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Special Districts for Public Finance - PIDs and IFDs

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Public Infrastructure Districts (“PIDs”)

&

Infrastructure Financing Districts (“IFDs”)

What is a Public Infrastructure District?

- ❖ A PID is a “limited purpose local government entity,” like other forms of special district
- ❖ Governed by:
 - ❖ **Public Infrastructure District Act**, Utah Code Title 17D, Chapter 4
 - ❖ **Special District Act**, Utah Code Title 17B, Chapter 1, “Provisions Applicable to All Special Districts”
 - ❖ In the event of a conflict between the two, the PID Act supersedes the Special District Act

What is a PID? (continued)

- ❖ PID is an **independent public entity**, separate from the city or county that approved its creation
- ❖ Neither the creating entity nor the developer/property owners have any liability for PID debts

What is an Infrastructure Financing District?

- ❖ Created by the legislature this year; became effective May 1st
- ❖ An IFD is also a “limited purpose local government entity,” similar to PIDs and other special districts
- ❖ Governed by the **Special District Act**, Utah Code Title 17B, Chapter 1, “Provisions Applicable to All Special Districts” (as of May 1st)
- ❖ Creation **does not require approval** of the local legislative body

What is an IFD? (continued)

- ❖ IFDs **cannot levy property taxes** except for a very small amount to cover administrative expenses (maximum 0.4 mills or \$0.0004 per dollar)
- ❖ Primary source of revenue is through **Special Assessments**
- ❖ Assessments on residential property **must be paid off** as a condition of Certificate of Occupancy
- ❖ IFD is also an **independent public entity**, separate from any other city, county or district
- ❖ Neither the city/county nor the developer/property owners have any liability for IFD debts

PID Growth in Utah - By the Numbers

- ❖ The PID Act was enacted by the state legislature in 2019 (Renumbered and amended in 2021)
- ❖ Since 2019, **103** PIDs have been **created** in Utah so far. Of those PIDs:
 - ❖ **17** PIDs have **issued bonds**
 - ❖ 6 of our PID clients are currently in some stage of bond issuance
 - ❖ Many PIDs are created to issue bonds for future phases of development
- ❖ **Largest bond issuance** in Utah to date: Inland Port PID, **\$150 million**
- ❖ Estimated **total amount of bonds issued** in Utah to date: **Over \$750 million**

What can a PID or IFD do?

- ❖ **Levy property taxes**
 - ❖ *PID*: Up to a maximum of 15 mills or \$0.015 per dollar of tax value
 - ❖ *IFD*: Up to a maximum of 0.4 mills or \$0.0004 per dollar, BUT cannot pledge this revenue to secure bonds (may be used for administrative expenses only)
- ❖ Create Special Assessment Areas and **make assessments**
- ❖ **Charge fees** for administrative and other services
- ❖ **Construct or purchase public infrastructure** both inside and outside its boundaries (for IFD, minimum of \$1 million)
- ❖ **Issue bonds** to finance public infrastructure and administrative expenses
- ❖ **Dedicate public infrastructure** to other public entities
- ❖ Own, maintain and operate its own public infrastructure (though in practice this is uncommon)

What CAN'T a PID or IFD do?

- ❖ **Grant development entitlements** to a property owner/developer - that is reserved to the city or county
- ❖ **Obligate a city or county** to bear any costs or liabilities of the district
- ❖ Finance **improvements to be owned by a private entity** (e.g., developer, private utility provider, etc.)

Economic Development Tools

- ❖ PIDs & IFDs have a narrow mandate: to **facilitate financing of public improvements** through issuance of bonds
- ❖ Offer an **alternative to commercial financing** in difficult capital markets
- ❖ Provides access to **lower interest rates**, and because the debt is non-recourse, can **increase access to capital** for a developer when paired with other sources of funding



Economic Development Tools (continued)

- ❖ Can provide **enhanced infrastructure**, **relieve burden of infrastructure costs** on other local governments, or **accelerate development timetables**
- ❖ Can facilitate financing of **regionally significant infrastructure**
- ❖ In an efficient market, cost savings *may* be passed on to end users of property



What public improvements can be financed?

