

TAX INCREMENT PARTICIPATION AGREEMENT

This Tax Increment Participation Agreement (this “Agreement”) is entered into effective as of May 07, 2024, between **Redsky Sandy, LLC**, a Utah limited liability company (the “Company”) and the **Redevelopment Agency of Sandy City**, a Utah political subdivision (the “Agency”) as follows:

- A. The Company is the owner of approximately 2.52 contiguous acres of real property particularly described in the attached **Exhibit A** generally known as Salt Lake County parcel numbers 27-12-476-035 and 27-12-476-041 (the “Property”).
- B. The Property is located within the boundaries of a community reinvestment project area created by the Agency and known as the City Center (South Towne) Redevelopment Project Area (the “Project Area”).
- C. The Company has plans for a mixed-use development including a structured parking facility, commercial area, and multi-family residential, consisting of the following minimum parameters: parking structure on the Property containing at least 215 parking stalls; at least 162 residential units; and at least 2,000 square feet of commercial floor area on the Property (the “Project”).
- D. The Company has presented to the Agency and its consultants sufficient information, including development plans and alternatives, financial statements, and other information, showing justification for the Agency’s participation in the development of the Project, particularly the parking structure, as described below.
- E. The Agency has collected tax increment from the Project Area as permitted under Title 17C of the Utah Code Ann.

AGREEMENT

NOW THEREFORE, in consideration of the mutual covenants, conditions, and considerations as more fully set forth below, the parties hereby agree as follows:

- Company Commitments.** The Company agrees to develop and construct the Project on the Property. Any such development undertaken will be pursued substantially in accordance with plans approved by Sandy City. The Company agrees to provide to the Agency, promptly upon request from the Agency, copies of such information, documents, and records as are reasonably necessary for the Agency to verify the Company’s compliance with this paragraph. The Company is solely responsible for the accuracy of such information, documents, and records provided, and assumes all risk associated with any reliance on the same by the Agency or any taxing entity. If the Company at any time provides materially false, misleading, or incomplete information, documents or records, then the Company will immediately forfeit all rights to any further payments of any kind under this Agreement, and the Company must promptly refund back to the Agency all amounts previously received by the Company under this Agreement.

2. **Financing.** The Company is solely responsible for all the costs of development, construction, maintenance, ownership, repair, etc., of the Project. The Agency will participate with the Company in payment of a portion of the anticipated costs of construction of the parking structure improvements required for the Project, as follows:

- a. *One-time Payment.* Subject to subsection 2.a.ii *below*, the Agency will, one time only, pay up to Three Million Dollars (\$3,000,000.00) (the “Payment”). The Payment will be made to the account of the Participant’s construction lender for the Project, to be disbursed by that lender according to the lender’s requirements as work on the Project progresses. The Agency will match dollar for dollar, up to a maximum of Three Million Dollars (\$3,000,000.00), the value of all contributions of the Participant, which will include, for the avoidance of doubt, land and/or the Builder Sponsor Profit & Risk Allowance (BSPRA) granted to Participant under the loan documents (the “Company Contribution”). If the Company Contribution is less than Three Million Dollars (\$3,000,000.00), then the Payment will match that lesser amount. If the Company Contribution is greater than Three Million Dollars (\$3,000,000.00), then the Payment will equal Three Million Dollars (\$3,000,000.00). In no event will the Payment amount exceed the Company Contribution amount.
- b. *Conditions.* The Agency has no obligation to make the Payment unless and until each of the following has occurred first:
 - i. The Company has obtained a building permit for commencement of work on the Project.
 - ii. The Company has obtained a construction loan to finance the full construction of the Project on or before October 15, 2024, with finalization of that loan conditional only upon receipt of the Payment proceeds from the Agency.
 - iii. The Company has provided to the Agency’s Redevelopment Director and legal counsel a copy of the construction loan documents, and the Agency’s Redevelopment Director and legal counsel are reasonably satisfied with the terms of such loan documents regarding use of the Payment proceeds for the Project. The Company will provide any summaries of loan documents reasonably requested by the Agency’s Redevelopment Director or legal counsel to facilitate such loan document review. The construction loan documents must reasonably protect the Payment proceeds and generally must require that the Payment proceeds and Company Contribution will be provided to the lender pursuant to the loan documents and used in accordance with the loan documents.
 - iv. The Company has contributed to the lender’s construction loan account the Company Contribution.

