Ivins City, Utah
City Manager's Office

POLICY STATEMENT:
ESTABLISHING PUBLIC INFRASTRUCTURE DISTRICTS

This policy statement addresses the criteria under which Ivins City, Utah (the "City") will consider applications for proposed Public Infrastructure Districts (the "District"). Compliance with these criteria shall not obligate the City to approve formation of the District. The Governing Document will be subject to approval by the City in both form and substance. The criteria are intended to serve as guidelines for the review of letters of intent and Governing Documents.

The policy statement has three sections:

1. **Process for applying including fees charged**
2. **The City's decision-making criteria**
3. **Governing Document requirements**

I. Process and Fees

Any proposed Public Infrastructure District will be considered in relation to the best interests of the City. Such interests include using the most appropriate financing mechanism for the type and magnitude of the improvements to be financed and appropriate governance mechanism. If through the review process, a Public Infrastructure District is determined to be the most appropriate mechanism, the process, the criteria, and requirements provided herein will apply, unless otherwise waived by the City.

A. Petition and Letter of intent to form a Public Infrastructure District

The applicant shall submit (1) a petition meeting the requirements outlined in Utah Code Title 17B, Chapter 1, Part 2 as modified by 17B-2a-1204 and (2) a letter of intent containing the following information in summary form. The petition and letter will be used by staff to make a preliminary determination about the appropriateness of a District and must be submitted prior to submittal of a draft Governing Document. A positive staff response to the petition or letter of intent does not assure approval of the Governing Document. The petition shall also be submitted concurrently with the recorder of the City for certification pursuant to Title 17B.

Letter of Intent contents:

1. Description of District area including size, location, area context (significant natural and man-made features, major public improvements, adjacent development), development history, and proposed development;

2. Description of proposed development within the boundaries of the proposed District including general distribution of land uses and densities and phasing of development;

3. Summary of needed infrastructure, services and facilities:

    a. Currently expected development scenario;

b. Required local and regional infrastructure and facilities for such development;

c. Regional and local infrastructure the proposed District is to provide;

d. Estimated construction costs for the proposed District improvements;

e. General description of phasing of construction based on development projections;

f. Anticipated maximum or fixed maximum mill levy required to meet debt service of the District;

g. Analysis of proposed mill levies in light of outstanding debt and mill levies of other taxing entities affecting the area; and

h. A sample plan of finance depicting the possible sources and uses of funds for the District.

4. Proposed timeline for District creation.

5. Acknowledgement that a consent must be signed prior to the hearing date for the Governing Document by all property owners and registered voters, if any, within the proposed District boundaries approving of the creation of the proposed District and consenting to the issuance of debt in an amount sufficient for the proposed plan of financing.

6. Disclosure of any conflicts of interest between the applicant and the officers and employees of the City.

7. Copies of signed engagement letters between the applicant and applicable consultants and legal counsel retained by the City and/or the proposed District whereby applicant agrees to pay fees related to the review of the application and governing document.

B. Review Process

1. The Technical Review Committee ("TRC") is a City committee that will be utilized to advise the Mayor, City Council and other policy-makers about district issues. The TRC will review the petition and letter of intent utilizing these criteria to make a recommendation to the City Council who will then determine whether or not to direct the applicant to proceed with preparation of a draft Governing Document for submittal. Conceptual approval does not assure approval of the governing document.

C. Governing Document

1. If the concept for the District as contained in the letter of intent is approved, the City staff will work jointly with applicant and legal and financial advisors to submit a draft Governing Document to the City's Management Office.

2. The draft Governing Document will be reviewed by the TRC for compliance with the criteria and requirements contained herein. The TRC will discuss with appropriate policy-makers issues that arise during this drafting period to have such issues resolved.

3. The final Governing Document will be forwarded to City Council for action through the standard City and statutory processes.

D. Fees

No request to create a Public Infrastructure District shall proceed until the fees set forth herein are provided for. All checks are to be made payable to Ivins City and sent to the City Manager's Office.

1. Letter of Intent: A Letter of Intent is to be submitted to the City Manager's Office and a $5,000 retainer shall be paid at the time of submittal of the Letter to cover the cost of staff review.

2. If the applicant proceeds to the submittal of a Governing Document the applicant shall be required to pay actual costs of the City in connection with the review and negotiation of the Governing Document. The City may request an additional retainer at such time.

