

**SALT LAKE COUNTY
COUNTY-WIDE POLICY
ON
PUBLIC INFRASTRUCTURE DISTRICT
GOVERNING DOCUMENTS
STANDARDS & REQUIREMENTS**

Purpose

To establish standards and requirements for the County to include in Governing Documents approved for an Applicant to establish a Public Infrastructure District as allowed under the Utah Public Infrastructure District Act.

1.0 Policy

It is the policy of Salt Lake County (the “County”) to provide minimum standards and requirements to include in governing documents to create a Public Infrastructure District.

2.0 Minimum Standards:

This section is intended to identify minimum standards that are required to be included in governing documents with an Applicant to create a Public Infrastructure District.

2.1 Statutory Requirements. Governing documents shall include a boundary description, map of the PID, and number of board members. The governing documents shall also describe divisions of the PID, establish any applicable tax rate limit for the PID for all purposes, except unlimited tax general obligation bonds referenced in Utah Code Section 17B-2a-1209(2), and establish limitations on the principal amount of bonds or other multiple fiscal year obligations for the payment of which the PID may impose an ad valorem property tax rate (“Bonds” or “Debt”).

2.2 Agreements. Governing documents shall prohibit the PID from agreeing to guarantee repayment of money spent during infrastructure construction except from proceeds of Bonds and upon acceptance (if any) of such infrastructure.

2.3 Pricing. Governing documents shall require the PID to be subject to State of Utah’s procurement statutes and regulations or alternatively require all construction project bids paid for or reimbursed by the PID to be reviewed by a third party engineer prior to construction and at the time of pricing for the reasonableness of specifications and price. At a minimum, the acquisition of completed or partially completed improvements shall be for fair market value, as reasonably determined by a surveyor or engineer that the County contracts with, the reasonable costs of which shall be reimbursed by Applicant. Disputes regarding the reasonableness of such costs shall be resolved per Countywide Policy 1700, Section 5.1.

2.4 Reimbursement requests. Governing documents shall require requests to reimburse the Developer to be subject to an independent auditor’s review to ensure the request is within the scope of the Bonds, complies with County policies 1700 *et seq* and the governing documents, and that the expense was incurred according to the State of Utah’s competitive procurement rules or in accordance with U.C.A. 17B-2a-1206(3). Governing documents shall specify remedies for material violations uncovered by an audit, including that the District shall not the release certain funds until violations are cured.

2.5 Notice to Home Buyers. Governing documents shall mandate all PID Board members, their Affiliates, or homebuilders that contract with PID board members or their Affiliates, who sell real property located within the PID to notify in association with their real estate purchase contracts, in a bold and conspicuous manner, of the following matters:

2.5.1 Maximum tax rate for the PID for all purposes, except unlimited tax general obligation bonds referenced in Utah Code Section 17B-2a-1209(2), set by the Governing Documents, including the cost to the buyer to pay the taxes on that maximum tax rate charged by the PID on an average valued property within the PID.

2.5.2 That the property taxes outlined in section 2.5.1 are in addition to any property taxes that a city, county, or other districts may impose.

2.5.3 That property owners within the PID may be subject to additional property taxes for the payment of unlimited tax general obligation bonds referenced in Utah Code Section 17B-2a-1209(2).

2.5.4 Date, times, and locations for PID Board meetings

For purposes of this section, Affiliate means any person or entity that directly, or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with a board member – via voting power, contract or otherwise.

2.6 Recorded Notice. Governing documents shall mandate that the recorded notice required by the Utah Public Infrastructure District Act shall also include the following statement in a bold and conspicuous manner: “This property is located within a Public Infrastructure District. As such, this property is subject to property taxes in addition to those imposed by a city, Salt Lake County, and other districts. The maximum property tax rate for this Public Infrastructure District is ____%. At this maximum tax rate, the property taxes on a home valued at \$400,000 would be \$ _____ annually. The PID may also impose property taxes through unlimited tax general obligation bonds referenced in Utah Code Section 17B-2a-1209(2).”

