

**SALT LAKE COUNTY COUNTYWIDE POLICY:  
COUNTY PARTICIPATION IN TAX INCREMENT FINANCED PROJECT AREAS  
(2018)**

**Purpose –**

The purpose of this policy is to establish procedures and guidelines for Salt Lake County's (the "County") participation in tax increment financed project areas established under Utah Code Title 17C, by redevelopment agencies within Salt Lake County (hereinafter "Project Areas").

Salt Lake County is the most populous county in the State of Utah. As such, decisions made by the County have a significant impact on the continued prosperity of the State. The County's responsible use of scarce public resources—specifically the use of Project Area funds—should be focused on encouraging economic development, fostering healthy communities, and supporting environmentally and economically sustainable regional development to ensure a thriving metropolitan economy. The County supports collaborative community-led efforts to effectively manage commercial and residential development and redevelopment to meet the robust growth anticipated in our valley. The County's participation in supporting Project Areas shall be based in part on the proposal's linkage to various long-term sustainable growth strategies and plans, which shall include application of the Wasatch Choice for 2050\* principles and toolbox, regional plans developed in collaboration with and adopted by local stakeholders, and Salt Lake County ordinances. Additionally, Salt Lake County's participation in Project Areas will be guided by directives such as the Foothill Canyons Overlay Zone (FCOZ) or Blueprint Jordan River, which have been formally endorsed and/or adopted by Salt Lake County via resolution, policy, or ordinance.

The County's participation in a Project Area will include a negotiation process that will define the terms of the County's involvement. Guidelines to assist this process have been created to educate requesting agencies, guide the negotiation process, and allow the public to be informed. In certain cases, an application ("Project Area Participation Request") may have unique characteristics that do not fully conform to the guidelines, yet have significant community impact. In this case, the County reserves the right to participate at or above the stated participation rates outlined in the policy. Conversely, there may be a project that meets the guidelines, but the County does not believe serves a significant community benefit. In this case, the County reserves the right not to participate. Project Area proposals that contain a majority of Favorable Project Area Considerations listed below and provide significant community benefit will receive the most favorable terms.

This policy shall be administered in accordance with the requirements and limitations of federal, state, and local law, including Utah Code, Title 17C, Chapter 4. Meeting policy guideline criteria does not guarantee the award of County tax increment. Per Title 17C of the Utah Code, for most Project Areas, the County's consent shall be expressed in the form of an interlocal agreement, under Title 11, Chapter 13, Interlocal Cooperation Act, between the County and the redevelopment agency. Further, the County will entertain proposals by any participating taxing entity to administer the payment, reporting, and other processes that they are required to perform as part of an approved Project Area. The County's agreement to participate or not participate in one Project Area is not intended to set precedent for the County's participation in another Project Area.

\* <http://envisionutah.org/wasatch-choice-2050>

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## **Reference –**

Utah Code, Title 17C, Chapter 4

## **1.0 Policy**

- 1.1 It is the policy of Salt Lake County to provide a standardized procedure to process, review, and make recommendations on all Project Area Participation Requests.
- 1.2 As Project Areas and tax increment financing are complex, the County may take up to 90 days following receipt of all requested documents to respond to Project Area Participation Requests. For this reason, the agency is encouraged to contact the County early in the process.

## **2.0 Project Area Considerations**

### **2.1 Primary Favorable Project Area Considerations**

Tax increment financed projects (hereinafter “Projects”) within Project Areas meeting the following criteria will be viewed favorably by the County:

- 2.1.1 Projects that would not happen in a reasonable timeframe, or at the proposed amenity level, “but for” the creation of the Project Area and the use of tax increment financing.
- 2.1.2 Projects that are transit-oriented development (TOD) projects.
- 2.1.3 Projects that will create “new incremental jobs” that are “high paying jobs” within Salt Lake County, as such terms are defined in Section 63N-2-103 of the Utah Code.
- 2.1.4 Projects that include a significant amount of capital investment or capital density within a small geographic footprint—for instance, from taxable personal property or equipment (such as robotic machinery, electronic equipment, computing devices, etc.)—without substantially increasing the cost of services provided by the County or other taxing entities.
- 2.1.5 Projects that are located in a strategic growth area as defined in the Wasatch Choice for 2050 plan, regional plans developed in collaboration with and adopted by local stakeholders, and Salt Lake County ordinances.
- 2.1.6 Projects that will complement regionally significant community planning efforts, such as, but not limited to, Foothill Canyons Overlay Zone (FCOZ), Blueprint Jordan River, etc.

