



TOQUERVILLE CITY RESOLUTION 2023.22



A RESOLUTION OF THE CITY COUNCIL (THE “COUNCIL”) OF THE CITY OF TOQUERVILLE, UTAH (THE “CITY”), PROVIDING FOR THE CREATION OF BOULDER RIDGE PUBLIC INFRASTRUCTURE DISTRICT NOS. 1 AND 2 (THE “DISTRICTS”) EACH AS AN INDEPENDENT BODY CORPORATE AND POLITIC; AUTHORIZING AND APPROVING A GOVERNING DOCUMENT, NOTICES OF BOUNDARY ACTION, AND FORM OF INTERLOCAL AGREEMENT; DELEGATING TO CERTAIN OFFICERS OF THE CITY THE AUTHORITY TO EXECUTE AND APPROVE THE FINAL TERMS AND PROVISIONS OF THE GOVERNING DOCUMENT, THE NOTICES OF BOUNDARY ACTION, THE INTERLOCAL AGREEMENTS, AND ANY OTHER DOCUMENTS RELATED THERETO; APPROVING OF AN ANNEXATION AREA; AUTHORIZING THE DISTRICTS TO PROVIDE SERVICES RELATING TO THE FINANCING AND CONSTRUCTION OF PUBLIC INFRASTRUCTURE WITHIN THE ANNEXATION AREA; AUTHORIZING THE DISTRICTS TO PROVIDE SERVICES RELATING TO THE FINANCING AND CONSTRUCTION OF PUBLIC INFRASTRUCTURE WITHIN THE DISTRICT AREA; APPOINTING A BOARD OF TRUSTEES FOR EACH OF THE DISTRICTS; AUTHORIZING OTHER DOCUMENTS IN CONNECTION THEREWITH; AND RELATED MATTERS.

RECITALS

A. WHEREAS a petition was filed with Toquerville City (“**the City**”) requesting adoption by resolution the approval of the creation of a public infrastructure district pursuant to the Public Infrastructure District Act, Title 17D, Chapter 4, Utah Code Annotated 1953, as amended (“**the PID Act**”) and relevant portions of the Limited Purpose Local Government Entities - Special Districts, Title 17B (together with the PID Act, “**the Acts**”) within the boundaries of the City and approve an annexation area (“**Annexation Area**”) which a district may annex into therein without further approval or hearings of the City or the Toquerville City Council (“**the City Council**”), as further described in Governing Documents which are attached hereto as *Exhibit “A”* (as hereinafter defined) for the purpose of financing public infrastructure costs (“**the Petition**”); and

B. WHEREAS pursuant to the terms of the Acts, the City may create one or more public infrastructure districts by adoption of a resolution of the Council and with consent of 100% of all surface property owners proposed to be included in the Districts (“**Property Owners**”); and

C. WHEREAS the Petition, containing the consent of such Property Owners has been received and certified by the recorder of the City pursuant to the Acts.

D. WHEREAS the staff of the City has determined that it may be in the best interests of the Property Owners that the creation of the Districts be authorized in the manner and for the purposes hereinafter set forth; and

E. WHEREAS the Toquerville City Council (“**City Council**”) prior to consideration of this Resolution, held a public hearing after 6:00 p.m. to receive input from the public regarding the creation of the Districts and the Property Owners have waived the 60-day protest period pursuant to Section 17D-4-201 of the PID Act; and



F. WHEREAS it is necessary to authorize the creation of the Districts under and in compliance with the laws of the State of Utah and to authorize other actions in connection therewith; and

G. WHEREAS the hearing on the Petition was held at the City Hall because there is no reasonable place to hold a public hearing within the Districts' boundaries, and the hearing at the City Hall was held as close to the applicable area as reasonably possible; and

H. WHEREAS the City properly published notice of the public hearing in compliance with Section 17B-1-211(1) of the Act; and

I. WHEREAS none of the Property Owners submitted a withdrawal of consent to the creation of the District before the public hearing on the Petition; and

J. WHEREAS each board member appointed under this Resolution has previously filed with the City a disclosure of business relationships in compliance with Section 17D-4-202(9) of the PID Act; and

