

**COPY**

**ELEKTRON SOLAR  
COMMUNITY REINVESTMENT PROJECT AREA  
INTERLOCAL AGREEMENT  
by and between the  
REDEVELOPMENT AGENCY OF TOOELE COUNTY  
and  
TOOELE COUNTY**

**THIS INTERLOCAL AGREEMENT** is entered into as of this 23rd day of August, 2019, by and between the **REDEVELOPMENT AGENCY OF TOOELE COUNTY**, a political subdivision of the State of Utah (the “**Agency**”), and **TOOELE COUNTY**, a political subdivision of the State of Utah (the “**County**”). The Agency and the County may be referred to individually as a “**Party**” and collectively as the “**Parties**”.

**A. WHEREAS** the Agency was created pursuant to the provisions of Utah redevelopment law, and continues to operate under the Limited Purpose Local Government Entities – Community Reinvestment Agencies Act, Title 17C of the Utah Code (the “**Act**”), and is authorized thereunder to conduct urban renewal, economic development, and community development activities within Tooele County, Utah, as contemplated by the Act; and

**B. WHEREAS** the Agency created the Elektron Solar Reinvestment Area (the “**Project Area**”) and adopted a community reinvestment plan for the Project Area (the “**Project Area Plan**”), a copy of which is attached hereto as **EXHIBIT A** and incorporated herein by this reference, which includes the legal description and a map of the Project Area, pursuant to which the Agency desires to encourage, promote and provide for development in the Project Area; and

**C. WHEREAS** the County and the Agency have determined that it is in the best interests of the County to provide certain financial assistance through the use of Tax Increment (as defined below) in connection with the development of the Project Areas as set forth in the Project Area Plan; and

**D. WHEREAS** the Agency anticipates providing a portion of the tax increment (as defined in Utah Code Annotated (“**UCA**”) § 17C-1-102(60) (hereinafter “**Tax Increment**”), generated from development within the Project Area, to assist in the development of the Project Area as provided in the Project Area Plan; and

**E. WHEREAS** UCA § 17C-5-202(1) authorizes the County to consent to the payment to the Agency of a portion of the County’s share of Tax Increment generated from the Project Area (the “**County Tax Increment**”) for the purposes set forth therein; and

**F. WHEREAS** UCA § 11-13-215 further authorizes the County to share its tax and other revenues with the Agency; and

**G. WHEREAS** in order to facilitate development of the Project, the County desires to pay to the Agency a portion of the County Tax Increment generated by the Project Area in accordance with the terms of this Agreement; and

**H. WHEREAS** the provisions of applicable Utah State law shall govern this Agreement, including the Act and the Interlocal Cooperation Act, Title 11, Chapter 13 of the UCA, 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. Tax Increment.**

a. Pursuant to Sections 17C-5-202(1) and 204 of the Act and Section 11-13-215 of the Cooperation Act, the County hereby agrees and consents that the Agency shall be paid up to seventy-five percent (75%) of the County Tax Increment generated within the Project Area as described herein. The Agency is authorized to begin collection of the County Tax Increment from a particular parcel upon written notice to the County prior to the beginning of the tax year for which the Agency desires to collect the County Tax Increment.

b. The Agency may collect one hundred percent (100%) of the County Tax Increment generated from each tax parcel within the Project Area for a period of not more than twenty (20) years. For purposes of this Agreement, the Tax Increment generated from each tax parcel includes taxes generated from both the real property and personal property located on such parcel. The Agency shall transfer an annual rebate equal to twenty-two and a half percent (22.5%) of any County Tax Increment collected to the County. This transfer shall occur no later than three (3) months following the Agency’s receipt of the County Tax Increment from the County Treasurer. The years for which the Agency collects Tax Increment from a tax parcel must be consecutive; in other words, once the Agency begins collecting Tax Increment from a tax parcel (also known as “triggering” Tax Increment collection), the Agency may not cease collection of Tax Increment from such tax parcel and later resume the collection of Tax Increment from such tax parcel even if the total number of years for which the Agency would collect Tax Increment from such tax parcel would be less than the 20-year limit set forth herein. The initial and cessation of Tax Increment collection by the Agency under this Agreement shall always be at the beginning and end, respectively, of the calendar year.

c. The Agency may trigger the collection of Tax Increment for any and all tax parcel(s) in the Project Area for any tax year for which the Agency is authorized to collect Tax Increment from the Project Area under this Agreement. Collection of Tax Increment may be triggered at different times for different tax parcels.

d. The base taxable value for a tax parcel to be used for calculating the amount of Tax Increment under this Agreement shall be the combined amount of the taxable value of real property and the value of any taxable personal property located on such tax parcel as of January 1, 2018.