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- 2.1.7 Project Areas for which the County's tax increment participation period is limited to 20 years or less.
- 2.1.8 Project Areas for which the County's tax increment participation rate is limited to 75% or less.
  - 2.1.8.1 Notwithstanding Subsection 2.1.8, above, for projects that meet the criteria outlined in Subsection 2.1.4 and are at least \$100 million in both total capital investment and taxable value, the tax increment participation rate limit under Section 2.1.8 may exclude up to all available tax increment generated from personal property.
- 2.1.9 Project Areas for which the County's cumulative tax increment contribution to the agency is capped at a specified dollar amount.
- 2.1.10 Projects for which the County's tax increment dollars will be used primarily to pay for or reimburse the cost of "public infrastructure and improvements," as defined by Utah Code § 17C-1-102(41), environmental remediation, and/or site preparation.
- 2.1.11 Project Areas for which the local jurisdiction<sup>1</sup> is participating in the proposed project at a rate of at least \$1 for every \$1 contributed by the County from all sources, inclusive of any County Library contributions, either upfront or over the life of the proposed County contribution. The local jurisdiction can demonstrate that it is contributing other resources in addition to Project Area funds proceeds and infrastructure, the value of which is equal to or greater than the prescribed ratio of participation.
- 2.1.12 Project Areas that are confined to a reasonably sized geographic footprint for the project's intended and defined purpose, and do not include excess land for yet-to-be defined future projects or project expansion.

**2.2 Additional Favorable Project Area Considerations**

Project Areas and Projects meeting the following additional criteria may be viewed favorably by the County:

- 2.2.1 Project Areas for which the proposed tax increment collection period is triggered on a specified date or upon achieving a specified dollar amount of capital investment within the Project Area.

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<sup>1</sup> "Local jurisdiction" includes a City's Project Area participation plus any contribution from all other taxing entities (i.e., mosquito abatement district, water district, fire service area, law enforcement area, etc.) except for school district participation which is not included in the \$1:\$1 ratio calculation.

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- 2.2.2 Project Areas for which the proposed agency administrative fee is capped at a certain percentage of tax increment or specified dollar amount, a portion of which is provided to Salt Lake County on an annual basis to cover programmatic expenses including, but not limited to, tax increment analysis, legal overhead, and project reporting costs.
- 2.2.3 Project Areas that will provide an affordable housing set-aside to the Olene Walker Housing Loan Fund, to a housing authority that operates within Salt Lake County, or a city-led affordable housing project that works toward the creation of low-income housing units to the furthest extent possible.
- 2.2.4 Project Areas for which the County Library participation is equal to the school district participation.
- 2.2.5 Project Areas for which the County's tax increment participation amount or rate is conditioned upon achieving certain project benchmarks.
- 2.2.6 Project Areas that will generate additional revenue to the County and its local taxing partners through the creation of higher property assessment values.
- 2.2.7 Project Areas where the environmental impact of power-consuming, water-consuming, or other resource-consuming personal property will be mitigated, to the maximum extent possible, by a renewable energy project, owned in full or part by a renewable energy company with headquarters in Salt Lake County, water conservation project, or other resource conservation project, whichever is applicable, with a portion of such project located within Salt Lake County.
- 2.2.8 Project Areas where best available water control technology is used.

**2.3 Unfavorable Project Area Considerations**

Project Areas and Projects meeting any of the following criteria may be viewed unfavorably by the County:

- 2.3.1 Projects that are predominately market-rate housing.
- 2.3.2 Projects that are predominately retail, unless there is a material justification to do so, which shall be evaluated on a case-by-case basis.
- 2.3.3 Projects that are predominately standalone single-family dwellings.
- 2.3.4 Projects that would merely cause a relocation of jobs or retail sales from one area in the County to another area in the County.

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- 2.3.5 Projects that would involve development on sensitive land designated as open space, foothill, canyon, or other County-designated priority areas.
- 2.3.6 Projects that would not comply with the Blueprint Jordan River Criteria.
- 2.3.7 Projects that request a contribution of the County's sales tax revenues.

**3.0 Project Area Participation Request Timeline; Submission and Evaluation Process**

Absent extenuating circumstances, County staff will attempt to respond to all completed Project Area Participation Requests within 90 days of receipt. The County and the agency submitting the Project Area Participation Request shall adhere to the following procedures:

- 3.1 Step One. The agency shall provide written notice to the County's Municipal Economic Development Director indicating its intent to create a Project Area, containing a short description of the proposed Project Area, and requesting County participation. Following receipt of this written notice, the Municipal Economic Development Director shall direct the agency to submit a Project Area Participation Request and may arrange a meeting with agency representatives to discuss the proposed Project Area.
- 3.2 Step Two. The agency shall submit a completed Project Area Participation Request. The Project Area Participation Request shall be submitted through the County's Public Project Area Database, or as otherwise directed by the Municipal Economic Development Director. A completed Project Area Participation Request includes, but is not limited to, all of the following materials:
  - Project Area Participation Request Application
  - Project Area Boundary Map; (GIS boundary map with supporting files)
  - Detailed Narrative Project Area Summary
  - Final or Draft Project Area Plan
  - Final or Draft Project Area Budget (setting forth the tax increment, administrative costs, project term, pass-through scenarios, sales tax, and other revenues)
  - All Proposed or Adopted Agency and Community Resolutions and Ordinances related to the Project Area
  - All Proposed or Executed Participation Agreements with other Taxing Entities (if available)
- 3.3 Step Three. Following receipt of a completed Project Area Participation Request (including all of the materials listed in Section 3.2 above), the County Mayor shall conduct a due diligence review, negotiate the terms of an interlocal agreement with the agency (if applicable), and submit a written recommendation to the County Council indicating whether the County should participate in the proposed Project Area and to what extent.

