



<b>Contract Number: 0000000876    Version: 1    Desc: MAY/RDA Tax Increment Reimburs</b>
<b>Supplier Name: Parleys Partners LLC</b>
<b>Comments:</b> MAY/RDA - Exempt - Tax Increment Reimbursement for the West Millcreek Project Area (construction of a 378 unit apartment complex). Redevelopment Agency of Salt Lake County will disburse to developer for reimbursable project costs from its Property Tax increment up to \$3,000,000. Term 12/31 of the 19th year from the Trigger year 12/31/2034
<b>Contract Amount: \$3,000,000.00</b>
<b>Agency Name: Redevelopment Agency Of SL Co</b>
<b>Period Performance from 9/9/2015 to 12/31/2034</b>
<b>Procurement Type: EXO Exempt</b>
<b>Reason Code:</b>
<b>Buyer: SEHansen</b>

Contract No.

0000000876

DA Log No. 15-03787

**TAX INCREMENT REIMBURSEMENT AGREEMENT  
for the West Millcreek Project Area**

*between*

**REDEVELOPMENT AGENCY OF SALT LAKE COUNTY**

*and*

**PARLEYS PARTNERS, LLC**

**THIS TAX INCREMENT REIMBURSEMENT AGREEMENT** ("Agreement") is entered into by and between the **REDEVELOPMENT AGENCY OF SALT LAKE COUNTY**, a body corporate and politic of the State of Utah ("Agency"), and **PARLEYS PARTNERS, LLC**, a Utah limited liability company ("Developer"). Agency and Developer may collectively be referred to hereinafter as the "Parties."

**R E C I T A L S:**

A. Agency exists and exercises its powers under the Limited Purpose Local Government Entities – Utah Community Development and Urban Renewal Agencies Act, Utah Code Ann. §§ 17C-1-101 *et seq.*, (the "Act").

B. Agency prepared and, through its Board, approved and adopted a project area plan, which plan is known as the "West Millcreek Project Area Plan" on December 1, 2009 ("Project Area Plan"), which plan is attached hereto as **Exhibit A** and incorporated by this reference.

C. Agency prepared and, after obtaining the required approvals of the taxing entity committee, through its Board, approved and adopted a project area budget for the West Millcreek Project Area, which project area budget was amended by the Agency on December 13, 2011 ("Project Area Budget") and is attached hereto as **Exhibit G** and is incorporated by this reference.

D. The Project Area Plan applies to a certain area located within unincorporated Salt Lake County in Millcreek, Utah, as described and set forth in the Project Area Plan (the "Project Area").

E. Under the Act, Agency is entitled to receive certain "tax increment" from the Project Area in accordance with the adopted Project Area Budget.

E. Developer or a Related Entity is, or will be, the owner of that certain real property within the Project Area legally described in **Exhibit B** of this Agreement (the "Premises").

Developer intends to cause the redevelopment of the Premises through one or more Related Entities using tax credit and other financing and, more specifically, intends to cause to be constructed a 378 unit apartment complex, containing approximately 213 one-bedroom apartments, 130 two-bedroom apartments, and 35 three-bedroom apartments, at a cost of no less than \$51,000,000. Construction will occur in three phases as shown in the Phasing Plan attached hereto as **Exhibit C**.

F. Developer requires reimbursement assistance of up to \$3,000,000 to complete the Project (as defined below) and make it economically viable.

G. Agency intends to reimburse the Developer for a portion of certain costs associated with such redevelopment and construction from Tax Increment the Agency expects to receive from the Premises, as more fully provided herein.

H. Agency and Developer are entering into this Agreement to establish the terms and conditions and each Party's respective agreements in connection with such redevelopment and reimbursement from Tax Increment.

### **A G R E E M E N T:**

NOW, THEREFORE, in consideration of the mutual representations, warranties, covenants and agreements contained herein, the sufficiency of which is hereby acknowledged, the Parties represent and agree as follows:

#### **ARTICLE 1 - INCORPORATION AND DEFINITIONS**

1.1. **Incorporation and Definitions.** The foregoing recitals and all exhibits hereto are hereby made a part of this Agreement. Unless otherwise defined in this Agreement, terms shall have the meaning set forth in the Act. The following terms shall have the following meanings in this Agreement:

- (a) **Act:** As defined in the Recitals to this Agreement.
- (b) **Agency:** The Redevelopment Agency of Salt Lake County, a public agency exercising its functions and powers and organized and existing under the Act, and includes any successor designated by the Agency or succeeding the Agency.
- (c) **Agency Administrative Costs:** An amount equal to 4.00% of the Tax Increment paid to the Agency each year, which is allocated for Agency administrative costs.
- (d) **Base Taxable Value of the Property:** The assessed taxable value of all real and personal property within and on the Premises as of January 1, 2014, which, after review of Salt Lake County records, is \$2,101,600.00.
- (e) **Contractors:** All contractors, engineers, and architects that have contracted with Developer in relation to the Project.

- (f) County: Salt Lake County, a body politic of the State of Utah.
- (g) Developer: Parleys Partners, LLC, a Utah limited liability company.
- (h) Developer's Tax Increment Share: As defined in Subsection 4.7(d) hereof.
- (i) Enterprise Green Communities Certification: A pre-build and post-build process by which Enterprise Community Partners, Inc.—a 501(c)(3) charitable organization that provides expertise for affordable housing and sustainable communities—certifies that the Enterprise Green Communities Criteria were met in full for the Project.
- (j) Enterprise Green Communities Criteria: The building criteria and standards set forth and updated from time to time by Enterprise Community Partners, Inc. (See <http://www.enterprisecommunity.com/solutions-and-innovation/enterprise-green-communities/criteria> for links to such criteria).
- (k) Event of Default: As defined in Section 6.1 hereof.
- (l) Excusable Delay: Any delay beyond the reasonable control of the Party affected, caused by damage or destruction by fire or other casualty; strike; shortage of materials; civil disorder; war; earthquake; wrongful failure or refusal of any governmental entity to issue any permits and/or legal authorization necessary for Developer to proceed with construction of the Project or any portion thereof; unavailability of labor or other labor/contractor disputes outside the reasonable control of Developer; unusually adverse weather conditions such as, by way of illustration and not limitation, severe rain storms or below freezing temperatures of abnormal degree or abnormal duration, tornadoes; and any litigation interfering with or delaying the construction of all or any portion of the Project in accordance with this Agreement, which in fact prevents the Party so affected from discharging its respective obligations hereunder. A delay caused by poor or unfavorable economic conditions will not be considered an Excusable Delay.
- (m) Governmental Approvals: All plat approvals, re-zoning or other zoning changes, site plan approvals, conditional use permits, variances, building permits, architectural review or other subdivision, zoning or similar approvals required for the implementation of the Project and consistent with the Project Area Plan, the Plans and Specifications, and this Agreement, as all may be amended from time to time.
- (n) Governmental Authorities: Any and all jurisdictions, entities, courts, boards, agencies, commissions, offices, divisions, subdivisions, departments, bodies, or authorities of any type of any governmental unit (federal, state, or local) whether now or hereafter in existence.
- (o) Housing Set-aside: An amount equal to 20.00% of the Tax Increment paid to the Agency each year, which is allocated to a fund for housing.
- (p) Improvements: The site development and improvements to be made on

and to the Premises pursuant to this Agreement and according to the Plans and Specifications of a 378 unit apartment complex, containing approximately 213 one-bedroom apartments, 130 two-bedroom apartments, and 35 three-bedroom apartments.

