



State of Utah

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**Utah Water Quality Board Policy  
Regarding the COVID-19 Emergency**

Utah Administrative Code allows the Water Quality Board (WQB) to buy or refinance local debt obligations (R317-102) and to enter into credit enhancement agreements for the purpose of providing methods and assistance to political subdivisions to improve the security for and marketability of wastewater projects (R317-101), and to buy or refinance local debt obligations (R317-102) that comply with the funding requirements of the SRF.

During the COVID-19 declared state emergency, and for 120 days following, the WQB will accept requests from WQB loan recipients to defer loan payments based on hardship due to the emergency. Payment deferrals may be granted for one year from the date a request is approved, with an option for another year upon further showing of hardship. A payment deferral request must be accompanied by the WQB Loan Payment Deferral Request Form (Attachment 1) and must be signed by the borrower's presiding official. A borrower's governing body must approve a loan payment deferral request.

The Board directs WQB Staff to review and grant requests for loan deferrals due to hardship.

The Board directs WQB Staff to waive the delinquent interest charge for deferred payments during the term of the payment deferral.

The Board directs WQB Staff to work with borrowers during the payment deferral period to restructure debt payments.

The Board directs WQB Staff to prepare a written report for each Board meeting detailing the total number of payment deferrals granted, the total amount of payments deferred, and the names of borrowers approved for payment deferrals.

A standardized procedure for issuance of subordinate and/or taxable deferral bond due to COVID-19 financial distress is provided in Attachment 2.

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APPROVED this 5<sup>th</sup> day of June, 2020.



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Erica Brown Gaddis, PhD  
Executive Secretary  
Water Quality Board

DWQ-2020-012285

**ATTACHMENT 1**

**[State Entity Name]**

**Loan Payment Deferral Request Form - COVID-19 Emergency – FY2020-21**

**Name of Borrowing Entity (the “Borrower”):** \_\_\_\_\_

**Project (the “Project”):** \_\_\_\_\_

**Due Date of Annual Payment:** \_\_\_\_\_

**Amount of Annual Payment:** \_\_\_\_\_

**Loan Number:** \_\_\_\_\_

**Terms of the Agreement:** \_\_\_\_\_

**Due to the COVID-19 declared state emergency**, the Borrower is requesting one annual payment deferral for the Project (the “Deferral”).

As a result of this request, the debt payments may be restructured. This signed request acknowledges there may be a series of increased annual payments for the remainder of the loan or the loan may be extended to accommodate full repayment of the project funding and bonds. The process for the Deferral will be determined based on the Borrower’s responses to the questions attached as **Appendix A**. Final structure and terms of the Deferral will be determined by the [Name of State Entity] (the “Board”) in consultation with the Borrower.

It is the intent of the Borrower to repay the entire amount of the loan in the restructured payment schedule. Delinquent interest charges for deferred payments during the term of the payment deferral will be waived.

I, the undersigned presiding official of the requesting Borrower agree to make future annual payments on the specified annual payment dates of the existing loan resuming one year from deferred payment as amounts state on the restructured payment schedule provided. Upon default in one year, without additional deferral, the Borrower will pay accrued late penalties which may be incurred on any future annual payment owed as well as the interest accrued until the entire payment due is received.

The Borrower and the Board agree to the payment agreement terms listed above.

\_\_\_\_\_  
Presiding Official Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Presiding Official Printed Name

\_\_\_\_\_  
[State Entity Signatory – Name and Title]

\_\_\_\_\_  
Date

## Appendix A

### Original Bond Questionnaire

Deferral will be accomplished by the issuance of refunding bonds in lieu of deferred principal and interest payments on the Original Bonds or by amendment to the documents relating to the Original Bonds. In order to determine the most efficient solution to accomplish the Deferral, please answer the below questions as they relate to the bonds for which the Borrower is seeking Deferral (the “Original Bonds”).

#### Questions:

1. Were the original bonds issued as “Build America Bonds?” **If yes, skip to question 6 and look for customized procedures on the Deferral from the Board** since the Deferral will most likely need to be structured as an amended bond with more limited financial terms in order to preserve the BAB tax-subsidy to the applicant.\*

Yes: \_\_\_\_\_ No: \_\_\_\_\_

2. Were the Original Bonds secured by a lease revenue bond (e.g., Local Building Authority, Certificates of Participation, etc.)? Such Bonds are typically secured by an annual appropriation lease payment and a Deed of Trust on the financed project). **If yes, skip to question 6 and look for customized procedures on the Deferral from the Board** since subordinate bonds will likely be more difficult than amending the existing bond.\*

Yes: \_\_\_\_\_ No: \_\_\_\_\_

3. Were the original bonds a Special Assessment Bonds? **If yes, skip to question 6 and look for customized procedures on the Deferral from the Board** since subordinate bonds will likely be more difficult than amending the existing bond.\*

Yes: \_\_\_\_\_ No: \_\_\_\_\_

4. Were the original bonds a sales tax revenue bond (e.g., local option sales tax, franchise tax, energy tax, etc.)? Such bonds are typically secured by a gross Revenue pledge (“Revenue Bond”). **If yes, skip to question 6.**

Yes: \_\_\_\_\_ No: \_\_\_\_\_

5. Were the Original Bonds a system revenue bond (e.g., water, sewer, electric, etc.)? Such bonds are typically secured by a pledge of Net Revenue (e.g., Revenues after payment of Operation and Maintenance Costs) (“Net Revenue Bond”). **If yes, skip to question 6.**

Yes: \_\_\_\_\_ No: \_\_\_\_\_

6. In addition to the Original Bonds, does the Borrower have any bonds or other obligations secured by the revenues pledged to the Original Bonds (e.g. if the Original Bonds are sales tax bonds, does the Borrower have additional sales tax bonds outstanding)?