3. Other Expenses: The applicant for a District shall pay all reasonable consultant, legal, financial advisor, and other fees and expenses incurred by the City in the process of reviewing the draft Governing Document prior to adoption and other such fees and expenses as may be necessary to interface with such District. All such fees and expenses shall be paid within 30 days of receipt of an invoice for these additional fees and expenses. The City may request an additional retainer to cover such costs.

II. Criteria for Evaluating Proposed Public Infrastructure Districts

A. Public Benefit

Formation of a District bestows certain benefits on the District's proponents and is expected to provide public benefit consistent with the Creating Entity's policy goals. Components of public benefit to be considered shall include some of the following:

1. Resulting development that is in conformance with the City's General Plan and Zoning Ordinance;

2. Provision of and/or contribution to needed regional and sub-regional infrastructure;

3. Sustainable design including multimodal transportation, water conserving landscape design, thoughtful development phasing, green building design, and formation of and participation in transportation management programs;

4. Mixed-use development that includes a variety of housing types and prices, a range of employment opportunities, retail and consumer services, and civic amenities;

5. High quality site and building design, including street connectivity, multimodal street design, durable construction materials, and pedestrian-friendly building design;

6. Preservation or creation of open space, parks, trails, or other outdoor public amenities; and

7. Commercial and/or industrial development that will provide employment opportunities, retail, dining, entertainment, and consumer services.

B. Evaluation Criteria

These criteria provide thresholds for consideration. Compliance with some or all of these criteria is desired; however, alternative approaches may be considered.

1. Districts should not include land that is already included within the boundaries of another public infrastructure district without express provision in an adopted Governing Document. In such cases, the relationship with the existing districts must be addressed in the Governing Document.

2. A District planning to levy more than 10 mills of tax in the District for repayment of limited tax bonds will not be considered without sufficient justification as to why additional mills are necessary and reasonable for the development.

3. There must be a demonstrated public benefit directly resulting from the creation of the District and its undertakings as described in the Governing Document.

C. Evaluation of Applicant

The following criteria relating to the applicant and the development will be considered:

1. Historical performance of the applicant (within and outside of the City);

2. The current proposed plan of finance of the District;

3. The current development plans relationship to the General Plan of the City; and

4. The regional, economic development, or overall benefits to the City from the proposed plan of finance.

III. Governing Document Requirements

In addition to statutory requirements, a Governing Document memorializes the understandings between the District and the City, as well as the considerations that compelled the City to authorize the formation of the District. The Governing Document for the proposed District shall contain and will be reviewed for compliance with the following policies and requirements.

A. District Description

1. Description of District area including size, location, area context (significant natural and man-made features, major public improvements, adjacent development), development history within the proposed district boundaries, and proposed development scenario (land uses by type and intensity and general urban design character).

2. Description of the public benefit resulting from the creation of the District and its undertakings.

3. Itemization and description of all needed infrastructure (both regional and local) and facilities in the District's area.

4. Explanation of the relationship, if any, between the District and any other public infrastructure districts with overlapping boundaries. If more than one district is proposed to be created within an inclusion area, describe how ultimate district boundaries will be determined.

5. Estimated construction costs of such infrastructure.

6. General description of phasing of construction based on development projections and phasing.

7. Provide the following financial plan information:

    a. Proforma financial overview of total costs and total revenues from all revenue sources, including internal rate of return anticipated in conjunction with the proforma;

    b. An example plan of finance showing a proposal of how the proposed financing might take place, recognizing that the actual financing terms and structure will be approved by the board of trustees of the District (the "Board") within the parameters of this Governing Document;

    c. Comparison of the mill levies of similar taxing entities in the area;

    d. Proposed operating budgets for the District's first three years of existence; and

    e. Any other forms of public financing and assistance being sought, including assessment areas.

8. Description of the ultimate ownership and provision for the ongoing operating and maintenance costs for infrastructure.

9. Description of any proposed divisions and an inclusion/exclusion process as appropriate.

10. Proposed governance plan, including Board structure and to transition from appointed Board to elected Board.

B. <u>Requirements and Expectations</u>

1. The planned ownership of the Improvements, including any relationship with an existing statutory district must be addressed in the Governing Document.

2. All debt issued by the District for which a tax is pledged to pay the debt service shall meet the requirements of all applicable statutes.

3. All bonds shall have a maximum term and termination date.

4. Land, easements or improvements to be conveyed or dedicated to the City and any other local government entity shall be conveyed in accordance with the related standards at no cost to the City.

5. All public infrastructure within the District which will be connected to and owned by another public entity shall be subject to all design and inspection requirements and other standards of such public entity.

