

Tax Differential Use, Utah Inland Port Authority

The purpose of this policy is to establish procedures and guidelines for tax differential use by the Utah Inland Port Authority (Authority) project area(s) established under Utah Code Title 11-58. The Authority'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 Authority supports collaborative efforts to effectively manage commercial development and redevelopment to meet the robust growth anticipated in our State. The Authority's participation shall be based in part on linkage's to various long-term sustainable growth strategies and plans.

The Authority's participation in a Project Area will include a negotiation process that will define the terms of the Authority's involvement. Guidelines to assist this process have been created to educate requesting parties, guide the negotiation process, and allow the public to be informed. In certain cases, an application may have unique characteristics that do not fully conform to the guidelines, yet have significant community impact. In this case, the Authority 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 Authority does not believe serves a significant community benefit. In this case, the Authority reserves the right not to participate. Proposals for tax differential that contain a majority of Favorable Project Area Considerations listed below and provide significant community benefit will receive the most favorable terms.

Meeting policy guideline criteria does not guarantee the award of Authority tax differential. Further, the Authority 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 Authority'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.

These principles should guide the successful economic development efforts in the Inland Port Area, and to help determine the allocation of time and resources. In order to ensure the successful implementation of these principles, metrics will be developed, implemented, and tracked to

objectively measure the success of economic development and redevelopment efforts. Projects shall provide sufficient evidence that tax increment funding is necessary for the project to succeed and verify that the request is reasonable; and Involve significant private investment of capital improvements so as to assure adequate yield of tax increment.

These guiding principles are:

1. Retain and expand existing businesses and stimulate new commercial and industrial development.
2. Generate sufficient and sustainable revenues to taxing entities.
3. Diversify revenue sources to minimize potential revenue shortfalls.
4. Participation Level
 - a. Tax increment recipients will not receive more than 75% of the available tax increment received by the Authority, unless significant need can be demonstrated.
5. Need Based
 - a. Tax differential will be shared on a need based system only, using the “but for” test. Tax differential will only be used to eliminate impediments to the development, be they physical or economic impediments.

Priority for tax differential will be given to the following four categories:

1. Administration (capped at 2%)
2. Public infrastructure
3. Costs associated with building an inland port
4. Costs associated with significant impediments to site development
5. Corporate incentives

1.0 Policy

1.1 It is the policy of the Authority to provide a standardized procedure to process, review, and make recommendations on all Project Area Participation Requests. ^{[[1]]}_[SEP]

1.2 As Project Areas and tax increment financing are complex, the Authority may take up to 120 days following receipt of all requested documents to respond to Project Area Participation Requests. For this reason, the agency is encouraged to contact the Authority early in the process. ^{[[1]]}_[SEP]

2.0 Project Area Considerations^{[[1]]}_[SEP]

2.1 Primary Favorable Project Area Considerations

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

2.1.1 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. [L] [SEP]

2.1.2 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 of taxing entities. [L] [L] [L] [L] [L] [L] [SEP] [SEP] [SEP]

2.1.3 Projects for which tax differential participation rate is typically limited to 75% or less. [L] [L] [L] [L] [L] [L] [SEP] [SEP] [SEP] [SEP]

2.1.4 Project’s 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. [L] [L] [SEP]

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 Projects for which the proposed tax differential collection period is triggered on a specified date or upon achieving a specified dollar amount of capital investment within the Project Area. [L] [L] [L] [L] [L] [L] [SEP] [SEP]

2.2.2 Projects for which the Authority’s tax differential participation amount or rate is conditioned upon achieving certain project benchmarks. [L] [L] [SEP]

2.2.3 Projects that will generate additional revenue to the Authority and its local taxing partners through the creation of higher property assessment values. [L] [L] [SEP]

2.2.4 Projects 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, water conservation project, or other resource conservation project, whichever is applicable. [L] [L] [SEP]

2.2.5 Projects where best available water control technology is used. [L] [L] [SEP]

2.3 Unfavorable Project Area Considerations

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

2.3.1 Projects that are predominately market-rate housing. [L] [L] [SEP]

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. [L] [L] [SEP]

2.3.3 Projects that are predominately standalone single-family dwellings. [L] [SEP]

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. [L] [SEP]

2.3.5 Projects that would involve development on sensitive land designated as open space, foothill, canyon, or other County-designated priority areas. [L] [SEP]