(q) Investment: Actual direct costs incurred by the Developer or a Related Entity to construct the Improvements, including, but not limited to, costs related to the subject project for architecture, engineering, design, plans, specifications, financing expenses, environmental matters, labor, materials, and permits.

(r) Legal Requirements: Any and all (i) present and future judicial decisions, statutes (including environmental laws), laws, rulings, rules, regulations, orders, writs, injunctions, decrees, permits, certificates or ordinances of any Governmental Authority in any way applicable to the Property, including, without limiting the generality of the foregoing, the ownership, use, occupancy, possession, operation, maintenance, alteration, repair, or reconstruction thereof; (ii) covenants, conditions, and restrictions contained in any deeds, other forms of conveyance or in any other instruments of any nature that relate in any way or are applicable to the Property or the ownership, use, or occupancy thereof; (iii) presently or subsequently effective bylaws and articles of incorporation, operating agreement and articles/certificate of organization or partnership, limited partnership, joint venture, trust or other form of business association agreement of Developer relating to or affecting the Property; (iv) leases and contracts of any nature that relate in any way to the Property and to which Developer may be bound. Maximum Reimbursable Amount: The amount specified in Section 3.1 hereof.

(s) Official Records: The official records of the Salt Lake County Recorder, State of Utah.

(t) Permitted Subsequent Approvals: The building permits and other Governmental Approvals customarily obtained prior to construction which have not yet been obtained or which the County or other Governmental Authority has not yet determined to grant on the date that this Agreement is executed.

(u) Person: Any natural person, trust, partnership, firm, joint venture, association, corporation, limited liability company, any other form of incorporated or unincorporated business entity, or any public body corporate and politic.

(v) Phase 1: The first phase of construction of the Project.

(w) Phase 2: The second phase of construction of the Project, which will be constructed in a similar manner to the final plans and specifications for Phase 1.

(x) Phase 3: The third phase of construction of the Project, which will be constructed in a similar manner to the final plans and specifications for Phase 1 and 2.

(y) Phase 1 Maximum Reimbursable Amount: The amount specified in Subsection 3.2(a) hereof.

(z) Phase 2 Maximum Reimbursable Amount: The amount specified in

Subsection 3.2(b) hereof.

(aa) Phase 3 Maximum Reimbursable Amount: The amount specified in Subsection 3.2(c) hereof.

(bb) Phase 1 Reimbursable Project Costs: Reimbursable Project Costs that are identified as part of Phase 1 on Exhibit C (attached hereto).

(cc) Phase 2 Reimbursable Project Costs: Reimbursable Project Costs that are identified as part of Phase 2 on Exhibit C (attached hereto).

(dd) Phase 3 Reimbursable Project Costs: Reimbursable Project Costs that are identified as part of Phase 3 on Exhibit C (attached hereto).

(ee) Plans and Specifications: The final plans and specifications for the construction of the Project approved by all required permitting and regulatory authorities, which may be separately obtained for each phase, and all amendments and modifications thereof made in accordance with this Agreement. Without the consent of the Agency, which consent shall not be unreasonably withheld, such plans and specifications shall not be materially different from those submitted to the Agency prior to the execution of this Agreement for Phase 1 except as may be required by permitting and regulatory authorities.

(ff) Premises: The real property located at or near 4205 Main Street, Salt Lake City, Utah and legally described on **Exhibit B**.

(gg) Project: The construction of the Improvements and the development of the Premises by or on behalf of the Developer, having a total Investment of no less than \$51,000,000, with at least \$16,000,000 of Investment made in Phase 1, at least \$21,000,000 of Investment made in Phase 2, and at least \$14,000,000 of Investment made in Phase 3.

(hh) Project Area: As defined in the Recitals to this Agreement.

(ii) Project Area Budget: As defined in the Recitals to this Agreement.

(jj) Project Area Plan: As defined in the Recitals to this Agreement.

(kk) Project Schedule: The schedule attached hereto as **Exhibit D**, which sets forth estimated dates for commencement and completion of the phases of the Project.

(ll) Property: The Premises and the Improvements thereon.

(mm) Reimbursable Improvements: Those Improvements described in the Reimbursable Improvements Budget and Schedule attached hereto as Exhibit E.

(nn) Reimbursable Improvements Budget and Schedule: The budget and schedule attached hereto as **Exhibit E** which sets forth the estimated budget for the

Reimbursable Improvements as well as the construction phase in which each Reimbursable Improvement or portion thereof will be completed.

(oo) Reimbursable Project Costs: Costs actually paid by Developer, a Related Entity or through their financing arrangements for the construction and completion of the Reimbursable Improvements.

(pp) Reimbursement Records: As defined in Section 7.14 hereof.

(qq) Reimbursement Term: The period of time commencing with the effective date of this Agreement and expiring upon the earlier of (i) the date Developer has been paid in aggregate the Maximum Reimbursable Amount, plus any interest, if applicable, (ii) the date this Agreement is terminated, or (iii) December 31<sup>st</sup> of the nineteenth consecutive tax year following the Trigger Year.

(rr) Related Entity or Entities: Any entity controlled by Developer or by at least 50% of the owners or members of Developer. For purposes of this definition “controlled” means having the power to manage such entity.

(ss) Request for Disbursement: A statement of Developer, substantially in the form set forth in **Exhibit F**, requesting an amount of Tax Increment to be disbursed to the Developer for reimbursement of Reimbursable Project Costs.

(tt) Taxing Entities: Those public agencies that levy a tax on property within the Project Area and that are required to contribute their Tax Increment to the Agency pursuant to the Act and the adopted Project Area Budget.

(uu) Tax Increment: The difference between the amount of property tax revenues generated from the Property each tax year by the levies of the Taxing Entities using the current year assessed taxable value of the Property and the amount of property tax revenues that would be generated each tax year by the levies of the Taxing Entities using the Base Taxable Value of the Property.

(vv) Trigger Year: The tax year for which the Agency requests payment of Tax Increment from the Salt Lake County Auditor for the first time with respect to the Project Area, which is the 2015 tax year.

## **ARTICLE 2 — REPRESENTATIONS AND WARRANTIES**

2.1. Representations and Warranties of Developer. Developer hereby represents, covenants, and warrants to Agency as follows:

(a) Due Authority. Developer has all necessary power and authority to execute, deliver, and perform the terms and obligations of this Agreement and to execute and deliver the documents required of the Developer herein, and, to the best of Developer’s knowledge, such execution and delivery has been duly and validly authorized by all necessary proceedings. Accordingly, this Agreement once validly authorized and executed will constitute a legal valid and binding obligation of Developer,

enforceable in accordance with its terms.

