

MESA COUNTY LOCAL IMPROVEMENT DISTRICT MANUAL

Mesa County Public Works Department

244-1765

June 2000

100 PURPOSE

This Manual was prepared as a guideline for developing Local Improvement District (LID) proposals through public & private sector cooperation. A LID allows homeowners to construct and finance public streets, street lighting, storm drainage, water system or sanitary sewer improvements over a period of time so the whole cost of the improvement does not have to be paid at once, making improvements more affordable to the property owner. Ongoing maintenance is not funded through a LID. Included in the manual is an explanation of the review process, design standards and requirements which all local improvement districts within unincorporated Mesa County are to follow. By using this manual, participants undertaking the formation of a LID can more easily understand what is expected in terms of time, responsibilities, data needs and risks involved in LID formations. Appendix A-100 contains a flow chart for the LID formation process.

200 PHILOSOPHY

LIDs for road and sewer improvements have been used by the County since 1976. The main goals of the County LID process are:

1. To fund infrastructure improvements without forming another permanent level of government in the area, and;
2. To provide a means by which the costs of the improvements would be paid by those who directly benefit from their construction.

The County evaluates LIDs within the context of a formal review process. County engineering, planning, and finance staffs, with assistance from private bonding companies and other County departments, have developed a review procedure which addresses County concerns for accountability as the project goes through the LID formation steps.

This manual incorporates the legal requirements as set forth in the Colorado Revised Statutes, Title 30, Article 20, Part 6 and policy requirements as set forth by Mesa County.

300 AUTHORITY

Mesa County is authorized to form LIDs by Section 30-20-601, et. seq. of the Colorado Revised Statutes (C.R.S.), as amended. Once a LID is formed, the County or other related entities may advance the funds for the improvements, or issue tax exempt bonds for funding the improvements in accordance with the Colorado Constitution and Section 30-20-618, C.R.S. as amended. The assessments levied by the County on properties within the LID boundaries are collected to repay the County's advances or the bondholders, if bonds have been issued. To protect the interests of the County, strict compliance is required with all statutory procedures in LID formation and funding.

After completion of the authorized improvements, the debt incurred or bonds issued have been paid, the County dissolves the LID (Section 30-20-627, C.R.S., as amended).

400 THE COUNTY'S RESPONSIBILITIES

Mesa County's responsibilities in the formation of the LIDs are three-fold:

1. The County will oversee adequate design and construction of public improvements. To oversee design quality, all improvements must meet the standards of the service entity providing maintenance of the infrastructure.
2. The County will oversee coordination between public improvement plans, including the Mesa County capital improvement plan, land use policies and regulations, and utility service plans. Therefore, improvements should accommodate future as well as existing users. Zoning, as well as zoning trends near the proposed project, must be considered. Land use constraints or hazards in the vicinity should be noted. If there are other services planned in the LID, the projects should be mutually coordinated. Finally, the Mesa County Master Plan and Regulations for water, sewer and roads will be followed in preparing the LID proposal.

3. The LID procedure must ensure that the proposed improvements are reasonable and cost effective. Therefore, the procedure has been structured to ensure that all affected individuals, municipalities, and special districts understand the costs they will bear, and that the County will not accept liability for project costs.

Any proposed LID will be reviewed for its financial viability. If there is any doubt whether property owners have the ability to repay the assessments, the County may require credit enhancement for the LID, such as bank letters of credit.

500 COSTS

Fees for work done by any consulting engineer prior to the LID's authorization by resolution may be included in the assessed amounts; however, these costs will not be covered by the County should the proposal fail, and will be the responsibility of the property owners proposing the LID.

Due to the cost of bond counsel, bond underwriting, assessment procedure, and other administrative costs associated with the formation of a LID, it is recommended that LIDs not be considered for formation unless the actual improvements exceed \$200,000 unless the County LID Coordinator (the Public Works Director) and County Finance Director agree to the viability of the proposed project and the terms of financing.