3.0 Project Area Participation Request Timeline; Submission and Evaluation Process Absent extenuating circumstances, Authority staff will attempt to respond to all completed Project participation requests within 120 days of receipt. The Authority and the entity submitting the Project participation Request shall adhere to the following procedures:

3.1 Step One. The entity shall provide written notice to the Authority's executive director indicating its intent to create a Project, containing a short description of the proposed Project, and requesting Authority participation. Following receipt of this written notice, the executive director shall direct the entity to submit a Project participation request and may arrange a meeting with Authority representatives. [L] [SEP]

3.2 Step Two. The agency shall submit a completed Project participation request. The Project participation request will be submitted in writing to the executive director of the Authority. A completed Project participation request, includes but is not limited to, all of the following materials: 1 [L] [SEP]

Project Area Boundary Map; (GIS map with supporting files) [L] [SEP]

Detailed narrative Project Summary [L] [SEP]

Final or Draft Project Plan [L] [SEP]

Final or Draft Project Budget (setting forth the tax increment, [L] [SEP] administrative costs, project term, pass-through scenarios, and other [L] [SEP] revenues) [L] [SEP]

3.3 Step Three. Following receipt of a completed Project participation request (including all of the materials listed in Section 3.2 above), the executive director of the Inland Port Board shall conduct a due diligence review, negotiate the terms of an inter-local agreement with the entity (if applicable), and submit a written recommendation to the Authority indicating whether the Authority should participate in the proposed Project and to what extent. [L] [SEP]

3.4 Step Four. Following receipt of a written recommendation from the executive director, the Inland Port Board shall review the executive director's recommendation and shall request a briefing at a Inland Port

Board meeting, at which time the Inland Port Board 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 Inland Port Board meeting. [L] [SEP]

3.5 Step Five. After the Inland Port Board meeting, the executive director, shall, consistent with the executive director's recommendation and any guidance provided by the Inland Port Board, negotiate any additional or modified terms of an agreement with the entity, and work with the Inland Port's legal representation to draft a final agreement consistent with the negotiated terms. The executive director shall then review and approve the agreement and submit it to the Inland Port Board for final approval. [L] [SEP]

3.6 Step Six. Upon receipt of the agreement, the Inland Port Board shall schedule a public hearing. At the public hearing, the Inland Port Board shall take public comment. Following the public hearing, the Inland Port Board shall either approve and adopt or deny and reject the proposed agreement in an open and public meeting. If at the public meeting the Inland Port Board votes to approve and adopt the agreement, the Inland Port Board shall adopt a resolution authorizing the executive director to execute the Inland Port Board agreement in substantially the form submitted. [L] [SEP]

3.7 Step Seven. Following adoption of a resolution authorizing the executive director to execute the agreement, the executive director (or authorized designee) shall execute the same. [L] [SEP]

3.8 Applications that result in, if approved, an agreement that reimburses one million dollars (\$1,000,000) or more of tax differential shall complete the following steps to be considered by the Authority. If the tax differential reimbursement is below \$1,000,000, the third party financial analysis may be waived by the Authority executive director.

The executive director shall consult with a third party financial analyst to provide a recommendation with a supporting analysis on:

- 1) the public benefit anticipated to be derived from the proposed project, and
- 2) determination of financial need and whether or not the proposed project might reasonably occur through private investment without the Reimbursement.

The third party will also, if applicable, conduct an analysis of comparable values of equivalent properties (both the difference and the percentage relative to comparable values) to ensure that the Reimbursement is not being used to reimburse overvalued land costs. The third party financial analysis shall be provided to the Inland Port Board prior to the Board's consideration of the Reimbursement application.

4.0 Agreements

4.1 The Authority shall enter into an agreement with the requesting entity for each approved Project. Absent extenuating circumstances, the agreement shall be in the form prescribed by the Authority. [L] [SEP]

4.2 The agreement shall not be amended unless authorized and approved by the Inland Port Board in an open and public meeting following a public hearing. [L] [SEP]

4.3 The agreement shall include the following:

4.3.1 The Authority intends that the beneficiary of the tax differential reimbursement will be the owner of the project for the life of the agreement. In the event of a transfer or sale of the property, the agreement and all benefits conferred under the agreement shall benefit the project and be recorded against the property to run with the land, with the intent that all tax differential reimbursements will remain with the owner of the real property and project. In the event that the ownership of the real property and improvements are severed, the Authority will have sole discretion to determine the beneficiary of the tax differential.