K. WHEREAS according to attestations filed with the City, each board member appointed under this Resolution is registered to vote at their primary residence and is further eligible to serve as a board member of the Districts under Section 17D-4-202(3)(c) of the PID Act because they are agents of property owners within the District boundaries (as further set forth in the Petition); and

L. WHEREAS the governance of the Districts shall be in accordance with the PID Act and the Governing Documents as attached hereto as *Exhibit "A"*; and

M. WHEREAS pursuant to the requirements of the Act, there shall be signed, authenticated, and submitted to the Office of the Lieutenant Governor of the State of Utah the Notices of Boundary Action attached hereto as *Exhibit "B"* ("**Boundary Notices**") and a Final Local Entity Plat for each of the Districts as contained in *Exhibit "C"* ("**the Plats**").

RESOLUTION

NOW, THEREFORE, BE IT RESOLVED by the Toquerville City Council, as follows:

1. Recital Terms. Terms defined in the foregoing Recitals shall have the same meaning when used herein.
2. Ratification of Prior Actions. All action heretofore taken (not inconsistent with the provisions of this Resolution) by the Council and by officers of the Council directed toward the creation and establishment of the Districts, are hereby ratified, approved and confirmed.
3. Creation of the Districts. The Districts are hereby created as separate entities from the City in accordance with the Governing Documents and the Acts. The boundaries of the Districts shall be as set forth in the Governing Documents (*Exhibit "A"*) and the Plats (*Exhibit "C"*).



Boundaries of the Districts. Pursuant to the terms of the PID Act, the Council does hereby approve the annexation of any area within the Annexation Area boundaries into one or more of the Districts without any further action of the City Council or the City and further approves withdrawal of any area within the “**Initial District Boundaries**” (as defined in the Governing Documents) or Annexation Area boundaries from the District without any further action, hearings, or resolutions of the City Council or the City, upon compliance with the terms of the PID Act and the Governing Document.

5. District Services. The Council does hereby authorize the Districts to provide services relating to the financing and construction of public infrastructure within the Annexation Area upon annexation thereof into the Districts without further request of the Districts to the City to provide such service under 17B-1-407, Utah Code Annotated 1953 or resolutions of the City under 17B-1-408, Utah Code Annotated 1953.

6. Finding. It is hereby found and determined by the City Council that the creation of the Districts is appropriate to the general welfare, order and security of the City, and the organization of the Districts pursuant to the PID Act is hereby approved.

7. Governing Document and Required Non-Activity Dissolution Amendment. The Governing Document in the form attached hereto as **Exhibit “A”** is hereby authorized and approved so long as there in included therein the following provision:

Stipulated Dissolution on Account of Non-Activity. If, within five (5) years of the date the Certificate of Creation was issued by the Utah Lieutenant’s Governor’s Office, one or both of the Districts has failed to either: a) successfully issue a bond for the construction of a public improvement project, or b) commenced construction of a public improvement project, the City and the District Board for the non-performing District(s) shall execute a stipulated statement of dissolution and file the same with the Utah Lieutenant Governors Office (with a copy to each necessary taxing or regulatory agency of the State of Utah or of Washington County) (“Statement of Dissolution”). The Statement of Dissolution will indicate that, by stipulation, the District(s) and the City agree that the Non-Performing District is dissolved effective immediately and request the Lieutenant Governor’s Office issue a Certificate of Dissolution. The Certificate of Dissolution, when recorded and indexed against all parcels of real property within the District(s) Boundaries in the Official Records on file in the Office of the Recorder of Washington County, State of Utah shall have the effect of permanently dissolving the District(s) and voiding/releasing the Governing Documents. The District Board for the non-performing District may, for just cause only, petition the Toquerville City Council for an extension of five (5) year deadline.

The Districts shall be solely governed by the terms of the Governing Document and applicable law.