3. **Covenants.**

- a. The Company shall develop the Project in accordance with the site plans and required

building permits.

- b. The Company shall commence construction within sixty (60) days of the effective date of the construction loan documents.
 - c. In the event the parking structure on the Project is not completed within thirty-two (32) months of the effective date of the construction loan documents, then the Company shall repay to the Agency the Payment; provided, that in the event the failure to complete the parking structure on the Project is a result of any force majeure event or other act of God, or any unforeseen delay in the Project the cause of which is outside the control of the Company, or in the event the Company is working in good faith to mitigate any such delays and to diligently complete the parking structure, the Company shall not be obligated to repay to the Agency the Payment for as long as such force majeure condition or delay exists or such good faith mitigation efforts on behalf of the Company continue.
4. **Agreement Term/Breach/Termination.** Upon the material breach of this Agreement by either party, the non-breaching party may provide notice to the breaching party. The breaching party shall have 60 days to cure the breach, and if the breach is not timely cured, the non-breaching party may then terminate this Agreement by providing final notice to the breaching party.
5. **Successors and Assigns.** This Agreement shall be binding upon the parties and their respective successors and assigns. Neither party may assign its rights or obligations under this Agreement without the advance written consent of the other party, each in their sole discretion. Any assignment made without the consent of the other party is void.
6. **Amendments.** Except as otherwise provided herein, this Agreement may be modified or amended by, and only by, a written instrument duly authorized and executed by the Company and the Agency.
7. **Governing Law and Interpretation.** This Agreement shall be governed by the laws of the State of Utah, and any action pertaining hereto shall be brought in the applicable state or federal court having jurisdiction in Salt Lake County, Utah.
8. **Integrated Agreement.** The above recitals, and all attached exhibits and schedules, are incorporated and made an integral part of this Agreement. This Agreement constitutes the entire agreement of the parties with respect to the subject matter addressed. There are no other contracts or agreements, written or verbal, between the parties relating in any way to the subject matter of this Agreement. No party is relying on any verbal or written statements of the other than those expressly set forth in this Agreement.
9. **Further Assurances.** The parties shall cooperate, take such additional actions, sign such additional documentation, and provide such additional information as reasonably necessary to accomplish the objectives set forth in this Agreement.

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

11. **Third-Party Beneficiaries.** Except for Sandy City which is an intended third-party beneficiary as described in the immediately preceding paragraph regarding indemnification, this Agreement is intended solely for the benefit of the Agency and the Company and there are no intended third party beneficiaries.

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

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

[End of Terms – Signature Page Follows]

THIS TAX INCREMENT PARTICIPATION AGREEMENT IS EXECUTED effective as of the day and year first above written, by:

COMPANY: **Redsky Sandy, LLC**

By: _____
Name:
Title:

AGENCY: **Redevelopment Agency of Sandy City**

By: _____
Executive Director

Attest:

Secretary

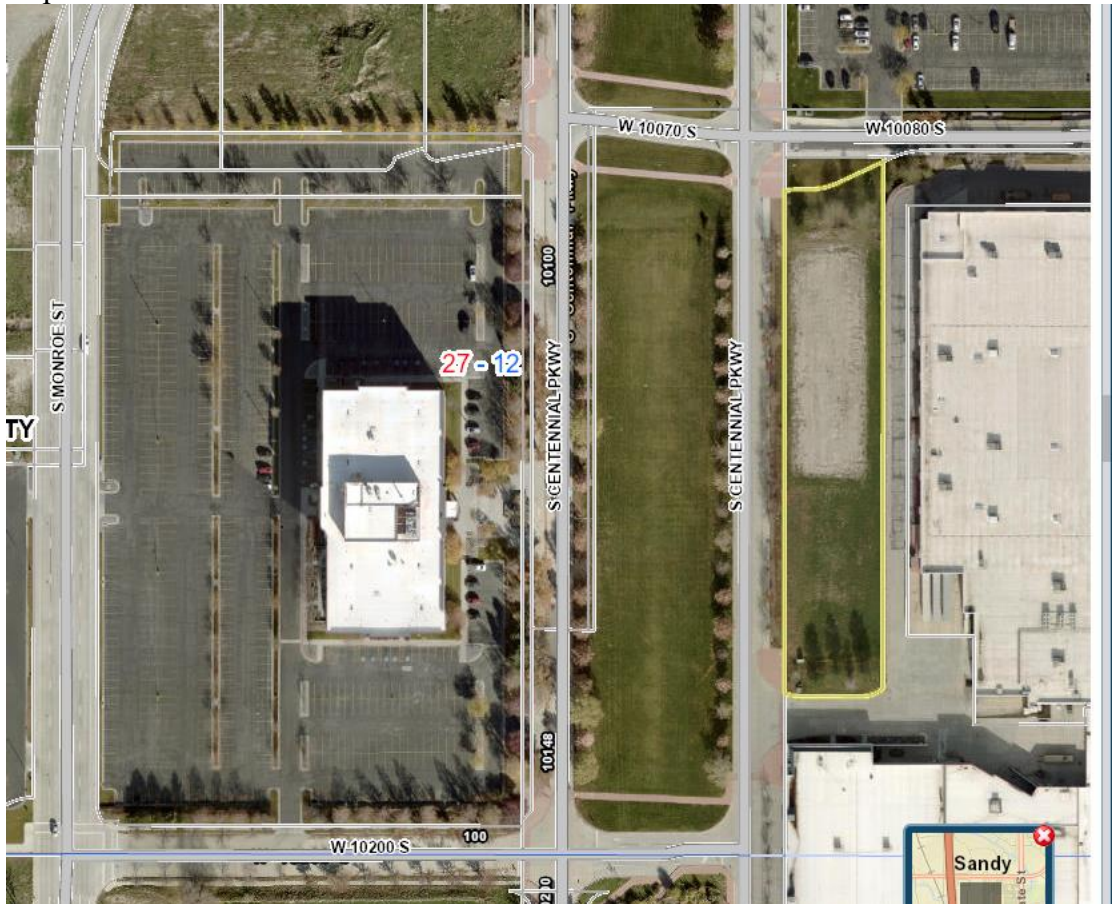
Exhibit A

Property Description

Parcel No. 27-12-476-035

BEG N 89°50'56" E 41.33 FT & N 0°07'35" W 847.85 FT & N 89°59'01" W 280.57 FT & S 86°50'50" W 266.48 FT & N 89°57'20" W 519.88 FT & S 0°00'36" W 90.98 FT FR SE COR SEC 12, T 3S, R 1W, SLM; S 0°00'36" W 558.44 FT; SE'LY ALG A 45 FT RADIUS CURVE TO L 15.9 FT; S 89°50'14" E 72.06 FT; NE'LY ALG A 33 FT RADIUS CURVE TO L 25.07 FT; N 585.21 FT; S 65°32'54" W 58.01 FT; SW'LY ALG A 70 FT RADIUS CURVE TO R 30.93 FT; N 89°08'21" W 11.58 FT; W'LY ALG A 45 FT RADIUS CURVE TO L 16.18 FT TO BEG. 1.45 AC.

Depicted as:



Parcel No. 27-12-476-041

BEG N 89°50'56" E 41.33 FT & N 0°07'35" 847.85 FT & N 89°59'01" W 280.57 FT & S 86°50'50" W 266.48 FT & N 89°57'20" W 519.88 FT & S 0°00'36" W 53.33 FT FR SE COR SEC 12, T3S, R1W, SLM ; N 89°55' E 110.278 FT; S 5.064 FT; S 65°32'54" W 58.01 FT; SW'LY ALG 70 FT RADIUS CURVE TO R, 30.925 FT (CHD S 78°12'16" W); N 89°08'21" W 11.58 FT; SW'LYALG 45 FT RADIUS CURVE TO L, 16.177 FT (CHD S 80°33'44" W); N 0°00'36" E 37.65 FT TO BEG.

Depicted as:

