

# LACLEDE WATER DISTRICT

## LID FORMATION AND PROCESS

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# FINANCING OPTIONS FOR WATER DISTRICTS

- Voted Revenue Bond
- Judicially confirmed Revenue Bond
- **Local Improvement District (“LID”)**

# LOCAL IMPROVEMENT DISTRICT (“LID”)

- LID’s are authorized by the Local Improvement District Code, Chapter 17, Title 50, Idaho Code
  - Under the Local Improvement District Code, a water district is authorized to create a LID for construction and financing of numerous improvements including water facilities



# LID FORMATION

- The Water District will be primary entity in charge of creating and governing the LID
- LID Organization initiated upon either (i) petition for formation signed by 60% of the resident owners or 2/3 of the owners of property subject to assessment within such proposed improvement district, or (ii) by resolution of the Board adopted by majority vote (Idaho Code 50-1706)

# LID FORMATION CONT.

- Under the current timeline, the Board could adopt a resolution to initiate the formation of the LID at its April meeting (April 13)
- Also at the April meeting, following adoption of the initiation resolution, the Board could consider and adopt a resolution of intent to create the LID, which resolution:
  - Sets public hearing date and provides form of notice to be published and mailed to property owners within the proposed boundaries of the LID at least 10 days prior to hearing
  - Describes the boundaries of the LID
  - Describes the improvements contemplated
  - Provides estimate of project costs
  - Provides assessment methodology

# ASSESSMENT METHODOLOGY

- Idaho Code 50-1707 provides assessment may be pursuant to:
  - front foot method
  - square foot method, or a combination thereof
  - **in proportion to the benefits derived to such property by said improvements** or
  - by another method agreed to by all property owners to be assessed.
- Assessments may not exceed the value of the property (Idaho Code 50-1711)

# LID FORMATION – PUBLIC HEARING

- Pursuant to the resolution of intent to create the LID, a public hearing regarding the formation of the LID will be held (likely at the May meeting)
- Before and at the public hearing, property owners may submit written and oral protests to the creation of the LID
- The decision of the Board as to all protests shall be conclusive and final
- Any property owner who fails to file a protest within the time specified shall be deemed to have waived any objection to the creation of the LID, the making of the improvements, and the inclusion of his/her property in the LID
  - Such waiver shall not preclude the right to object to the amount of the assessment at the later hearing provided for such purpose



# CREATION OF LID

- Following the public hearing, the Board will consider an ordinance to create the LID (likely at the June meeting)
  - If protests exceed 60% of resident owners or 2/3 of owners of lots and lands subject to assessment, the County Commissioners have to approve the LID
- Creation Ordinance appoints engineer to draw plans/specs and orders construction of the improvements
- Construction financing can be sought following ordinance publication (financing must also be approved by Board)



# CONSTRUCTION WARRANTS

- After adoption of the creation ordinance, construction financing can be sought
- Typically draw down loan from local bank sought through RFP or DEQ
- Only security for construction warrants is a promise to issue LID bond upon completion of construction
  - District not legally on the hook for repayment, but failure to repay would negatively impact District credit

# ASSESSMENT ROLL

- **Upon completion of the Project**, the District engineer issues an engineering report which includes an assessment roll based on total project costs
- The assessment roll will show the amount chargeable to each lot or parcel of property
- Notices of public hearing on assessment roll with individual assessment amounts will be mailed to property owners and published
- **Property owners may submit protests to their assessment in writing or in person at hearing**

# ASSESSMENT ROLL CONT.

- At the public hearing, the Board will hear and determine all objections to the assessment roll
  - The Board may revise, correct, conform or set aside any assessment or exclude any lot or parcel from the assessment roll which, in its judgment, is not benefitted by the improvements to be made
  - Assessments may be increased up to 20% following the public hearing without the holding of a new public hearing

# ASSESSMENT ROLL CONT.

- Following the public hearing and the resolution of any objections, the Board will consider an ordinance to confirm the assessment roll
- Once the assessment ordinance is adopted and the assessment roll is confirmed, property owners have 30 days to prepay assessments
  - Anyone who does not prepay their assessment will be deemed to have chosen to pay the same in installments
  - Likely 30 equal annual installments



# ASSESSMENT ROLL – RIGHT TO APPEAL

- Following adoption of the assessment ordinance there is a statutory right to appeal to the district court
- Such appeal must be made within 30 days of the date of the ordinance confirming the assessment roll
  - “After said 30 day period has run, no one shall have any cause or right of action to contest the legality, formality, or regularity of said assessments for any reason whatsoever and, thereafter, said assessments and the liens thereon shall be considered valid and incontestable without limitation.” (Idaho Code 50-1718)

# LID BOND

- Following the prepayment period and the appeal period, the District will proceed with the issuance of a LID Bond to finance unpaid assessments
- Security for the Bond is a pledge of the annual assessments to be received and the corresponding liens on assessed real property
  - Assessments are an obligation of the property, not the individual (assessments stay with the property)
  - When assessments are not paid, the property may be foreclosed and sold
  - No cross-collateralization (liens are specific to each property assessed)
  - District not legally on the hook for repayment (just collection of the assessments), but failure to repay would negatively impact District credit

# LID TAKEAWAYS

- Spread the costs of the improvements out over time
- All benefitted properties pay, not just current customers
- Allocate costs based on those who receive the benefits
- Process provides multiple public hearings and opportunities to object

# NEXT STEPS

- April
  - Resolution to initiate formation of LID
  - Resolution of intention to create LID
- May
  - Public Hearing on Creation of LID
- June
  - Ordinance creating LID
  - Construction phase begins