8. District Board Creation & Trustee Composition. The board of trustees for each of the Districts (“**District Boards**”) is hereby created and the following “**Trustees**” are hereby appointed for both District Boards as follows:



- a. Trustee 1 – Jerry Eves for an initial six-year term.
 - b. Trustee 2 – Rick Caldwell for an initial four-year term.
 - c. Trustee 3 – Patricia W. Eves for an initial six-year term.
 - d. Such terms shall commence on the date of issuance of a Certificate of Creation by the Utah Lieutenant Governor’s Office.
9. Boundary Notice Approval & Authorization. The City Council does hereby authorize the Mayor to execute the Boundary Notices in substantially the form attached as *Exhibit “B”* and such other documents as shall be required to finalize the actions contemplated herein on behalf of the City Council for submission to the Utah Lieutenant Governor’s Office.
10. Minor Modification Authorization. Prior to the issuance of Certificates of Creation for each of the Districts by the Utah Lieutenant Governor’s Office, the City Council does hereby authorize the Mayor to make any corrections, deletions, or additions to the Governing Documents and the Boundary Notices or any other document herein authorized and approved (including, but not limited to, corrections to the property descriptions therein contained) which may be necessary to conform the same to the intent hereof, to correct errors or omissions therein, to complete the same, to remove ambiguities therefrom, or to conform the same to other provisions of said instruments, to the provisions of this Resolution or any resolution adopted by the City Council or the provisions of the laws of the State of Utah or the United States (provided that the debt and mill levy limitations established therein may not be modified pursuant to this provision).
11. Recording of the Governing Documents. The District Boards of each is hereby authorized and directed to record the Governing Documents in the Official Records on file in the Office of the Recorder of Washington County, State of Utah, within 30 days of the issuance of a Certificate of Creation by the Utah Lieutenant Governor’s Office.
12. Repealer. All acts, orders and resolutions, and parts thereof in conflict with this Resolution be, and the same are hereby, rescinded.
13. Effective Date. This resolution shall take effect immediately provided that, in the event that the Plats are not finalized for submission to the Utah Lieutenant Governor’s Office until a date that is more than 30 days after adoption of this Resolution, the effective date of this Resolution will be deemed to be the date the Plats are finalized, as certified in writing by the Mayor.
14. Severability. If any provision or clause of this Resolution or application thereof to any person or entity or circumstance is held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, such invalidity shall not affect other sections, provisions, clauses or applications hereof which can be implemented without the invalid provision(s), clause(s) or application(s) hereof, and to this end the provisions and clauses of this Resolution are declared to be severable.

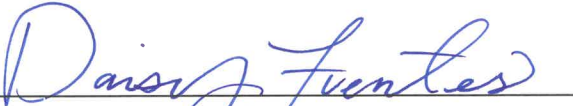
ADOPTED AND APPROVED this 1st day of November, 2023, based upon the following vote:

Councilmember:

Ty Bringhurst	AYE	<input checked="" type="checkbox"/>	NAE	<input type="checkbox"/>	ABSTAIN	<input type="checkbox"/>	ABSENT	<input type="checkbox"/>
Joey Campbell	AYE	<input type="checkbox"/>	NAE	<input checked="" type="checkbox"/>	ABSTAIN	<input type="checkbox"/>	ABSENT	<input type="checkbox"/>
John 'Chuck' Williams	AYE	<input checked="" type="checkbox"/>	NAE	<input type="checkbox"/>	ABSTAIN	<input type="checkbox"/>	ABSENT	<input type="checkbox"/>
Gary Chaves	AYE	<input type="checkbox"/>	NAE	<input checked="" type="checkbox"/>	ABSTAIN	<input type="checkbox"/>	ABSENT	<input type="checkbox"/>
Todd Sands	AYE	<input checked="" type="checkbox"/>	NAE	<input type="checkbox"/>	ABSTAIN	<input type="checkbox"/>	ABSENT	<input type="checkbox"/>

TOQUERVILLE CITY
a Utah municipal corporation

Attest:


Justin Sip, Mayor


Daisy Fuentes, City Recorder



EXHIBIT "A"
TOQUERVILLE CITY RESOLUTION 2023-XX

(Governing Documents)



(Governing Documents to Follow)

EXHIBIT "B"
TOQUERVILLE CITY RESOLUTION 2023-XX
(Boundary Notices)



(Notices to Follow)

EXHIBIT "C"
TOQUERVILLE CITY RESOLUTION 2023-XX

(The Plats)



(Plats to Follow)