6. The District shall not pledge as security any land, assets or funds to be transferred to the City.

7. The District shall be subject to City zoning, subdivision, building codes, and all other applicable City ordinances and regulations. Approval of the Governing Document shall not bind the City to approve other matters which the District or developer may request.

8. The District shall pay all fees and expenses as provided in the Governing Document.

9. The District may not double tax, whether by mill levy, assessment, impact fees, or any combination thereof, any end user for the costs of Improvements.

10. The District shall 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 employed or selected by the City, the reasonable costs of which shall be reimbursed by applicant. If there shall be any disputes regarding the reasonableness of such price or bids, such disputes shall be settled by the estimated price or bid as determined by an engineer selected by the City and the applicant or third party engineer referenced above.

11. Any requests to reimburse the Developer will be subject to a surveyor or engineer employed or selected by the City review to ensure the request is within the scope of the PID's bonds, complies the governing document, 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.

12. To ensure that development of a property tax base keeps pace with debt obligations, the Governing Document 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, or some other metric as set forth in the governing document), completion of which shall be conditions on the District's issuance of any additional bonds.

13. The Governing Document shall provide a sunset clause to address dissolution of the District 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.

14. Bonds may not be purchased by parties who have a material conflict of interest related to the ownership of the property within the District.

C. Disclosure and Reporting Requirements

Disclosure of the existence of the District to property owners and potential property owners within the District is important and the following actions to be taken by each District shall be included in the Governing Document.

1. Within 30 days after the formation of the District, the Board shall record a notice with the county recorder:

    a. Containing a description of the boundaries of the District;

    b. Stating that a copy of the Governing Document is on file at the office of the City;

    c. Stating that the District may finance and repay infrastructure and other improvements through the levy of a property tax;

    d. Stating the maximum rate that the District may levy;

    e. A disclosure outlining the impact of any applicable property tax, in substantially the following form:

    "Under the maximum property tax rate of the District, a primary residence valued at $[insert average anticipated residential property value] would have an **additional annual property tax of $_____** for the duration of the District's Bonds. A business property valued at $[insert average anticipated commercial property value] would have an **additional annual property tax of $_____** for the duration of the District's Bonds."; and

f. If applicable, stating that the debt may convert to general obligation debt and outlining the provisions relating to conversion.

2. Applicant, homebuilders, commercial developers, and commercial lessors, as applicable, shall be required to disclose the following information to initial resident homeowners, renters, commercial property owners, and/or commercial tenants:

   a. All of the information required under C.1. above;

   b. Such disclosures shall be contained with the REPC on a separate colored page of the applicable closing or lease documents and shall require a signature of such end user acknowledging the foregoing.

   c. Such other permitted or legally required notices as shall be requested by the City (including after creation of the District).

3. At least annually following the formation of the District, the District shall notify (by mail, e-mail, or posting to the District's website) property owners in the District of the existence of the District and of the next scheduled meeting of the Board of the District. Such meeting shall occur at least 30 days and not more than 60 days following the date of the notice. Such notification shall include names and contact information of the Board of Directors and officers, the address, telephone and fax numbers, and e-mail address of the District, and shall include reference to the existence of a District file maintained by the City as described below.

4. The District shall provide the following information to the City Manager's Office on an annual basis, and the District shall create and maintain a file for public review of the following information.

   a. Annual District budget;

   b. Annual financial report or audit of the District, as applicable under relevant statutory provisions;

   c. Total debt authorized and total debt issued and presently planned debt issuances;

   d. Names and terms of Board members and officers and progress towards milestones required for transition to elected Board;

   e. Rules and regulations of the District regarding bidding, conflict of interest, contracting, and other governance matters, if changed;

   f. List of current interlocal agreements, if changed (to be delivered to the City upon request);

g. List of all current contracts for services or construction (to be delivered to the City upon request);

h. Official statements of current outstanding bonded indebtedness, if not previously received by the City;

i. Current approved Governing Document, if changed; and

j. District Office contact information.

5. The following shall be considered significant changes to the Governing Document, thereby requiring approval by the City:

   a. Exclusion or inclusion of property without Governing Document and Statute required approvals;

   b. Change in the maximum mill levy;

   c. Consolidation with any other district; and

   d. Change in the dissolution date.

Submittal Instructions

All letters of intent, draft Governing Documents, annual financial information, and additional documents and requested information should be submitted to the City Manager's Office:

Ivins City
Attn: City Manager
55 N Main
Ivins, UT 84738
(435) 628-0606