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- 3.4 Step Four. Following receipt of a written recommendation from the County Mayor, the County Council shall review the Mayor's recommendation and shall request a briefing at a Committee of the Whole Meeting, at which time the County Council may provide additional guidance. If any incentives are being offered to private enterprise, or if any participation agreements have been entered into or will be entered into with private enterprise, this must be disclosed or known publicly at, or prior to, the briefing during the Committee of the Whole Meeting.
- 3.5 Step Five. After the Committee of the Whole Meeting, the Mayor, or the Director of the County's Department of Regional Transportation, Housing and Economic Development, acting as the Mayor's designee for such matters, shall, consistent with the Mayor's recommendation and any guidance provided by the County Council, negotiate any additional or modified terms of an interlocal agreement with the agency, and work with the District Attorney's Office to draft a final interlocal agreement consistent with the negotiated terms. The Director of the County's Department of Regional Transportation, Housing and Economic Development shall then review and approve the interlocal agreement and submit it to the County Council for final approval.
- 3.6 Step Six. Upon receipt of the interlocal agreement, the County Council shall schedule a public hearing. At the public hearing, the County Council shall take public comment. Following the public hearing, the County Council shall either approve and adopt or deny and reject the proposed interlocal agreement in an open and public meeting. If at the public meeting the County Council votes to approve and adopt the interlocal agreement, the County Council shall adopt a resolution authorizing the County Mayor to execute the interlocal agreement in substantially the form submitted.
- 3.7 Step Seven. Following adoption of a resolution authorizing the County Mayor to execute the interlocal agreement, the County Mayor (or authorized designee) shall execute the same.

**4.0 Interlocal Agreements**

- 4.1 The County shall enter into an interlocal agreement with the requesting agency for each approved Project Area. Absent extenuating circumstances, the interlocal agreement shall be in the form prescribed by the County.
- 4.2 The interlocal agreement shall not be amended unless authorized and approved by the County Council in an open and public meeting following a public hearing.

**5.0 Annual Disclosure Reports**

- 5.1.1 Each agency that receives tax increment from the County for a Project Area shall, for the duration of the Project Area funds collection period: (a) submit a disclosure report to the County Council and County Mayor no later than May 1st of each year for the previous calendar year; and (b) submit information (such as the annual report

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pursuant to Section 17C-1-603 of the Utah Code) to and otherwise participate in the County's Public Project Area Database (i.e., a database established by the County for the collection and display of Project Area information).

- 5.1.2 All annual disclosure reports submitted under this section shall be posted on a conspicuous place on the County's public website or posted to the County's Public Project Area Database, as determined by County staff.
- 5.1.3 The annual disclosure report shall include the following:
  - 5.1.3.1 The name, street and mailing address, phone number, business license number (if applicable), and chief officer of each entity receiving County tax increment.
  - 5.1.3.2 A status report and updated GIS map documenting the status of the economic development objectives completed in the approved Project Area plan and a summary of any material changes to said objectives.
  - 5.1.3.3 The applicable expenses and eligible project uses of the County's tax increment.
  - 5.1.3.4 Matching public and private contributions toward the project.
  - 5.1.3.5 Annual itemized reporting of completed and planned development expenditures and related agreements, to be published on the County's Public Project Area Database.
  - 5.1.3.6 Completed and planned affordable housing and other residential projects (if applicable).
  - 5.1.3.7 Any new company relocations and/or expansions.
  - 5.1.3.8 A certified reconciliation statement reflecting the actual amount of County tax increment disbursed over the prior year as compared to the amount of tax increment projected for that year in the original project budget.
  - 5.1.3.9 An affidavit signed by the chief executive officer and chief financial officer of each entity receiving County tax increment certifying as to the accuracy of the information provided in the annual disclosure report.
- 5.2 Any entity that fails to comply with the annual disclosure report obligations of this section may be subject to forfeiture of future County tax increment.

**6.0 Project Access**

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- 6.1 The County shall have access at all reasonable times to the development agency and the project records of any entity receiving the County's tax increment, whether directly or indirectly, to monitor the project and verify compliance with the Project Agreements.
- 6.2 Any agency that fails to provide the County access to the project site at a reasonable time may be subject to forfeiture of future County increment.

**7.0 Administrative Fees:**

A negotiated portion of the County's tax increment may be used for administrative fees of the agency. However, all agencies requesting tax increment from the County shall provide a negotiated percentage of administrative fees to Salt Lake County on an annual basis to help cover programmatic expenses, including, but not limited to, tax increment analysis, legal overhead, and project reporting costs.

APPROVED AND PASSED THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2018.

SALT LAKE COUNTY COUNCIL

\_\_\_\_\_  
Aimee Winder-Newton, Chair

ATTEST:

\_\_\_\_\_  
Sherrie Swensen, County Clerk

APPROVED AS TO FORM

\_\_\_\_\_  
Deputy District Attorney

\_\_\_\_\_  
Date