- ❖ **Anything for which bonds may be issued** under the Local Government Bonding Act (Utah Code § 11-14-03)
- ❖ **BUT the improvements must be intended for ownership by a public entity,** e.g., a city, county, special district, or other public utility (or by the district itself)

Examples of eligible public improvements

- ❖ public offices
- ❖ courthouses
- ❖ jails
- ❖ fire stations
- ❖ police stations
- ❖ detention homes
- ❖ waterworks
- ❖ irrigation systems
- ❖ water systems
- ❖ dams
- ❖ reservoirs
- ❖ water
- ❖ treatment plants
- ❖ sewer systems
- ❖ sewage treatment plants
- ❖ incinerators
- ❖ drainage systems
- ❖ flood control systems
- ❖ storm sewers
- ❖ recreational facilities
- ❖ playgrounds
- ❖ athletic fields
- ❖ gymnasiums
- ❖ public baths
- ❖ swimming pools
- ❖ camps
- ❖ parks
- ❖ picnic grounds
- ❖ fairgrounds
- ❖ golf courses
- ❖ zoos
- ❖ boating facilities
- ❖ tennis courts
- ❖ auditoriums
- ❖ stadiums
- ❖ arenas
- ❖ theaters
- ❖ convention centers
- ❖ roads
- ❖ bridges
- ❖ viaducts
- ❖ tunnels
- ❖ sidewalks
- ❖ curbs
- ❖ gutters
- ❖ parking buildings
- ❖ parking lots
- ❖ airports
- ❖ landing strips
- ❖ air navigation facilities
- ❖ schools
- ❖ museums
- ❖ art galleries
- ❖ libraries
- ❖ hospitals
- ❖ convalescent homes
- ❖ homes for the aged or indigent
- ❖ electric light works
- ❖ electric generating systems
- ❖ transmission facilities
- ❖ substations

Bond Financing Models



- ❖ Bonds are usually sold to investors in the bond market
- ❖ **Returns are tax-free** to investor/bondholder
- ❖ Rates are generally higher than municipal bonds but **lower than commercial financing**
- ❖ Backed by a projected stream of revenue to the district
 - ❖ **Property Tax Levy - PID ONLY** (up to 30 years)
 - ❖ **Special Assessments** (up to 30 years but because it is a fixed amount per property, may be paid off sooner and in an IFD *must* be paid off sooner)
 - ❖ **Service or contract fees** to be collected over time

PID Creation Process

- ❖ Petition requires **consent of owners of 100% of surface property** and all voters within the proposed boundary
- ❖ **Governing document negotiated** between the petitioners and the creating entity
- ❖ Creation requires **local legislative body resolution** - complete discretion to approve or deny
- ❖ **Final local entity plat** (“FLEP”) is signed by creating body and county surveyor
- ❖ FLEP, resolution, and related documents are **filed with Lt. Governor’s office**
- ❖ Lt. Governor issues **Certificate of Creation**
- ❖ Certificate, FLEP and related documents are **recorded at county**

IFD Creation Process

- ❖ Petition requires **consent of owners of 100% of surface property** and all voters within the proposed boundary
- ❖ Petition, FLEP and related documents are filed **directly with the county clerk**
- ❖ FLEP is signed by **county clerk and county surveyor**
- ❖ County clerk files petition, FLEP and related documents **with Lt. Governor's office**
- ❖ Lt. Governor issues **Certificate of Incorporation**
- ❖ Certificate, FLEP and related documents are **recorded at county**

PID & IFD Administration

- ❖ A PID or IFD is administered in a manner **similar to other special districts**
- ❖ **Board of Trustees** is the governing/legislative body
 - ❖ Three or five member board is typical
 - ❖ May be elected, but usually are appointed property owner representatives
- ❖ Trustees usually also **serve as the officers**, i.e., Chair, Vice-chair/Treasurer, Clerk/Secretary
- ❖ PIDs with a residential component generally **transition from appointed to elected board** based on certain trigger events



PID & IFD Administration (continued)

- ❖ Trustees are subject to **Utah Public Employees & Officers Ethics Act** and must disclose conflicts of interest
- ❖ Subject to **Utah Open and Public Meetings Act**
- ❖ Subject to **Government Records Access and Management Act** (“GRAMA”)
- ❖ Districts must be audited annually (beginning with the year first received revenue)