e. The Parties recognize that the value of centrally-assessed property is not allocated to particular parcels within a tax area, meaning that calculations of Tax Increment for individual parcels based on personal property and locally-assessed real property values may not fully reflect the Tax Increment generated by development on a particular parcel. As such, in the event that a particular parcel from the Agency is authorized to collect Tax Increment under this Agreement is centrally assessed, or contains a significant amount of centrally-assessed property, the Agency, in cooperation with the County Assessor, shall determine a value to be used by the County Auditor for calculating the Tax Increment generated by that parcel that allows the Agency to collect Tax Increment that reasonably reflects the value of the centrally-assessed property located on that particular parcel.

f. The County hereby authorizes and directs Tooele County officials and personnel to pay directly to the Agency all amounts due to the Agency under this Agreement in accordance with UCA § 17C-5-204 for the periods described herein.

g. The County shall maintain records of all amounts paid to the Agency under this Agreement on a parcel-by-parcel basis.

2. **Authorized Uses of Tax Increment.** The Parties agree that the Agency may apply the Tax Increment collected hereunder to encourage the development of the Project Area as deemed appropriate by the Agency and contemplated in the Project Area Plan, including but not limited to the cost and maintenance of public infrastructure and other improvements located within or benefitting 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.

3. **No Third-Party Beneficiary.** Nothing in this Agreement shall create or be read or interpreted to create any rights in or obligations in favor of any person or entity not a party to this Agreement. Except for the Parties to this Agreement, no person or entity is an intended third-party beneficiary under this Agreement.

4. **Due Diligence.** Each of the Parties acknowledges for itself that it has performed its own review, investigation, and due diligence regarding the relevant facts upon which this Agreement is based, including representations of the Agency concerning the Project and the Project's benefits to the community and to the Parties, and each Party relies upon its own understanding of the relevant law and facts, information, and representations, after having completed its own due diligence and investigation.

5. **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 in behalf of each Party pursuant to and in accordance with the 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.

e. The term of this Agreement shall commence on the publication of the notice required by Section 17C-4-202 of the Act and shall continue through the date on which all of the final payment of Tax Increment as described herein has been paid to the Agency as provided herein.

f. Following the execution of this Agreement by all Parties, the Agency shall cause a notice regarding this Agreement to be published on behalf of all Parties in accordance with Section 11-13-219 of the Cooperation Act and Section 17C-4-202 of the Act.

**6. 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 all Parties. Any oral representation or modification concerning this Agreement shall be of no force or effect.

**7. Further Assurance.** Each of the Parties hereto agrees to cooperate in good faith with the others, 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. The Parties further agree to take any actions as may be required by or in compliance with the Act or the Cooperation Act as necessary.

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

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

**10. 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.

**11. Authorization.** Each of the Parties hereto represents and warrants to the others 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.

**12. Time of the Essence.** Time shall be of the essence in the performance of this Agreement.

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

**14. Counterparts.** This Agreement may be executed in counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same agreement.

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

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

*[Remainder of page intentionally left blank; signature pages to follow]*



REDEVELOPMENT AGENCY  
OF TOOELE COUNTY

By: 

Name: Jan Trip

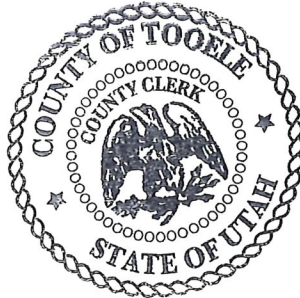
Title: Tooele County Commission chair

Attest:

By: 

Name: Marilynn K. Gillette

Title: Tooele County Clerk



**Attorney Review for the Agency:**

The undersigned, as attorney for the Redevelopment Agency of Tooele County, has reviewed the foregoing Interlocal Agreement and finds it to be in proper form and in compliance with applicable state law.

\_\_\_\_\_

Name:

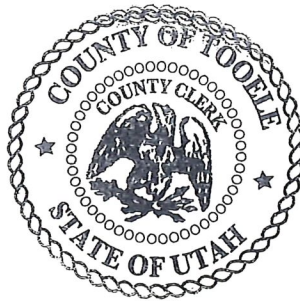
Title: Attorney for the Redevelopment Agency of Tooele County

**REDEVELOPMENT AGENCY  
OF TOOELE COUNTY**

By: Tom Tripp 9/6/19  
Name: Tom Tripp  
Title: Tooele County Commission Chair

*Attest:*

By: Marilyn K. Gullette  
Name: Marilyn K. Gullette  
Title: Tooele County Clerk



**Attorney Review for the Agency:**

The undersigned, as attorney for the Redevelopment Agency of Tooele County, has reviewed the foregoing Interlocal Agreement and finds it to be in proper form and in compliance with applicable state law.

\_\_\_\_\_

Name:

Title: Attorney for the Redevelopment Agency of Tooele County

**EXHIBIT A**  
**PROJECT AREA PLAN & BUDGET**  
(attached)