(b) Corporate Consents. To the best of Developer's knowledge, no consent or approval is required to be obtained from, and no action need be taken by, or document filed with, any corporate entity or other business entity in connection with the execution, delivery and performance by the Developer of this Agreement.

(c) Pending Suits. To the best of Developer's knowledge, there are no suits, judgment, bankruptcies or executions pending or, to the best of Developer's knowledge, threatened against Developer or the Premises that would adversely affect the Developer's ability to perform its obligations under this Agreement or that would, in any manner, challenge or adversely affect the existence or powers of the Developer to enter into and carry out the transactions described in or contemplated by the terms and provisions of this Agreement.

(d) Legal Requirements. To the best of Developer's knowledge after investigation and due inquiry, Developer is not in violation of any Legal Requirements and no violation of any Legal Requirements exists with respect to the Property.

(e) Use of Tax Increment. Any Tax Increment disbursed to Developer under this Agreement will be used consistent with Section 17C-1-409 of the Act and, more specifically, to pay for, including financing or refinancing, all or part of "urban renewal" activities within the Project Area. For the purposes of this Agreement, "urban renewal" shall have the meaning set forth in Utah Code Ann § 17C-1-102(51)(a) (2015).

(f) Construction Permits. Except for Permitted Subsequent Approvals, to the best of Developer's knowledge, all governmental permits and licenses required by applicable law to construct, occupy and operate the Improvements on the Premises have been issued and are in full force and effect or, if the present stage of development does not allow such issuance, the Developer reasonably believes, after due inquiry of the appropriate governmental officials, that such permits and licenses will be issued in a timely manner in order to permit the Improvements to be constructed on the Premises.

(g) Ownership and Sufficiency of Premises for Project. The Developer represents and warrants that Developer or a Related Entity has or will (for a period of time) have fee simple title to the Premises and that, to the best of Developer's knowledge, the Premises is sufficient to construct the Project as contemplated in the Plans and Specifications and this Agreement and in accordance with the Project Schedule.

(h) Plans and Specifications. To the best of Developer's knowledge, the Plans and Specifications are reasonably anticipated to result in an apartment complex with total Investment of no less than \$51,000,000, with at least \$16,000,000 of Investment made in Phase 1, at least \$21,000,000 of Investment made in Phase 2, and at least \$14,000,000 of Investment made in Phase 3.

(i) No Violation of Laws, Fiduciary Duties, or Other Agreements. To the best of Developer's knowledge, the consummation of the transactions contemplated by this Agreement and the performance of this Agreement will not violate any applicable

laws or regulations, will not result in any breach of any fiduciary duty owed to an individual or another entity, and will not result in any breach of, or constitute a default under, any mortgage, deed of trust, deed to secure debt, lease, bank loan, loan agreement, credit agreement, partnership or joint venture agreement or other instrument or agreement to which Developer is a party or by which it may be bound or affected.

(j) No Default. No default or Event of Default has occurred and is continuing, and no event has occurred and is continuing which with the lapse of time or the giving of notice, or both, would constitute a default or an Event of Default in any material respect on the part of Developer under this Agreement.

(k) Information. To the best of Developer's knowledge, the information furnished to the Agency by the Developer in connection with the matters covered in this Agreement are true and correct and do not contain any untrue statement of any material fact and do not omit any material fact.

(l) Relationship of Agency and Developer. Agency is not acting as a lender to Developer. Agency has no fiduciary or other special relationship with Developer and therefore no fiduciary obligations are created by this Agreement or are owed to Developer or any third parties.

(m) Effect of Request for Disbursement. Each Request for Disbursement shall constitute a representation and warranty that the information set forth in such Request for Disbursement is true and correct.

2.2. Representations and Warranties of Agency. Agency hereby represents, covenants, and warrants to Developer as follows:

(a) Due Authority. Agency has all necessary power and authority to execute, deliver, and perform the terms and obligations of this Agreement and to execute and deliver the documents required of the Agency herein, and, to the best of Agency's knowledge, such execution and delivery has been duly and validly authorized by all necessary proceedings. Accordingly, this Agreement once validly authorized and executed will constitute a legal valid and binding obligation of Agency, enforceable in accordance with its terms.

(b) Consents. To the best of Agency's knowledge, no consent or approval is required to be obtained from, and no action need be taken by, or document filed with, any person or entity in connection with the execution, delivery and performance by the Agency of this Agreement.

(c) Pending Suits. To the best of Agency's knowledge, there are no suits, judgment, bankruptcies or executions pending or, to the best of Agency's knowledge, threatened against Agency that would adversely affect the Agency's ability to perform its obligations under this Agreement or that would, in any manner, challenge or adversely affect the existence or powers of the Agency to enter into and carry out the transactions described in or contemplated by the terms and provisions of this Agreement.

(d) Legal Requirements. To the best of Agency's knowledge, Agency has met all legal requirements for the establishment of the Project Area and for adoption of the Project Area Budget, both of which have, to the best of Agency's knowledge, been legally approved and adopted and are in force and full effect.

(e) No Violation Law or of Other Agreements. To the best of Agency's knowledge, the consummation of the transactions contemplated by this Agreement and the performance of this Agreement will not violate any applicable laws or regulations and will not result in any breach of, or constitute a default under any other agreement or other instrument to which Agency is a party or by which it may be bound or affected.

(f) No Default. No default or event of default has occurred and is continuing on the Part of the Agency, and no event has occurred and is continuing which with the lapse of time or the giving of notice, or both, would constitute a default or an event of default in any material respect on the part of Agency under this Agreement.

(g) Information. To the best of Agency's knowledge, the information furnished to the Developer by the Agency in connection with this Agreement are true and correct and do not contain any untrue statement of any material fact and do not omit any material fact.

(h) Relationship of Agency and Developer. Developer is not acting as a contractor to Agency. Developer has no fiduciary or other special relationship with Agency and therefore no fiduciary obligations are created by this Agreement or are owed to Agency or any third parties by Developer.

(i) Effect of Disbursement. Each disbursement of tax increment to Developer shall constitute a representation and warranty by the Agency that the above warranties and representations are still true and correct.

(j) No Adverse Amendment of Project Area Budget. The Project Area Budget has not been amended since the adoption of the Project Area Budget attached hereto as Exhibit G, and will not be amended in the future, in such a way that would impair or reduce the Agency's ability to make the payments of Tax Increment to the Developer as required and agreed under this Agreement.

### **ARTICLE 3 -REIMBURSEMENT OF CERTAIN PROJECT COSTS**

3.1. Agreement to Disburse Tax Increment to Developer. Pursuant to and as authorized by Section 17C-1-409 of the Act, Agency shall, during the Reimbursement Term, disburse to Developer for Reimbursable Project Costs, up to a maximum of Three Million Dollars (\$3,000,000.00) (the "Maximum Reimbursable Amount"), plus any interest, if applicable pursuant to Section 4.7(e) herein, all on the terms and subject to the conditions of this Agreement.

3.2. Maximum Reimbursable Amount for Each Phase.

(a) Phase 1. Notwithstanding anything to the contrary herein, Agency and

Developer acknowledge and agree that the maximum amount of Tax Increment that may be paid to Developer for Phase 1 Reimbursable Project Costs is Two Million Dollars (\$2,000,000.00) (the "Phase 1 Maximum Reimbursable Amount").

(b) Phase 2. Notwithstanding anything to the contrary herein, Agency and Developer acknowledge and agree that the maximum amount of Tax Increment that may be paid to Developer for Phase 2 Reimbursable Project Costs is Nine Hundred Fifty Thousand Dollars (\$950,000.00) (the "Phase 2 Maximum Reimbursable Amount").

(c) Phase 3. Notwithstanding anything to the contrary herein, Agency and Developer acknowledge and agree that the maximum amount of Tax Increment that may be paid to Developer for Phase 3 Reimbursable Project is Fifty Thousand Dollars (\$50,000.00) (the "Phase 3 Maximum Reimbursable Amount").

3.3. Source of Funds for Reimbursement. All payments for Reimbursable Project Costs will be payable only from Tax Increment generated from the Property and actually paid to the Agency from the Salt Lake County Treasurer.

3.4. Adjustments for Catastrophic Loss Covered by Insurance Not Remedied. During the term of this Agreement, in the event of a catastrophic loss covered by insurance that affects one-fourth or more of the value of a Phase of the Improvements of the Project, if the Developer fails to cause the insurance proceeds to be utilized to rebuild the affected Phase of the Improvements within two (2) years of receipt of such insurance proceeds, the Developer's right to receive and retain disbursements of Tax Increment from the Agency for that Phase under this Agreement shall be proportionally adjusted. As an illustration, if one-third of the value of the Phase 1 Improvements was destroyed and not timely rebuilt, (a) the total or maximum amount of Tax Increment disbursements to Developer for Phase 1 under this Agreement would be reduced by one-third until the affected Phase 1 Improvements were rebuilt, and (b) if at the time Developer had already received more than two-thirds of the total or maximum amount of Tax Increment to be received by Developer under this Agreement for Phase 1, the Developer would be required to reimburse the Agency an amount that would result in the Developer retaining two-thirds of the total or maximum amount of Tax Increment that otherwise was to be paid to Developer under this Agreement for Phase 1, and future payments of Tax Increment for Phase 1 would be suspended or terminated, and the repaid amount of Tax Increment would be retained by the Agency, until the affected Phase 1 Improvements were rebuilt, at which time the repaid amount of Tax Increment would be paid once again to Developer.

#### **ARTICLE 4 — DISBURSEMENTS**

4.1. Conditions Precedent to Commencement of Disbursement of Tax Increment. Agency shall not be obligated to commence disbursement of Tax Increment for Reimbursable Project Costs, unless and until the following conditions have been satisfied:

(a) Building Permits. At the request of Agency, Developer shall have furnished to Agency copies of the building permit or permits authorizing the construction of the portion of the Improvements on the Premises to which the requested disbursement of Tax Increment relates.

(b) Organizational Documents. Developer shall have furnished a copy of Developer's organizational documents and evidence of authority for the Developer's signatory to sign this Agreement.

(c) Ownership of Premises. Developer or a Related Entity has fee simple title to the Premises and Developer shall have furnished to Agency copies of a deed and current title insurance policy indicating such ownership.

(d) Insurance. Developer shall have furnished to Agency evidence of insurance covering the building improvements of the Project, and if reasonably available naming the Agency as an additional insured.

(e) Project Area Triggered and Agency Paid Tax Increment. The Salt Lake County Treasurer shall have paid to the Agency the total amount of Tax Increment generated from the Property for the tax year in which the Project Area was triggered.

(f) No Default. No Event of Default has occurred under this Agreement beyond any applicable cure period, and no event, circumstance or condition has occurred or exists which, with the passage of time or the giving of notice, would constitute an Event of Default under this Agreement.

4.2. Conditions for Each Disbursement of Tax Increment. Agency shall not be obligated to disburse Tax Increment for Reimbursable Project Costs unless and until the following conditions have been satisfied:

(a) Documents to be Furnished for Each Disbursement. Developer shall have furnished to Agency, for each and every disbursement:

(1) a Request for Disbursement; and

(2) invoices and proof of payment for each Contractor for all work and materials covered by the disbursement.

(b) Completion of Reimbursable Improvements. Developer shall have caused to be substantially completed the construction and development of the applicable Reimbursable Improvements (or a discrete and assessable element or phase thereof) for which Reimbursable Project Costs were incurred by Developer or a Related Entity and request for reimbursement thereof has been included in a Request for Disbursement.

(c) Reimbursable Project Costs Paid By or On Behalf of Developer or Related Entity. The Reimbursable Project Costs to which the Request for Disbursement relates shall have been paid by Developer, a Related Entity or through their financing arrangements.

(d) Enterprise Green Communities Certification. Developer shall have

obtained (or is constructing the Project in a good faith effort to obtain) Enterprise Green Communities Certification for the Project.

(e) Payment of Taxes Generally. Developer or the owner shall have paid all taxes or assessments due with respect to the Premises and Improvements and personal property on the Premises.

(f) No Event of Default. No Event of Default shall have occurred and be continuing beyond any applicable cure period.

(g) Warranties and Representations True. All warranties and representations made by Developer in this Agreement shall have remained true and correct.

4.3. Conditions for Disbursement of Tax Increment for Phase 1 Reimbursable Project Costs. In addition to the other conditions found in Section 4.2 above, Agency shall not be obligated to disburse Tax Increment for Phase 1 Reimbursable Project Costs unless and until the following conditions have been satisfied:

(a) Substantial Completion of Phase 1 and Certificate of Completion. The Developer shall have caused to be substantially completed Phase 1 of the Project and the Developer shall have furnished to Agency applicable certificates of occupancy from the local government authority in relation to Phase 1.

(b) Phase 1 Investment Amount. Phase 1 of the Project has resulted in an Investment of at least \$16,000,000.

4.4. Conditions for Disbursement of Tax Increment for Phase 2 Reimbursable Project Costs. In addition to the other conditions found in Section 4.2 above, Agency shall not be obligated to disburse Tax Increment for Phase 2 Reimbursable Project Costs unless and until the following conditions have been satisfied:

(a) Completion of Phase 1 and Phase 2. The Developer shall have caused to be completed Phase 1 and Phase 2 of the Project.

(b) Certification of Completion. Developer shall have furnished to Agency applicable certificates of occupancy from the local government authority in relation to Phase 1 and Phase 2.

(c) Phase 1 and Phase 2 Investment Amounts. Phase 1 of the Project has resulted in an Investment of at least \$16,000,000. Phase 2 of the Project has resulted in an Investment of at least \$21,000,000.

4.5. Conditions for Disbursement of Tax Increment for Phase 3 Reimbursable Project Costs. In addition to the other conditions found in Section 4.2 above, Agency shall not be obligated to disburse Tax Increment for Phase 3 Reimbursable Project Costs unless and until the following conditions have been satisfied:

(a) Completion of Phases 1, 2 and 3. The Developer shall have caused to be completed Phase 1, Phase 2, and Phase 3 of the Project.

(b) Certification of Completion. Developer shall have furnished to Agency applicable certificates of occupancy from the local government authority in relation to Phase 1, Phase 2, and Phase 3.

(c) Phases 1, 2 and 3 Investment Amounts. Phase 1 of the Project has resulted in an Investment of at least \$16,000,000. Phase 2 of the Project has resulted in an Investment of at least \$21,000,000. Phase 3 of the Project has resulted in an Investment of at least \$14,000,000.

4.6. Conditions to Final Disbursement of Tax Increment. The following requirements, in addition to the other requirements of Article 4, shall have been met prior to the last or final disbursement of Tax Increment to Developer for Reimbursable Project Costs:

(a) Completion of Project. The Project shall have been fully completed.

(b) Certification of Completion. Developer shall have furnished to Agency applicable certificates of occupancy from the local government authority for the building Improvements of the Project.

(c) Final Inspection. Agency or its representative, at Agency's sole option, shall have inspected the Premises and Improvements to sufficiently confirm completion of the Project. Agency shall complete such inspection in a timely manner.

(d) Other Requirements. All other material requirements, conditions, and covenants of this Agreement relating to Developer shall have been complied with.

4.7. Disbursements.

(a) In General. For any and all desired disbursements of Tax Increment, Developer shall submit a Request for Disbursement directly to Agency. Developer agrees to respond in a timely manner to any reasonable requests made by Agency for additional information relating to any Request for Disbursement. In the event that Agency declines to make the full disbursement requested in any Request for Disbursement for failure to comply with the terms of this Agreement, Agency shall notify Developer promptly and shall provide a written explanation of the specific reasons for such decision.

(b) Annual Payouts. Disbursements of Tax Increment to cover approved Reimbursable Project Costs, if made in an amount equal to all of the available Developer's Tax Increment Share, need not occur more frequently than once in any calendar year and only after the date on which the total Tax Increment for the previous tax year has been paid to Agency from the Salt Lake County Treasurer (typically March

31<sup>st</sup>). The Parties agree that disbursements of Tax Increment to cover Reimbursable Project Costs will be applied first to Phase 1 Reimbursable Project Costs, second to Phase 2 Reimbursable Project Costs, and third to Phase 3 Reimbursable Project Costs.

(c) Amount of Disbursement. Subject to compliance with the terms and conditions of this Agreement, Agency shall disburse to the Developer the amount of Tax Increment requested by Developer in a Request for Disbursement for Reimbursable Project Costs, but in no event shall Agency be required to disburse more than:

(1) in any single tax year, the Developer's Tax Increment Share (defined in Subsection 4.7(d) below); and

(2) in the aggregate over the Reimbursement Term, the Maximum Reimbursable Amount, as defined in Section 3.1 above.

(d) Calculation of Developer's Tax Increment Share. Until the Agency has reimbursed or paid the Developer the Maximum Reimbursable Amount, Developer's Tax Increment Share for any single tax year during the Reimbursement Term is an amount equal to the total amount of Tax Increment generated with respect to the Property for that tax year (TI) less Agency Administrative Costs (AAC) and the Housing Set-aside (HSA). (i.e., Developers Tax Increment Share = TI – AAC – HAS).

(e) Payment of Disbursements.

(1) Timing of Disbursements. Requests for Disbursement shall be submitted to Agency only on or between January 1st and October 15th of a given calendar year during the Reimbursement Term, whereupon Agency shall, prior to April 30th of the following calendar year, either disburse to Developer the full amount requested by Developer or provide a written notice to Developer setting forth the reasons for non-disbursement or partial-disbursement, as set forth in Section 4.4(a). Agency shall have no obligation to disburse Tax Increment to Developer for a Request for Disbursement that is received by Agency after expiration of the Reimbursement Term.

(2) Carry Over of Unpaid Reimbursable Project Costs. In the event Agency is unable to disburse to Developer the full amount of Reimbursable Project Costs requested by Developer in an approved Request for Disbursement due to insufficient Tax Increment for the Property (after taking into account Agency Administrative Costs and the Housing Set-Aside), Developer shall include such unpaid amount and continuing interest thereon in its Request for Disbursement for the following tax year and Agency shall disburse Tax Increment to cover such unpaid amount to the extent that sufficient Tax Increment is available. However, in no event shall Agency be required to disburse Tax Increment to Developer for unpaid Reimbursable Project Costs, or the interest thereon, using Tax Increment from a tax year beyond the Reimbursement Term.

(3) Interest on Unpaid Reimbursable Project Costs. Interest on unpaid Reimbursable Project Costs shall accrue at the Wall Street Journal prime rate for the United States starting on May 1<sup>st</sup> of the year following the year in which the Request for Disbursement for the unpaid Reimbursable Project Costs was originally submitted. Such interest shall be added to the amount of unpaid Reimbursable Project Costs and shall be reimbursed as otherwise provided herein.

(f) Prepayment. If the Developer's total Investment in the Project exceeds \$51,000,000 in any year during the Reimbursement Term and all the requirements and conditions of this Article 4 have been satisfied, Agency may elect to prepay the remaining portion of the Maximum Reimbursable Amount at any time Agency deems appropriate. Prepayment refers to payment prior to receipt by Agency of Tax Increment.

(g) Acquiescence Not a Waiver. To the extent that Agency may have acquiesced in noncompliance with any conditions precedent to the disbursement of Tax Increment, such acquiescence shall not constitute a waiver by Agency and Agency at any time after such acquiescence may require Developer to comply as to future requests for disbursements with all such applicable conditions and requirements under this Agreement.

(h) Disclaimer of Liability. Agency shall not be responsible in any manner to Developer or any third-party for the quality, design, construction, structural integrity, or health or safety features of any Improvements on the Premises, notwithstanding Agency's review and approval of Requests for Disbursement under this Agreement.

## **ARTICLE 5 — COVENANTS AND AGREEMENTS**

5.1. Construction of Project. Developer has no obligation under this Agreement to construct the Project or the Improvements. Developer expects and intends to cause the construction of the Project to be prosecuted with due diligence and continuity and to complete the Project in accordance with the Plans and Specifications, the Project Schedule, and the terms of this Agreement.