Medical School Campus PID



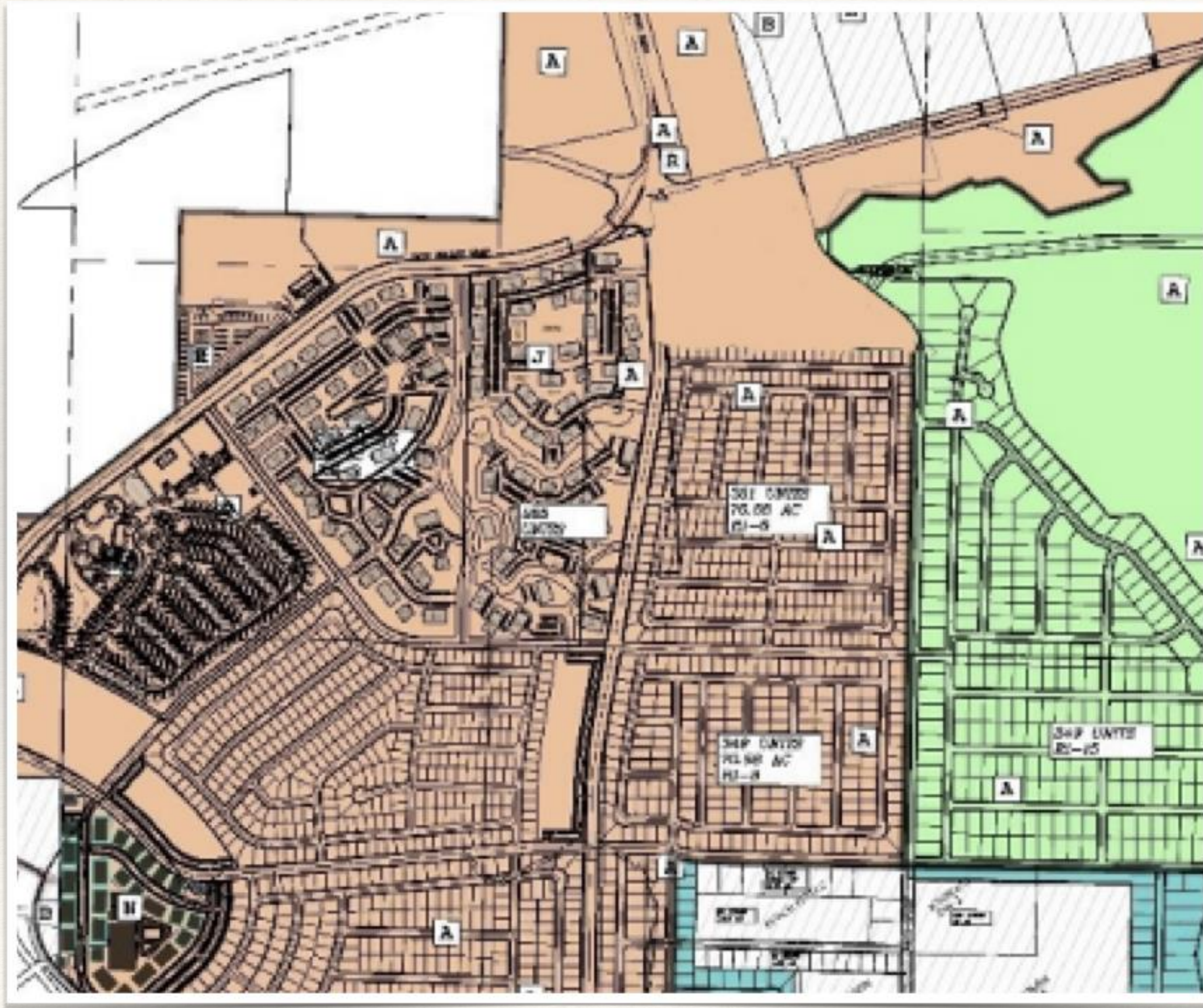
- ❖ Provo City and Noorda College had been working together for years to bring new medical school to the City
- ❖ Noorda purchased a portion of the East Bay Golf Course from the City to construct the campus, but infrastructure costs were very high because it was the site of a former landfill
- ❖ Provo City and Noorda worked together to create the Medical School Campus PID
- ❖ The PID issued \$42 million in property tax bonds

Downtown East Streetcar Sewer PID

- ❖ South Salt Lake City lacked sewer capacity along S-Line area, halted issuance of building permits
- ❖ Collection of 11 developers representing 3,500 apartment units and 30k commercial SF worked with the City to form a PID
- ❖ PID issued approximately \$33,000,000 of bonds to finance sewer improvements
- ❖ Allowed city to resume issuing building permits to property owners participating in the PID
- ❖ Future property owners wishing to connect must either annex into PID or pay impact fee to City that will be remitted to PID