Yes: \_\_\_\_\_ No: \_\_\_\_\_

7. If the answer to Question 1 is yes, are these bonds or obligations owned by an entity of the State of Utah (such as the CIB or Department of Environmental Quality) or another entity? (Mark all that apply)

N/A: \_\_\_\_\_ State Entity: \_\_\_\_\_ Another Entity: \_\_\_\_\_

8. Is it the preference of the Borrower to amortize the Deferral over the remaining life of the Original Bonds or extend the maturity of the Original Bonds? **Please note, such preference will be considered, but final terms will be at the discretion of the Board.** In addition, any revenue bond secured by Class C road funds may not be outstanding for more than 10 years from the date of issuance.

Amortize Over Term: \_\_\_\_\_ Extend Term: \_\_\_\_\_

9. Does the Borrower have any bonds or other obligations outstanding for which the Borrower has entered into a Continuing Disclosure Obligation or similar agreement? **If yes, Borrower should consider with its public finance professionals any disclosure related to the Deferral pursuant to such agreement.**

Yes: \_\_\_\_\_ No: \_\_\_\_\_

**Relevant Procedure:**

1. If you answered yes to question 1, 2, or 3, **customized procedures are required.**
  - a. The Board will review the circumstances and recommend procedures specific to the Borrower and the Original Bonds.
  - b. The Borrower should not be dissuaded from applying for Deferral simply because customized procedures are required.
2. If you answered yes to questions 4 or 5 **follow the procedures for a Subordinate and/or Taxable Revenue Bond or Net Revenue Bond**, as applicable.

## ATTACHMENT 2

### STANDARDIZED PROCEDURE FOR ISSUANCE OF SUBORDINATE AND/OR TAXABLE DEFERRAL BOND DUE TO COVID-19 FINANCIAL DISTRESS

Guided by the completion of the Loan Payment Deferral Request Form (the “Application”), approved deferrals by the Board (the “Deferral”), will be completed where possible pursuant to a separate issuance of a bond that may be subordinate and/or federally taxable. It is the intent of the Board to mitigate professional closing costs related to a Deferral by accepting a non-traditional bond. These procedures try to remove the need for tax-exempt analysis (including re-issuance, etc.) and in certain circumstances the need to conform such bonds to other parity bond documents. [In certain circumstances, counsel to the Board may also recommend a third category for approved deferrals under \$[*Board fill-in*]. In such case the Applicant will be notified by the Board.] **Applicants need to be aware, however, that all professional or legal closing costs will need to be paid from separate funds of the applicant at closing and are not able to be financed by the deferral bond.** Upon the issuance of such bond (the “Deferral Bond”), the Board will then accept such bond in-lieu of the payment that has been deferred.

#### **Procedures for: Subordinate and/or Taxable Net Revenue Bond or Revenue Bond**

1. For a Net Revenue Bond or Revenue Bond (see Application to determine), the Board will consider accepting a subordinate and/or federally taxable bond equal to the amount of the approved Deferral. In the event that there are no other parity bondholders other than State Agencies, such bond need not be approved as subordinate.
2. In accordance with the appropriate Revenue Bond or Net Revenue Bond distinction, Entities will adopt a parameters/authorizing resolution (“Bond Resolution”) approving a form of Master Resolution to issue the Deferral Bond pursuant to the Refunding Bond Act.
3. From the Application, staff will calculate the approved deferral of the amount of principal and interest accruing between certain dates of interest payment dates (the “Deferral”). The Deferral amount will be the principal amount of the Refunding Bond. Staff will also prepare a payment schedule for the Refunding Bond.
4. The information will be supplied to the Board, who will fill in the blanks in the new Bond Resolution and prepare a form of the Master Resolution. Those documents will then be sent to the Borrower for adoption and approval.
5. The Borrower will adopt the new Bond Resolution. This can be done at a regular or special meeting of the Borrower and it will not be necessary for the Borrower to publish notice of bonds to be issued or to conduct a public hearing.
6. Upon preparation and execution of limited closing documentation prepared by Board and issuing the refunding Deferral Bond, the Borrower will send the completed Bond Resolution, Master Resolution, and Deferral Bond to staff to the Board. Staff will then mark the refunded bond “cancelled” and will send the refunded bond to the Borrower. The new Deferral Bond will then be sent to the Department of Finance.