5.2. Use of Tax Increment. Any Tax Increment disbursed to Developer under this Agreement shall be used consistent with Section 17C-1-409 of the Act and, more specifically, to pay for, including financing or refinancing, all or part of "urban renewal" activities within the Project Area. For the purposes of this Agreement, "urban renewal" shall have the meaning set forth in Utah Code Ann § 17C-1-102(51)(a) (2015).

5.3. Continuation and Completion. Absent an event of Excusable Delay, and unless otherwise agreed to by the Agency, to qualify for disbursement of Tax Increment to Developer under this Agreement for Reimbursable Project Costs as to any particular Phase of the Project, Developer must cause the applicable Phase of the Project to be completed in accordance with the completion date in the Project Schedule. Agency and Developer acknowledge and agree that the Project is intended to be constructed in three phases, and that Developer shall have the right to determine when and if construction of each phase shall commence, in consideration of market conditions. In the event of an Excusable Delay, Developer's performance of such obligations, as

applicable, shall be excused for the period of delay, and the period for performance of such obligations shall be extended for an equivalent period of time; provided, with respect to any of the foregoing events, Developer shall use commercially reasonable efforts to mitigate the effects of an event of Excusable Delay and upon the discontinuance of such event shall proceed in complying with its obligations hereunder.

5.4. Changes in Plans and Specifications. Developer shall not make changes to the Plans and Specifications without first obtaining written approval from the Agency, except that Developer may make changes to the Plans and Specifications, without first obtaining such written approval, if (a) Developer notifies Agency in writing of such change within ten (10) business days thereafter; (b) the structural integrity of the Project is not impaired by the modification; (c) no substantial change in architectural appearance is affected by the modification; (d) the square footage of the Project is not materially reduced by the modification; (e) no default in any obligations to any other party, including any Governmental Authority, results from such modification; and (f) the increase or decrease in cost resulting from any one such modification does not exceed Five Hundred Thousand Dollars (\$500,000.00).

5.5. Compliance with the Conditional Use Permit. The Developer shall comply with all requirements of the Conditional Use Permit for the Property during the construction of the Project and shall cause any construction of the Project to be done in accordance with all requirements of the Conditional Use Permit.

5.6. Costs and Expenses. Developer will pay all costs and expenses required in connection with its obligations under this Agreement.

5.7. Site Visits. Developer and its Related Entities shall permit Agency and its representatives to enter upon the Premises from time to time to view the Project. Notwithstanding the foregoing, Agency shall comply with all safety rules and requirements of the Developer and its Related Entities, shall not interfere with construction activities at the Premises, and Developer and its Related Entities shall have no liability whatsoever in connection with Agency's exercise of its rights as set forth in this Section.

5.8. Assignment of Developer's Rights and Obligations and Transfer of Property. Notwithstanding other provisions of this Agreement, it is planned and expected that the Premises/Property may be transferred by the Developer to other entities (such as limited liability company(ies) with Developer or a Related Entity as manager(s)) in connection with or as may be required by tax credit or other financing for the Project, and such transfers are authorized and permitted transfers and are not subject to restriction nor subject to obligation to obtain the Agency's consent or approval.

(a) Restrictions on Assignment of Rights and Obligations. Except as otherwise set forth herein, the Developer's rights and obligations hereunder may not be assigned, in whole or in part, to another entity, without the prior written approval of the Agency. The Agency shall provide such consent unless in the Agency's reasonable determination, a proposed assignee does not have qualifications and financial responsibility necessary and adequate to construct the Project and fulfill the obligations of the Developer under this Agreement

(b) Related Entities, Collateral Assignment, and Certificate of Completion.

(1) Related Entities. Nothing in this Section shall prevent the Developer from assigning, without the Agency's consent, all rights and/or obligations under this Agreement to a Related Entity, provided that prior to such assignment Developer furnishes Agency with the name of any such Related Entity, together with a certification from Developer, and such other proof as Agency may reasonably request, that such assignee is a Related Entity of Developer.

(2) Collateral Assignment. Developer and its successors and assigns shall also have the right, without the Agency's consent, to collaterally assign to any Secured Lender (as defined below) as collateral any and all of Developer's rights and/or obligations under this Agreement, and such Secured Lender shall have the right to perform any term, covenant, condition or agreement and to remedy, in accordance with the terms of this Agreement, any default by Developer under this Agreement, and Agency shall accept such performance by any such Secured Lender with the same force and effects as if furnished by Developer. No Secured Lender shall be personally liable or obligated to perform the obligations of Developer under the Agreement unless and until such Secured Lender takes possession of the property as a mortgagee or by a receiver appointed at the request of mortgagee or becomes the owner of the fee estate under this Agreement by foreclosure, or deed in lieu of foreclosure or otherwise. For purposes of this Section, "Secured Lender" means a bank, financial institution or other person or entity from which Developer, its successors or assigns have borrowed funds to finance all or a portion of the Project and in whose favor Developer, its successors or assigns have agreed to provide a security interest as collateral for such loan.

(i) Before a Secured Lender may exercise any rights of the Developer under the Agreement, the Agency shall receive: (a) a notice from the Developer that it has entered into a collateral assignment with a Secured Lender in connection with the Property, which shall specify the name, address and telephone number of the Secured Lender, as well as the title, date and parties to the collateral assignment agreement; and (b) not less than ten (10) days' notice of the Secured Lender's intent to exercise its cure rights or any other rights as assignee of the Developer under the Agreement, which notice shall include the effective date of the collateral assignment, and the title, date and parties to such collateral assignment agreement. The Agency is entitled to rely upon representations made in the notices described in this paragraph without further investigation or inquiry.

(ii) Provided that the Developer has provided the Agency with notice of the collateral assignment as described in this Section, the Agency agrees to provide the Secured Lender with the same notice of default at the same time such notice is given to the Developer, and the Secured Lender

shall have the same rights (but shall have no obligation) to cure, correct or remedy a default as are provided to the Developer.

(3) Lease of Property. Nothing in this section shall apply to Developer's lease of portions of the Premises or Improvements to other persons or entities. This agreement shall not obligate, provide rights, or otherwise apply to any such lessees, and any such leases shall not relieve Developer of its obligations under this Agreement, including but not limited to its obligations with respect to the leased property.

(4) Sale of Property. Nothing in this section shall limit the Developer's right to sell or otherwise transfer the Premises or Improvements or portions thereof to other persons or entities, but such sale shall not relieve Developer of its obligations under this Agreement, including but not limited to its obligations with respect to the sold or transferred property.

(5) Right to Receive Tax Increment. Only the Developer, or a Related Entity or Secured Lender, pursuant to subsection (b) hereof, and not any subsequent purchaser or tenant, unless expressly consented to in writing by the Agency in accordance with the provisions of this Agreement, shall be entitled to receive Tax Increment for any purpose.

(6) No Assignment if in Default. Notwithstanding anything in this section to the contrary, no assignment or transfer of this Agreement is permitted if the Developer is in default in the performance of any of the material terms, covenants, conditions, and agreements of this Agreement.