Gateway at Sand Hollow PID Nos. 1-3



- ❖ Large, mixed use master planned development in Hurricane City with three PIDs reflecting major phases of development
- ❖ Area had struggled to develop in the past
- ❖ PID commitment to finance backbone infrastructure and may also finance purchase of water rights for City
- ❖ PID No. 1 issued \$40,000,000 of bonds

Black Desert PID

- ❖ Black Desert Resort master planned development in Ivins City
- ❖ PID created to provide enhancements with regional benefits to both residents of the PID and the city
- ❖ Complemented the city's long-term vision as a resort destination community
- ❖ Improvements approved for PID financing included:
 - ❖ Parking structures
 - ❖ Pedestrian bridge
 - ❖ Convention center
 - ❖ Trails & nature center
 - ❖ Road and utility infrastructure
- ❖ Initial property tax bond issuance \$106 million, pending issuance of additional \$250 million+ assessment bond



Required Reports and Disclosures

- ❖ District creation and boundary documents are publicly **recorded with the county recorder**
- ❖ District must file **annual reports** with the local city or county (PIDs as required in governing document, IFDs as required by statute)
- ❖ District must file various annual and quarterly reports with the **Utah State Auditor**
- ❖ Districts which have issued bonds must file **quarterly disclosures** and **annual budget reports** with a third party bond trustee, publicly posted for bondholder and public inspection (<https://emma.msrb.org/>)

Required Reports and Disclosures (continued)

- ❖ State law requires **publication of notice of certain events**, such as a board's decision to issue bonds, and provides for contest periods during which an affected party may challenge the action
- ❖ **Prospective buyers of property** in a district receive multiple notices and disclosures, including:
 - ❖ Realtors generally **disclose on the MLS** whether a property is located within a district boundary
 - ❖ The standard state form of **seller property condition disclosure** includes a section for disclosure of district existence
 - ❖ Because creation and assessment documents are recorded, a **title commitment** discloses the existence of a district and whether any assessment liens exist
 - ❖ If a purchase is being financed, **loan closing disclosures** show the anticipated loan payment, including any portion to be escrowed for taxes and assessments
 - ❖ A seller is required to **disclose in writing** the existence of the district and any taxes levied, on a separate colored paper, to be signed by the buyer at closing
 - ❖ If property taxes have been levied, they are disclosed as a separate line item on an **annual property tax notice**
- ❖ **Creating body can require**

