

Part 2

Funds for Community Development Project from Other Entities

17C-4-201 Consent of a taxing entity to an agency receiving tax increment or sales tax funds for community development project.

- (1) An agency may negotiate with a taxing entity for the taxing entity's consent to the agency receiving the taxing entity's project area funds for the purpose of providing money to carry out a proposed or adopted community development project area plan.
- (2) The consent of a taxing entity under Subsection (1) may be expressed in:
 - (a) a resolution adopted by the taxing entity; or
 - (b) an interlocal agreement, under Title 11, Chapter 13, Interlocal Cooperation Act, between the taxing entity and the agency.
- (3) Before an agency may use project area funds received under a resolution or interlocal agreement adopted for the purpose of providing money to implement a proposed or adopted community development project area plan, the agency shall:
 - (a) obtain a written certification, signed by an attorney licensed to practice law in this state, stating that the agency and the taxing entity have each followed all legal requirements relating to the adoption of the resolution or interlocal agreement, respectively; and
 - (b) provide a signed copy of the certification described in Subsection (3)(a) to the appropriate taxing entity.
- (4) A resolution adopted or interlocal agreement entered under Subsection (2) on or after March 30, 2009 shall specify:
 - (a) if the resolution or interlocal agreement provides for the agency to be paid tax increment:
 - (i) the method of calculating the amount of the taxing entity's tax increment from the project area that will be paid to the agency, including the agreed base year and agreed base taxable value;
 - (ii) the project area funds collection period; and
 - (iii) the percentage of the taxing entity's tax increment or maximum cumulative dollar amount of the taxing entity's tax increment that the agency will be paid; and
 - (b) if the resolution or interlocal agreement provides for the agency to be paid a taxing entity's sales and use tax revenue:
 - (i) the method of calculating the amount of the taxing entity's sales and use tax revenue that the agency will be paid;
 - (ii) the project area funds collection period; and
 - (iii) the percentage of sales and use tax revenue or the maximum cumulative dollar amount of sales and use tax revenue that the agency will be paid.
- (5)
 - (a) Unless the taxing entity otherwise agrees, an agency may not be paid a taxing entity's tax increment:
 - (i) that exceeds the percentage or maximum cumulative dollar amount of tax increment specified in the resolution or interlocal agreement under Subsection (2); or
 - (ii) for more tax years than specified in the resolution or interlocal agreement under Subsection (2).
 - (b) Unless the taxing entity otherwise agrees, an agency may not be paid a taxing entity's sales and use tax revenue:
 - (i) that exceeds the percentage or maximum cumulative dollar amount of sales and use tax revenue specified in the resolution or interlocal agreement under Subsection (2); or

- (ii) for more tax years than specified in the resolution or interlocal agreement under Subsection (2).
- (6) A school district may consent to an agency receiving tax increment from the school district's basic levy only to the extent that the school district also consents to the agency receiving tax increment from the school district's local levy.
- (7)
 - (a) A resolution or interlocal agreement under this section may be amended from time to time.
 - (b) Each amendment of a resolution or interlocal agreement shall be subject to and receive the benefits of the provisions of this part to the same extent as if the amendment were an original resolution or interlocal agreement.
- (8) A taxing entity's consent to an agency receiving funds under this section is not subject to the requirements of Section 10-8-2.
- (9)
 - (a) For purposes of this Subsection (9), "successor taxing entity" means any taxing entity that:
 - (i) is created after the date of adoption of a resolution or execution of an interlocal agreement under this section; and
 - (ii) levies a tax on any parcel of property located within the project area that is the subject of the resolution or the interlocal agreement described in Subsection (9)(a)(i).
 - (b) A resolution or interlocal agreement executed by a taxing entity under this section may be enforced by or against any successor taxing entity.

Amended by Chapter 350, 2016 General Session

17C-4-202 Resolution or interlocal agreement to provide project area funds for the community development project area plan -- Notice -- Effective date of resolution or interlocal agreement -- Time to contest resolution or interlocal agreement -- Availability of resolution or interlocal agreement.