(7) Agency's Reasonable Consideration. If, from time to time, the Agency's consent to any assignment and transfer under the terms of this Agreement is required, or if confirmation that such consent is not required is requested, such consent or confirmation, as the case may be, shall not be unreasonably withheld or delayed.

#### 5.9. Indemnification and Liability.

(a) Indemnification. Developer (as "Indemnifying Party") shall indemnify, defend, and hold Agency and its directors, officers, employees, and agents (collectively, the "Indemnified Parties") harmless from and against any and all losses, damages, liabilities, claims, actions, judgments, costs, or expenses of whatever kind that are incurred by Indemnified Party, arising out of or related to any third-party claim alleging:

(1) material breach of any provision of this Agreement by Indemnifying Party or its personnel;

(2) any negligent or more culpable act or omission of Indemnifying Party or its personnel (including any reckless or willful misconduct) in connection

with the performance of its obligations under this Agreement or the construction, use, or occupancy of the Premises;

(3) any bodily injury, death of any person or damage to real or tangible personal property caused by the negligent or more culpable acts or omissions of Indemnifying Party or its personnel (including any reckless or willful misconduct) in connection with the performance of its obligations under this Agreement or the construction, use, or occupancy of the Premises;

(4) any failure by Indemnifying Party or its personnel to comply with any applicable federal, state or local laws, regulations or codes in the performance of its obligations under this Agreement; or

(5) breach of a fiduciary duty owed to the third-party by Indemnifying Party or its personnel.

(b) Liability. Agency is a body corporate and politic of the State of Utah, subject to the Governmental Immunity Act of Utah (the "Immunity Act"), Utah Code Ann. §§ 63G-7-101, *et seq.* In no case shall any of the Indemnified Parties be liable to Developer or any third-party for consequential damages. The Indemnified Parties shall have no liability for any debts, liabilities, deficits or cost overruns of Developer. The Parties agree that the liability of Agency hereunder shall be limited to the payment of the Developer's Tax Increment Share, plus applicable interest, pursuant to the terms and conditions of this Agreement and that Agency shall have no other duty or obligation to Developer or any other person. The Parties agree that the provisions of this Section shall survive the expiration or sooner termination of this Agreement.

## **ARTICLE 6 — DEFAULTS AND REMEDIES**

6.1. Developer Event of Default. The occurrence of any one or more of the following shall constitute an "Event of Default" as such term is used herein:

(a) Failure of Developer to comply with any of the material terms, conditions, covenants, or provisions of this Agreement that is not fully cured by Developer on or before the expiration of a sixty (60) day period (or, if the Agency approves in writing, which approval shall not be unreasonably withheld, conditioned or delayed, such longer period as may be reasonably required to cure a matter which, due to its nature, cannot reasonably be cured within 60 days) commencing upon Agency's written notice to Developer of the occurrence thereof.

6.2. Agency's Remedies in the Event of Default. Upon the occurrence of any Event of Default, Agency, as its sole and exclusive remedies, may, in its sole discretion, pursue any one or more of the following remedies concurrently or successively, it being the intent hereof that none of such remedies shall be to the exclusion of any other:

- (a) Withhold further disbursement of Tax Increment to Developer; and/or
- (b) Reduce the amount of any future disbursement of Tax Increment to Developer by the amount incurred by Agency to cure such default; and/or
- (c) Terminate this Agreement.

**ARTICLE 7 — MISCELLANEOUS**

7.1. Effective Date. This Agreement will become effective when all Parties have signed it (the "Effective Date").

7.2. Termination of this Agreement. This Agreement shall terminate on the earlier of the following: (i) upon notice given by the Agency one (1) year after the Effective Date of this Agreement, if Developer has not commenced construction of the Project on or before that date; or (ii) two (2) years after the date the Reimbursement Term expires; (iii) the date Developer has received an amount equal to the Maximum Reimbursable Amount plus any interest, if applicable; or (v) the date this Agreement is terminated by the Agency following the occurrence of an Event of Default.

7.3. Notices. Any notices, communications, requests, and waivers required or permitted under this Agreement shall be in writing and shall be (i) delivered in person, (ii) mailed, postage prepaid, either by registered or certified mail, return receipt requested, or (iii) by overnight express carrier, addressed in each case as follows:

To Agency:                   Redevelopment Agency of Salt Lake County  
   2001 S. State Street, Suite S2100  
   Salt Lake City, Utah 84190  
   Attn: Ms. Alison Weyher

With a copy to:           Office of the District Attorney  
   2001 S. State Street, Suite S3700  
   Salt Lake City, Utah 84190  
   Attn: Mr. Stephen Barnes

To Developer:               Parley's Partners, LLC  
   1338 South Foothill Drive #305  
   Salt Lake City, Utah 84108  
   Attn: David Bevan and Hooper Knowlton

With a copy to:           Randy Feil  
   3748 Bountiful Blvd  
   Bountiful, Utah 84010

or to any other address as to any of the parties hereto, as such party shall designate in a written notice to the other party hereto. Notices may also be given by facsimile transmission, provided

any such communication is concurrently given by one of the above methods. All notices sent pursuant to the terms of this Section shall be deemed received (i) if personally delivered, then on the date of delivery, (ii) if sent by overnight, express carrier, then on the next federal banking day immediately following the day sent, or (iii) if sent by registered or certified mail, then on the earlier of the third federal banking day following the day sent or when actually received.

7.4. Governing Law. This Agreement has been negotiated and executed in the State of Utah, is intended to be performed in the State of Utah and therefore it is understood and agreed by the Parties that the laws of the State of Utah govern this Agreement, without reference to the choice of law or conflicts of law principles of the State of Utah, both as to interpretation and performance. Venue for any and all legal actions arising hereunder will lie in the District Court in and for the County of Salt Lake, State of Utah.

7.5. Amendments. This Agreement may be amended or supplemented only by an instrument in writing executed by both Agency and Developer.

7.6. Severability. The Parties agree that where possible, each provision of this Agreement shall be interpreted in such a manner as to be consistent and valid under applicable law; but if any provision of this Agreement shall be void, unenforceable, invalid or prohibited under applicable law, such void, unenforceable, or invalid provision shall not affect the other provisions of this Agreement, but this Agreement shall be construed as if such void, unenforceable, or invalid provision had never been set forth herein.

7.7. Further Acts. In addition to the acts and deeds recited herein and contemplated to be performed, executed and delivered by Agency and Developer, Agency and Developer agree to perform, execute and deliver or cause to be performed, executed, and delivered any and all such further acts, deeds and assurances as may be necessary to consummate the transactions contemplated hereby.

7.8. Recordation. This Agreement or a notice or memorandum of this Agreement shall be recorded in the Official Records.

7.9. No Relationship of Principal and Agent. Nothing contained in this Agreement, nor any acts of the Parties, shall be deemed or construed to create the relationship of principal and agent, or of limited or general partnership, or of joint venture or of any other similar association between Agency, its successors or assigns, and Developer, its successors or assigns.