2.7 Bond Sales.

2.7.1 Prior to the issuance of any Debt issued by the District, the District shall obtain the certification of a registered Municipal Advisor substantially as follows:

2.7.1.1 We are a Municipal Advisor registered with the Securities Exchange Commission and Municipal Securities Rulemaking Board. We certify that (1) the net effective interest rate, defined as the True Interest Cost (TIC), to be borne by [Insert issuing entity] does not exceed a reasonable current [Tax-Exempt] [Taxable] interest rate, using criteria deemed appropriate by us and based upon our analysis of comparable yield securities and (2) the bond structure of [Insert issuing entity], including maturities and early redemption provisions, is reasonable considering the financial circumstances of the District.

2.7.2 Bonds may not be purchased via private placement or limited offering by parties who have a material conflict of interest related to the ownership of the property within the District.

2.8 Authorized amounts of Debt. Governing documents shall prohibit the PID from authorizing more Debt than needed to design, acquire, construct, install, complete, and finance the infrastructure required for the development of property within the PID, identified as maximum bonded indebtedness in the District's Application Documents. Such maximum shall be no more Debt than the costs of the design, acquisition, construction, installation, and completion of the infrastructure required for the development of property within the PID to be financed by the Debt, plus contingencies, reserves, surplus funds, capitalized interest, costs of issuance. Governing Documents shall establish that Debt issued to refund outstanding Debt of the PID shall not count against such maximum indebtedness and that any such refunding shall not extend the final maturity of the initial bond issue without authorization from the creating entity.

2.9 Tax Rates. Governing documents shall establish the maximum tax rate that the PID may impose for all purposes, except unlimited tax general obligation bonds referenced in Utah Code Section 17B-2a-1209(2), and maximum terms of those tax rates. The maximum tax rates and maximum terms shall be based on the pro formas described in section 4.2.3 of Policy 1700, subject to review and recommendation by the PID Application Review Committee and ultimate determination of the County Council. The County Council may also establish a maximum combined tax rate for multiple PIDs overlapping the same property in accordance with Countywide Policy 1700, Section 6.5.

2.10 Not to exceed date. Governing documents shall establish maximum terms for all Bonds.

2.11 Milestones for PID's release of Bond proceeds. To ensure that development of a property tax base keeps pace with Debt obligations, governing documents shall

provide for milestones in the construction of residential and commercial properties (in the form of number of dwelling units and amount of square footage, respectively), completion of which shall be conditions on the District's issuance of any additional Bonds, excluding refunding Bonds.

2.12 District Sunset. Governing documents shall provide a sunset clause to address dissolution of the PID upon completion of infrastructure buildout and paying off all Bonds used to finance the infrastructure or in the event that the PID does not issue any Bonds. Such clauses shall make reference to statutorily prescribed dissolution procedures set forth in the Utah Code Title for Limited Purpose Local Government Entities - Local Districts and any such dissolution procedures that would be carried out accordingly. The clause may address dissolution prior to any levy of taxes and issuance of Bonds for occurrences and conditions outside of the control of the Developer, such as recessions, economic and market conditions, and acts of god; once taxes have been levied and Bonds issued, there shall be no dissolution of the PID except as prescribed under U.C.A. 17B-1-1301 et seq.

2.13 Ownership and maintenance of public infrastructure. Governing documents shall require that infrastructure be dedicated to the proper entity. The District shall be subject to infrastructure standards that are compatible with the infrastructure standards of the County, districts and municipalities to which such infrastructure shall be dedicated.

2.14 Consultant and Attorney Fees. Governing documents shall provide for Developer to reimburse County's reasonable contract costs for consultants and attorneys required to create the governing documents. Disputes regarding the reasonableness of such costs shall be resolved per Countywide Policy 1700, section 5.1.

2.15 District Report. Governing documents shall require the District to report to the County upon request the following information:

2.15.1 Contact information for the District, its general counsel, its accountant, and its trustees and officers including the dates on which the current terms of office of each trustee will expire.

2.15.2 A narrative summary of the progress of the district in implementing its plans for the report year.

2.15.3 The annual financial statements or financial reports of the district required to be submitted to the State Auditor's office for the fiscal year.

2.15.4 A copy of the adopted budget of the District for the current fiscal year, and any amendments or supplements to said budget adopted prior to the date on which the annual report is filed.

2.15.5 A summary of the capital expenditures made by the District in the fiscal year, identifying the major public improvements constructed and amounts and sources of the funds expended therefor.

2.15.6 A full and complete accounting for all other expenditures made during the report year of the proceeds of district Debt.

2.15.7 A list of all rates, fees, and charges imposed and received by the District as of the date on which the report is filed.

2.16 PID Board of Trustees. Governing documents shall indicate how the County will appoint board members and shall establish when board seats shall be transitioned to elected as opposed to appointed seats, consistent with the following subsections:

2.16.1 Qualification for Appointment or Election. If consented to by all property owners within the PID, and no qualified candidate timely files for appointment or declares candidacy, a non-resident may serve on a PID Board of Trustees. For a non-resident to qualify for appointment to the Board, the individual must be an owner of land within the PID, or an agent or officer of the landowner AND the individual must be registered to vote at his or her primary residence. Employees, former employees, or family members of employees/former employees of the District or of any District Board Member desiring to run for election to the District Board shall disclose such relationship in their candidacy filings.

2.16.2 Board Member Terms. A simple majority of the initial appointed board members shall serve a four-year term. The remaining initially appointed members shall serve a six-year term. Thereafter, all terms shall be for four-years.

2.16.3 Term Commencement. The term of each member of the initial board of trustees shall begin upon appointment. The term of all other members of the board of trustees shall begin at noon on January 1 following the member's election or appointment. Initial terms beginning later than January 1 shall be adjusted as necessary to allow for successive terms to begin on January 1 after the municipal general election at least three-years after appointment.

2.16.4 Appointed Board Members. Except as provided in this Policy, appointed board members shall not serve a particular division but instead shall serve at large. At the expiration of an appointed board member's term, the County shall appoint or reappoint such seat from candidates qualified pursuant to paragraph 2.16.1 herein. Consent of property owners at the time of formation of the PID to non-resident board members shall be sufficient to allow the County to appoint a non-resident board member at the time of appointment or reappointment.

2.16.5 Milestones to Establish Divisions. The Governing Documents shall provide whether a PID shall have divisions, and if so, the population thresholds for forming divisions, the number of divisions, how the boundaries of divisions are determined, the approval process of divisions, and the timing of elected division board members in relation to appointed board members.

2.16.6 Transition from Appointed to Elected Board Seats. The transition of a seat from appointed to elected shall take place at the municipal general election but after the relevant milestone for such seat has occurred.

2.16.7 Board Member Elections. PID board member elections shall be conducted as required by Title 17B Chapter 1 of the Utah Code “Provisions Applicable to All Local Districts.”

2.16.8 The number of board seats shall always be uneven.

2.16.9 Division Boundaries. Governing documents shall prohibit a majority-appointed board from altering division boundaries without consent of the County.

2.17 Annexation Area. The Governing Document may allow for annexation to and withdrawal from the initial District boundaries within a pre-determined area (“Annexation Area”) without the additional approval of the Creating Entity pursuant to Section 17B-2a-1204 of the Utah Code. Multiple PIDs may be created with the same Annexation Area to allow for flexibility in phasing of development and land use.

3.0 Future Changes to State Law. This Policy recognizes and automatically incorporates all future amendments, modifications, and recodifications of the Utah Code provisions referenced in Policies 1700, 1701, and 1702.

4.0 Good Faith. As to each governing document for a PID, the County shall, in good faith, diligently work with the Applicant in creating the governing document, and shall do so in a reasonably timely manner, considering the scope and complexity of the requested PID and the County’s experience in reviewing the same. This requirement does not obligate the County to approve a governing document.

APPROVED and PASSED this ____ day of October, 2020

SALT LAKE COUNTY COUNCIL

Max Burdick, Chair

ATTEST:

Sherrie Swensen, County Clerk

APPROVED AS TO FORM:

Zack Shaw

10-7-20

District Attorney's Office

Date