- (1) The approval and adoption of each resolution or interlocal agreement under Subsection 17C-4-201(2) shall be in an open and public meeting.
- (2)
 - (a) Upon the adoption of a resolution or interlocal agreement under Section 17C-4-201, the agency shall provide notice as provided in Subsection (2)(b) by:
 - (i)
 - (A) publishing or causing to be published a notice in a newspaper of general circulation within the agency's boundaries; or
 - (B) if there is no newspaper of general circulation within the agency's boundaries, causing a notice to be posted in at least three public places within the agency's boundaries; and
 - (ii) publishing or causing to be published a notice on the Utah Public Notice Website created in Section 63F-1-701.
 - (b) Each notice under Subsection (2)(a) shall:
 - (i) set forth a summary of the resolution or interlocal agreement; and
 - (ii) include a statement that the resolution or interlocal agreement is available for public inspection and the hours of inspection.
- (3) The resolution or interlocal agreement shall become effective on the date of:
 - (a) if notice was published under Subsection (2)(a)(i)(A) or (2)(a)(ii), publication of the notice; or
 - (b) if notice was posted under Subsection (2)(a)(i)(B), posting of the notice.
- (4)

- (a) For a period of 30 days after the effective date of the resolution or interlocal agreement under Subsection (3), any person may contest the resolution or interlocal agreement or the procedure used to adopt the resolution or interlocal agreement if the resolution or interlocal agreement or procedure fails to comply with applicable statutory requirements.
- (b) After the 30-day period under Subsection (4)(a) expires, a person may not contest:
 - (i) the resolution or interlocal agreement;
 - (ii) a distribution of tax increment to the agency under the resolution or interlocal agreement; or
 - (iii) the agency's use of project area funds under the resolution or interlocal agreement.
- (5) Each agency that is to receive project area funds under a resolution or interlocal agreement under Section 17C-4-201 and each taxing entity that approves a resolution or enters into an interlocal agreement under Section 17C-4-201 shall make the resolution or interlocal agreement, as the case may be, available at the taxing entity's offices to the public for inspection and copying during normal business hours.

Amended by Chapter 350, 2016 General Session

17C-4-203 Requirement to file a copy of the resolution or interlocal agreement -- County payment of tax increment to the agency.

- (1) Each agency that is to receive funds under a resolution or interlocal agreement under Section 17C-4-201 shall, within 30 days after the effective date of the resolution or interlocal agreement, file a copy of it with:
 - (a) the State Tax Commission, the State Board of Education, and the state auditor; and
 - (b) the auditor of the county in which the project area is located, if the resolution or interlocal agreement provides for the agency to receive tax increment from the taxing entity that adopted the resolution or entered into the interlocal agreement.
- (2) Each county that collects property tax on property within a community development project area shall, in the manner and at the time provided in Section 59-2-1365, pay and distribute to the agency the tax increment that the agency is authorized to receive under a resolution approved or an interlocal agreement adopted under Section 17C-4-201.

Amended by Chapter 350, 2016 General Session

17C-4-204 Adoption of a budget for a community development project area plan -- Amendment.

- (1) An agency may prepare and, by resolution adopted at a regular or special meeting of the board, adopt a community development project area budget setting forth:
 - (a) the anticipated costs, including administrative costs, of implementing the community development project area plan; and
 - (b) the tax increment, sales and use tax revenue, and other revenue the agency anticipates receiving to fund the project.
- (2) An agency may, by resolution adopted at a regular or special meeting of the board, amend a budget adopted under Subsection (1).
- (3) Each resolution to adopt or amend a budget under this section shall appear as an item on the agenda for the regular or special board meeting at which the resolution is adopted without additional required notice.
- (4) An agency is not required to obtain taxing entity or taxing entity committee approval to adopt or amend a community development project area budget.

Amended by Chapter 350, 2016 General Session