4.3.2 If the agreement is executed and the real property and project are conveyed to a third party while the improvements are still being constructed, the Authority will retain the right to consent to the transfer the agreement to the new owner, in order to ensure that the benefits the Authority anticipated receiving under the original agreement with the original developer are consistent with the new developer. If the Authority does not consent to the transfer of the agreement, the tax differential reimbursement will cease and the agreement will terminate.

5.0 Annual Disclosure Reports

5.1 Each entity that receives tax differential from the Authority for a Project shall, for the duration of the Project funds collection period: (a) submit a disclosure report to the Inland Port Board and executive director no later than May 1st of each year for the previous calendar year; and (b) submit information to and otherwise participate in the Authority's public project area database (i.e., a database established by the Authority for the collection and display of Project information).

5.1.1 All annual disclosure reports submitted under this section shall be posted on a conspicuous place on the Authority's public website. [L] [SEP]

5.1.2 The annual disclosure report shall include the following:

5.1.2.1 The name, street and mailing address, phone number, business license number (if applicable), and chief officer of each entity

receiving Authority tax increment. [L] [SEP]

5.1.2.2 A status report and updated GIS map documenting the status of the economic development objectives completed in the approved Project plan and a summary of any material changes to said objectives. [L] [SEP]

5.1.2.3 The applicable expenses and eligible project uses of the Authority's tax increment. [L] [SEP]

5.1.2.4 Matching public and private contributions toward the project. [L] [SEP]

5.1.2.5 Annual itemized reporting of completed and planned development expenditures and related agreements, to be published on the Authority's public website. [L] [SEP]

5.1.2.6 Completed and planned affordable housing and other residential projects (if applicable). [L] [SEP]

5.1.2.7 Any new company relocations and/or expansions. [L] [SEP]

5.1.2.8 A certified reconciliation statement reflecting the actual amount of Authority tax differential disbursed over the prior year as compared to the amount of tax differential projected for that year in the original project budget. [L] [SEP]

5.1.2.9 An affidavit signed by the chief executive officer and chief financial officer of each entity receiving Authority tax differential certifying as to the accuracy of the information provided in the annual disclosure report. [L] [SEP]

5.2 Any entity that fails to comply with the annual disclosure report obligations of this section may be subject to forfeiture of future Authority tax differential.

6.0 Project Access

6.1 The Authority shall have access at all reasonable times to the project and the project records of any entity receiving the Authority's tax differential, whether directly or indirectly, to monitor the project and verify compliance with the Project agreements. [L] [SEP]

6.2 Any entity that fails to provide the Authority access to the project at a reasonable time may be subject to forfeiture of future Authority differential.

7.0 Eligible Categories for tax differential use

Eligible differential uses shall be categorized as either project-specific improvements or system-wide improvements, as follows:

7.0.1 Project-Specific Improvements [L] [SEP] Tax differential reimbursements may facilitate project-specific improvements ("Project

Improvements") that benefit a single parcel or parcel assemblage. Project owners/developers will receive a portion of the new, additional taxes generated by the Project Improvements over a limited period of time. ^[L]_{SEP}

7.0.2 System-wide Improvements^[L]_{SEP} tax differential reimbursements may facilitate system-wide improvements ("System Improvements") that benefit more than one parcel and property owner. A portion of the new, additional taxes generated by development that has been facilitated by the System Improvements may be paid toward the cost of System Improvements on a pro-rata basis. Applications for reimbursement for System Improvements will be given priority based on the date the application is made, and the Authority will commit tax differential based on priority of the application. ^[L]_{SEP}

7.1 Design Requirements

Projects approved for tax differential reimbursement must consider the Authority's design criteria and utilize the guidelines as practicable, and promote green building standards and encourage good planning design. Projects will be required to be in conformance with all Salt Lake City policies, ordinances, and codes.