7.10. No Agency. Nothing herein shall be construed as making or constituting Agency as the agent of Developer in making payments pursuant to any construction contracts or subcontracts entered into by Developer for the construction of the Improvements or otherwise. The purpose of all requirements of Agency hereunder is solely to allow Agency to check and require documentation (including lien waivers) sufficient to ensure appropriate reimbursement of Tax Increment for Reimbursable Project Costs. Developer hereby acknowledges that Developer has sole responsibility for constructing the Improvements and paying (subject to reimbursement as provided in this Agreement) for the work done in accordance therewith and that Developer has solely, on Developer's own behalf, selected or approved each contractor, each subcontractor, and each materialman, and that Agency has no responsibility for any such Persons or for the

quality of their materials or workmanship.

7.11. Agency. No agent or employee of Developer or Agency is or shall be deemed to be an agent or employee of the other party. None of the benefits provided by each party to its employees including, but not limited to, workers' compensation insurance, health insurance and unemployment insurance, are available to the employees or agents of the other party. Developer and Agency shall each be solely and entirely responsible for its acts and for the acts of its agents and employees during the performance of this Agreement. Nothing in this Agreement will be construed to make Agency liable to anyone for goods delivered or services performed upon the Premises or for debts or claims accruing against Developer.

7.12. No Presumption. This Agreement shall be interpreted and construed only by the contents hereof and there shall be no presumption or standard of construction in favor of or against either Party.

7.13. Developer's Obligation to Keep Books and Accounting Records; Agency's Right to Audit. Developer shall maintain all records directly relevant to the Reimbursable Project Costs incurred by Developer or a Related Entity pursuant to Generally Accepted Accounting Principles (GAAP) and pursuant to pronouncements by the Financial Accounting Standards Board (FASB) (hereafter "Reimbursement Records"). With not less than seven (7) days prior written notice to Developer, and not more often than once per year, Agency shall have reasonable access during customary business hours to the Reimbursement Records, for the purpose of reviewing and auditing, at Agency's expense, such Reimbursement Records of Developer as necessary to determine Developer's entitlement to receive reimbursements. The Reimbursement Records shall be open to inspection and subject to audit and/or reproduction by Agency or authorized representatives to the extent reasonably necessary, subject to the following: prior to copying or otherwise reproducing any Reimbursement Records Agency shall obtain Developer's written acknowledgment that such Reimbursement Records do not contain confidential business information. The Reimbursement Records must be retained and maintained for a minimum of three (3) years after the end of a budget period. If questions still remain, such as those raised as a result of an audit, records must be retained until completion or resolution of any audit in process or pending resolution.

7.14. Government Records Access Management Act. Developer acknowledges that records and documents provided to Agency may be subject to the Utah Government Records Access and Management Act, Utah Code Ann. §§ 63G-2-101 *et seq.* (1953, as amended). Generally, any document submitted to County is considered a "public record" under GRAMA. Any person who provides to the County a record that the person believes should be protected under subsection 63G-2-305(1) or (2) shall provide both: (1) a written claim of business confidentiality and (2) a concise statement of reasons supporting the claim of business confidentiality. Generally, GRAMA only protects against the disclosure of trade secrets or commercial information that could reasonably be expected to result in unfair competitive injury.

7.15. Reasonableness. Notwithstanding anything to the contrary in this Agreement, when the consent, approval, acceptance or agreement of any Party is required or contemplated, such consent, approval, acceptance or agreement shall not be unreasonably withheld or delayed; provided, this provision shall not bind Agency with respect to its legislative actions.

7.16. No Obligations to Third Parties. The parties agree that Developer's obligations under this Agreement are solely to the Agency and that the Agency's obligations under this Agreement are solely to the Developer. This Agreement shall not confer any rights to or upon third parties unless otherwise expressly provided for under this Agreement. All conditions to the obligations of Agency to make disbursements hereunder are imposed solely and exclusively for the benefit of Agency and no other person shall have standing to require satisfaction of such conditions or be entitled to assume that Agency will not make disbursements in the absence of strict compliance with any or all thereof and no other person, under any circumstances, will be deemed to be a beneficiary of such conditions, any or all of which may be waived in whole or in part by Agency at any time if Agency, in its sole discretion, deems it advisable to do so.

7.17. Entire Agreement. This Agreement constitutes the entire Agreement between the Parties with respect to the Premises, and no statements, promises, or inducements made by either party, or agents for either party, that are not contained in this written Agreement shall be binding or valid; and this Agreement may not be enlarged, modified or altered, except in writing, signed by the Parties.

7.18. Waiver. The parties agree that the waiver of any breach of this Agreement by either party shall in no event constitute a waiver as to any future breach.

7.19. Counterparts. This Agreement may be executed in several counterparts and all so executed shall constitute one agreement binding on all the Parties, notwithstanding that each of the Parties are not signatory to the original or the same counterpart. Further, executed copies of this Agreement delivered by email or facsimile shall be deemed an original signed copy of this Agreement.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the dates shown below.

*[Intentionally Left Blank - Signature Page Follows]*

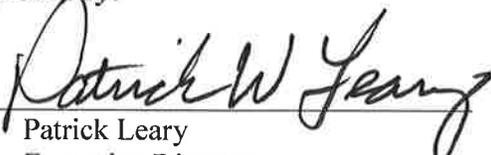
**REIMBURSEMENT AGREEMENT -- SIGNATURE PAGE FOR AGENCY**

**REDEVELOPMENT AGENCY OF  
SALT LAKE COUNTY:**

By   
Arlyn Bradshaw, Chair

Dated: September 1, 20 15

*Approved by:*

By   
Patrick Leary  
Executive Director

Dated: September 9, 20 15

*Approved as to Form and Legality:*

**SALT LAKE COUNTY DISTRICT ATTORNEY**

  
Digitally signed by  
Stephen M. Barnes  
Date: 2015.07.09  
13:19:24 -06'00'

By \_\_\_\_\_  
Stephen M. Barnes  
Deputy District Attorney

*[Signatures continue on next page.]*

**REIMBURSEMENT AGREEMENT -- SIGNATURE PAGE FOR DEVELOPER**

**PARLEYS PARTNERS, LLC**

By



Name: David G Bevan

Title: Manager

Dated: 8/25, 2015

## **LIST OF EXHIBITS**

<b>EXHIBIT A</b>	<b>West Millcreek Project Area Plan, dated September 14, 2009.</b>
<b>EXHIBIT B</b>	<b>Legal Description of the Premises</b>
<b>EXHIBIT C</b>	<b>Phasing Plan</b>
<b>EXHIBIT D</b>	<b>Project Schedule</b>
<b>EXHIBIT E</b>	<b>Reimbursable Improvements Budget and Schedule</b>
<b>EXHIBIT F</b>	<b>Request for Disbursement Form</b>
<b>EXHIBIT G</b>	<b>PROJECT AREA BUDGET</b>

# **EXHIBIT A**

West Millcreek Project Area Plan, dated September 14, 2009.