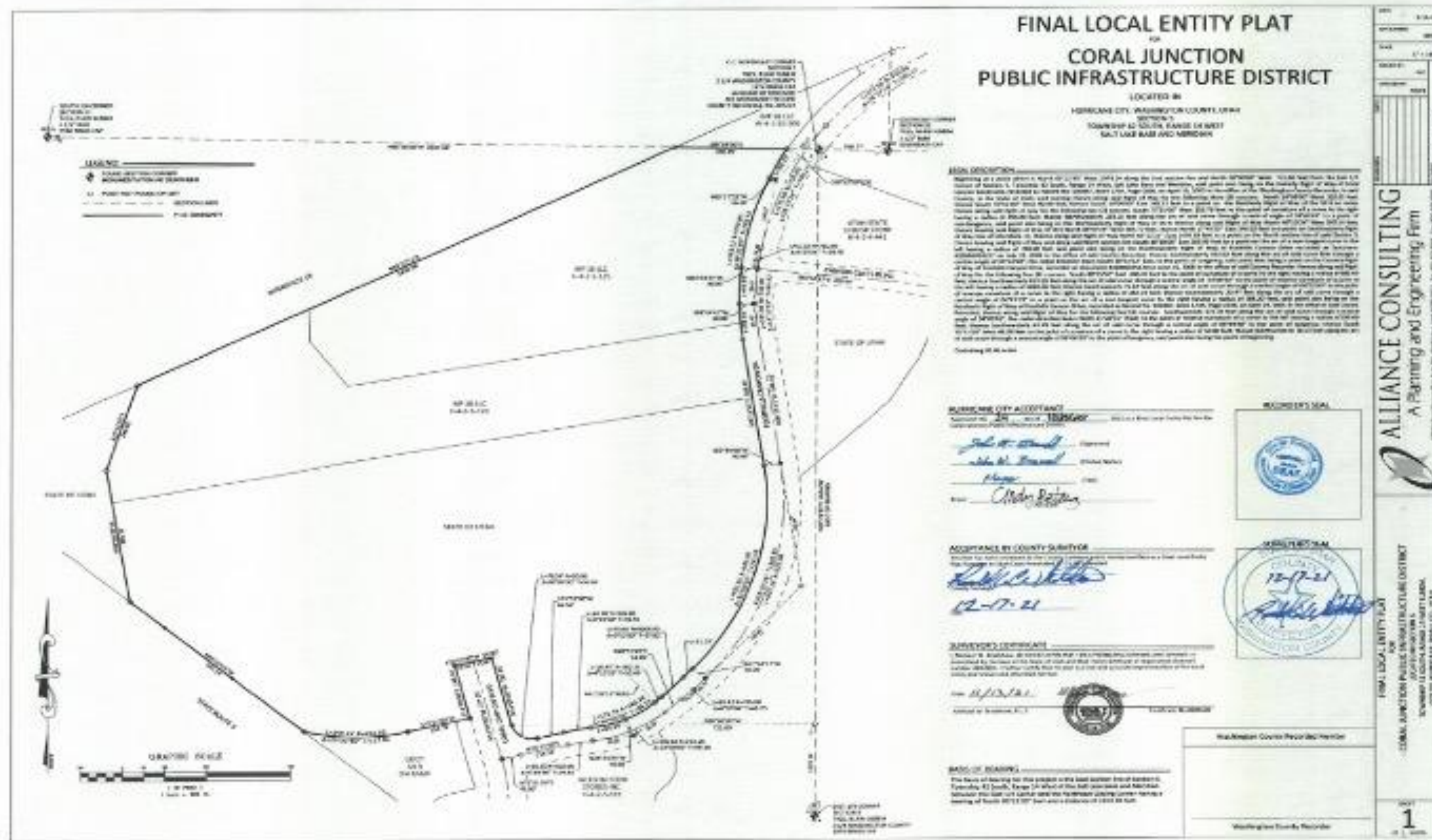
Annexations and Withdrawals

- ❖ Often when a PID is approved for creation, the **creating entity approves an “Annexation Area”** which is larger than the initial PID boundary
- ❖ Generally, **as long as it has property owner and voter consent**, within the Annexation Area a PID board has the power to annex additional property into the PID, or to withdraw property from the PID. No Creating Entity approval is required.
- ❖ Can help **spread the cost of regional improvements** by adding properties to a PID, or for **adjusting the boundaries between multiple PIDs** in a single development project to respond to market conditions

Annexation or Withdrawal Process

- ❖ **Owners of 100% of affected surface properties sign a petition** to annex or withdraw
- ❖ **District board adopts resolution** approving the petition
- ❖ **Does not require notice to or action by city or county** (except, for a PID, if affected property is not within a previously approved annexation area)
- ❖ **PID (not the city or county) signs a FLEP** depicting the annexation or withdrawal property
- ❖ **Remainder of procedure is the same as for initial creation**
 - ❖ County surveyor signs FLEP
 - ❖ FLEP, board resolution, and related documents are submitted to Lt. Governor
 - ❖ Lt. Governor issues **Certificate of Annexation or Withdrawal**
 - ❖ FLEP, Certificate and all related documents **recorded at county**

Final Local Entity Plat



- ❖ Required for all local entity boundary actions, including PID & IFD creation, annexation, withdrawal, boundary adjustment, etc.

Required FLEP elements (Utah Code § 17-23-20 (4))

- ❖ Illustration of the relevant boundary
- ❖ Printed on mylar
- ❖ Drawn to a legible scale
- ❖ Contains information sufficient for:
 - ❖ County surveyor to establish boundary on the ground, and
 - ❖ County recorder to identify each parcel within the boundary
- ❖ Plat name distinct from all other recorded plats in the county
- ❖ Local entity name
- ❖ Name of each county in which located
- ❖ Date the plat was prepared
- ❖ North arrow and legend
- ❖ Signature block for:
 - ❖ Surveyor who prepared the plat
 - ❖ Local entity's approving authority (for creation of PID, the city or county; for creation of IFD, the county clerk; for annexation or withdrawal, the PID/IFD board)
 - ❖ County surveyor
- ❖ 3" x 3" block for county recorder use

Our Special District Team

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