as the Project Area and as set forth in the Proposed Project Area Plan—with property tax increments pursuant to interlocal cooperation agreements with various taxing entities that levy property taxes in a project area. Specifically, Section 17C-5-202 of the Act provides that “an agency shall negotiate and enter into an interlocal agreement with a taxing entity in accordance with Section 17C-5-204 to receive all or a portion of the taxing entity’s tax increment . . . in accordance with the interlocal agreement.” Section 17C-5-204 of the Act provides that an agency may use the taxing entity’s tax increment “for the purpose of implementing a community reinvestment project area plan.”

D. The Taxing Entity has determined that it is in the best interests of the Taxing Entity to provide certain financial assistance through the use of its Tax Increment (as defined below) in connection with the development of the Project Area pursuant to the Proposed Project Area Plan.

E. The Agency anticipates using a portion of The Taxing Entity’s tax increment (as defined in Utah Code Ann. § 17C-1-102(60)) attributable to the Taxing Entity’s tax levy on real and personal property in the Project Area (hereinafter the “**Tax Increment**”), to assist in and fund the development of the Project Area pursuant to the Project Area Plan.

F. Utah Code Ann. § 17C-5-204 authorizes the Taxing Entity to consent to the payment by Salt Lake County (the “**County**”) to the Agency of a portion of the Tax Increment for the purposes set forth herein and in accordance with the terms of this Agreement.

G. Utah Code Ann. § 11-13-215 further authorizes the Taxing Entity to share its tax and other revenues with the Agency.

H. In order to facilitate development of and in the Project Area and to provide funds to carry out the Project Area Plan, the Taxing Entity desires to consent to the Agency receiving a portion of the Tax Increment in accordance with the terms of this Agreement.

I. The Parties enter into this Agreement pursuant to the authority of applicable State law, including the Community Reinvestment Agency Act and the Interlocal Cooperation Act, Utah Code Ann. § 11-13-101 *et seq.*, as amended (the “**Cooperation Act**”).

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

1. **Taxing Entity’s Consent.**

a. The Parties agree that for purposes of calculation of the Taxing Entity’s share of Tax Increment from the Project Area to be paid by the County to the Agency pursuant to this Agreement, the base year shall be 2017, and the base taxable value shall be \$130,666,124, which base taxable value is subject to adjustment by law in accordance with the provisions of the Community Reinvestment Agency Act. Pursuant to Section 17C-5-204 of the Community Reinvestment Agency Act and Sections 11-13-202.5 and 11-13-215 of the Cooperation Act, the Taxing Entity hereby agrees and consents that the project area funds collection period (the “**Funds Collection Period**”) shall be twenty (20) years. During the Funds Collection Period, the Agency shall receive and be paid eighty percent (80%) of the Tax Increment (the “**Agency Share**”), for the purpose of providing funds to the Agency to carry out the Project Area Plan. The Funds Collection Period shall commence with 2019. The total amount paid to the Agency over the Funds Collection Period pursuant to this Agreement shall not exceed \$17,511,989. No portion of the Taxing Entity’s tax revenue resulting from an increase in the Taxing Entity’s tax rate after the Effective Date (defined below) of this Agreement (the “**Increased Tax Revenue**”), shall be paid to the Agency unless the Taxing Entity specifically so consents in writing pursuant to an amendment to this Agreement or in a separate agreement. During the Funds Collection Period, the balance of the Tax Increment (i.e., the remaining 20% of the Tax Increment and the Increased Tax Revenue) shall be paid by Salt Lake County to the Taxing Entity. All Tax Increment beyond the Funds Collection Period shall be paid by Salt Lake County to the Taxing Entity. The calculation of the Agency Share shall be made as required by Utah Code Ann. § 17C-1-102(60)(a), using the then current tax levy rate (subject to the limitation set forth above regarding Increased Tax Revenue).

b. Salt Lake County shall pay the Agency Share directly to the Agency in accordance with Utah Code Ann. § 17C-5-204 during the Funds Collection Period.

2. **Consent to Budget.** As required by Utah Code § 17C-5-304, the Taxing Entity hereby consents to the budget proposed by the Agency (attached hereto as Exhibit D).

3. **Authorized Uses of Tax Increment.** The Parties agree that the Agency may use the Agency Share for any purposes authorized by the Project Area Plan and the Community Reinvestment Agency Act, including but not limited to the cost and maintenance of public infrastructure and other improvements located within the Project Area, incentives to developers or participants within the Project Area, administrative, overhead, legal, and other operating expenses of the Agency, and any other purposes deemed appropriate by the Agency, all as authorized by the Act. Notwithstanding anything to the contrary in this Agreement, in the Project Area Plan, in the Development Act, or in the Cooperation Act, none of the Tax Increment shall be used for development and/or construction of a non-Taxing Entity school (e.g. a charter school facility).

4. **No Third Party Beneficiary.** Nothing in this Agreement shall create or be interpreted to create any rights in or obligations in favor of any person or entity not a party to this Agreement. No other party, person or entity is an intended third-party beneficiary of this Agreement.

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

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

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

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

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

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

e. The term of this Agreement shall commence on the Effective Date (as defined below) and shall terminate on the earlier of the date when all of the Agency Share (during the Funds Collection Period) has been paid to the Agency as provided for herein, or the date when the Agency ceases to receive such Tax Increment pursuant to Section 1 hereof;

f. Following the execution of this Agreement by both Parties, the Agency, at its sole expense, shall cause a notice regarding this Agreement to be published on behalf of both of the Parties in accordance with Utah Code Ann. § 11-13-219 and on behalf of the Agency in accordance with § 17C-5-205;

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

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

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

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

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

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

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

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

a. such holding or action shall be strictly construed;

b. such provision shall be fully severable;

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

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

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

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

13. **Incorporation of Exhibits.** The exhibits to this Agreement are hereby incorporated by reference as part of this Agreement.

14. **Effective Date.** This Agreement shall become effective upon the publication of the summary of this Agreement as provided by law.

15. **Entire Agreement.** This Agreement and its exhibits constitute the entire agreement between the Parties 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, oral or written, express or implied, are hereby superseded and merged herein.

16. **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.

17. **Assignment.** No Party may assign its rights, duties or obligations under this Agreement without the prior written consent first being obtained from all Parties.

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

19. **Counterparts.** This Agreement may be executed in duplicate originals, each of which shall be deemed an original.

ENTERED into as of the day and year first above written.

\*The remainder of this page is left blank intentionally\*

**MILLCREEK COMMUNITY  
REINVESTMENT AGENCY**

By: \_\_\_\_\_  
Chair

Attest:

By: \_\_\_\_\_  
Secretary

**Attorney Review for the Agency:**

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

\_\_\_\_\_  
Attorney for the Millcreek Community  
Reinvestment Agency

**ADDITIONAL SIGNATURES TO INTERLOCAL AGREEMENT**

**BOARD OF EDUCATION OF  
GRANITE SCHOOL DISTRICT**

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**ATTEST:**

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**Attorney Review for the Taxing Entity:**

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

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Attorney for Granite School District