8.0 Reimbursement terms

8.1 Maximum Reimbursement Percentage

The maximum amount of tax increment available for reimbursement shall be seventy-five percent (75%) of the annual tax differential generated from the properties within the Project Area and collected and retained by the Authority. Exceptions may be made by the Inland Port Board dependent upon the following criteria:

8.1.1 Capital expenditures in excess of one billion (\$1,000,000,000).

8.1.2 Projects that will create a significant number of high-paying jobs.

8.1.3 Projects that create a unique economic opportunity as defined by the Inland Port Board.

8.2 Maximum Reimbursement Term^[L]_{SEP} The maximum reimbursement term shall be twenty-five (25) years or the sum of the remaining operating years of the Project Area, whichever is less. Exceptions may be made by the Inland Port board according to the criteria in 8.1.

8.3 Reimbursement Standards: Project Improvements

The standards for calculating the amount of tax differential available to an applicant for Project Improvements, pursuant to 7.1.1, shall be as follows:

8.3.1. The difference between the base taxable value of the proposed project under either of the following scenarios:

8.3.1.1 Calculate the Total Annual Tax Increment from the Project^[L] improvements and the estimated new growth in taxable value resulting from the Project Improvements. (New Growth-Base Value)^[L] then Multiplied by the sum of the current effective tax rate of the participating taxing entities.
 $(\text{New Growth} - \text{Base Value}) \times (\text{Effective Tax Rate}) = \text{Total Annual td}$

8.3.1.2 Total Annual tax differential multiplied by the taxing entity participation rate (the percentage of tax differential collected by the Authority)
 $(\text{Total Annual td}) \times (\text{participation rate}) = \text{Annual td Collected by the Authority}$

8.3.1.3 Over the term of the td agreement calculate the maximum amount of tax differential available to the project.
 $(\text{Estimated Year 1 tax differential Reimbursement to Applicant}) \times (\text{the Term of the agreement}) = \text{Total tax differential Available to the project over the term. An annual growth multiplier may be applied to this calculation.}$

8.4 Reimbursement Standards: System-Wide Improvements

The standards for calculating the amount of tax differential available to a project for System Improvements, pursuant to 8.3, shall be as follows:

8.4.1 Improvement Plan^[L] In addition to standard application materials required by the Authority for tax differential reimbursement, a project shall submit an improvement plan that may, depending on the scope of the proposed project, include the following information:

8.4.1.1 A list of tax parcels comprising the area to be served by the System Improvement ("Improvement Area"), including owners and parcel numbers. These parcels shall be located within the Project Area and be determined to be directly affected and substantially benefited by the System Improvements.

8.4.1.2 A map or drawing clearly identifying the boundaries of the Improvement Area, including the location of the System Improvements.

8.4.1.3 The total estimated cost of System Improvements, and the proportion of the total cost that will be paid by the project.

8.4.1.4 Any non-tax differential sources of revenue and/or financing known at the time of application.

8.4.1.5 The proposed period of time for which tax differential will be collected from the Improvement Area for reimbursement on the System Improvements.

8.4.1.6 The anticipated impact the System Improvements will

have on future property development.

8.4.1.7 An estimate of anticipated development and future value resulting from System Improvements.

8.4.1.8 The geographic area and tax parcels that tax differential shall be captured, on a pro-rata basis, for the System Improvements. [L] [SEP]

8.4.1.9 The total amount and schedule that tax increment shall be reimbursed to offset up-front expenses incurred by the project to develop System Improvements. [L] [SEP]

8.5 Sufficient Tax Increment [L] [SEP]

The actual total of the tax differential reimbursement may fluctuate. Tax differential reimbursement is dependent on the development of property and increment being generated, and projects that do not generate sufficient tax differential during the Reimbursement Term will not qualify for the full tax differential reimbursement amount. [L] [SEP]

8.6 Tax Differential Obligations [L] [SEP]

The Authority shall only be obligated to capture and reimburse tax differential generated from property taxes paid on behalf of the property. [L] [SEP]

8.7 Interest [L] [SEP]

Interest will not accrue against the Authority on the anticipated or projected tax differential to be reimbursed to the project. [L] [SEP]

8.8 Tax Appeals.

All reimbursement recipients shall be required to notify the RDA if they have applied for a property tax appeal with Salt Lake County related to the tax increment reimbursement. In the event that any such appeal results in a reduction in property taxes, the percentage share of the tax increment payable to the recipient shall be decreased, and the percentage share of the tax increment payable to the RDA shall be increased, so that the dollar amount payable to the RDA is the same as if no appeal of the assessed value had been made.

[L] [SEP]