Generally, all costs incurred by the County are to be recovered within successful LIDS. All costs of the LID will normally be paid by the property owners within the LID boundary.

600 LID BOUNDARY CONSIDERATIONS

There may be non-contiguous parts or sections of the County included in one LID. C.R.S. Section 30-20 part 6 authorizes the construction of grading, paving, pouring, curbing, guttering, lining, street lighting, drainage facilities and any system for the transmission of distribution of water or sewer. These facilities must be completely within the County boundaries, but may be wholly or partly within the boundaries of any municipality within the County, if such municipality consents by ordinance to such improvements. If the improvements are within a consenting municipality and included in a County LID, the County shall have full authority to construct or acquire such improvements (Section 30-20-603 C.R.S., as amended).

700 TYPE OF SERVICE

All LIDs can be classified according to the type of service.

All types of improvement projects shall be coordinated with all affected utilities, (water, sewer, electric, gas, cable TV, phone, etc.) sometimes requiring their participation in the project. Public utility relocation expenses are to be included as a part of the total project costs, as applicable. Private utility relocates within existing public right-of-ways will be the responsibility of each representative private utility company. These relocates must be performed prior to the scheduled LID improvements.

701 ROADS

If there are road improvements, County road standards shall apply, unless the road is within the corporate boundary of a municipality or the road is within the adopted annexation plan of the municipality. In that case, roads should meet municipal standards.

The functional classification map for the County will be used to determine the improvements. Mesa County may share in the cost of improvements if a special benefit to the County can be demonstrated (e.g. arterials or collectors) and as governed by applicable County road policies. Requirements from the Landscape standards for Mesa County (7.2 of Mesa County Land Development Code) shall be incorporated as appropriate.

C.R.S. Section 30-20-624, as amended, provides that before paving in any improvement district, the Board of County Commissioners may order the owners of property fronting the new road improvements to connect their gas, water, or sewer mains with any other utility located in said street. If a property owner fails to connect within thirty days after such order, the County may make the connections. The whole cost of each connection shall be assessed against the property, and shall be paid upon the completion of the work and in one sum. The assessed cost shall become a lien, and shall be collected in the same way as the assessment and collection of the cost of other improvements associated with the LID.

Prior to the establishment of any improvement district for the purpose of providing street lighting, arrangements, by contract or otherwise, must be established under which the owners of property included within such district shall be responsible for the maintenance and operation of such street lighting improvement. The costs of maintenance and operation of

such street lighting improvements shall not be paid from the county general fund. (Section 30-20-603, C.R.S., as amended).

The formation hearing for road improvements should be held no later than March of each year to ensure adequate time for construction of paving projects. The LID schedule shall generally call for paving as early as possible in the year following formation.

702 WATER

Water transmission lines should be designed to the standards adopted by the agency providing water service, including special districts or municipalities. The improvements must be sized to service all of the property within the LD boundary, including future build out based on existing zoning, and all benefiting properties must be included in the LID boundary. New lines will usually be installed in the north or east half of public rights-of-way as required by County Road Standards.

The design of lines shall allow adequate fire flows where appropriate. Areas needing fire protection are determined by Mesa County Development Code Section 7.9 (Fire Protection), as amended. Where the water lines are in a fire district requiring greater line size and/or flow capacity for fire protection, the fire district's standards should apply.

703 SEWER

Sewer lines must be designed to accommodate existing and future growth within and without the LID boundary, and must meet the design standards adopted by the agency providing the sewer service. This determination will be based on zoning, land use plans and agreements, the presence of other services, and environmental constraints. As with water lines, all benefited properties must be included within the LID boundary. Generally, sewer lines should be located in the center of the public rights-of-way unless constrained by specific circumstances.

Proposed sewer LIDs within the Persigo 201 service area will use the Persigo System LID process. (See Appendix A-500).

704 DRAINAGE

Drainage improvements must be designed in accordance with the requirements as established in the Mesa County Road and Bridge Specifications and the Mesa County Stormwater Management Manual. Drainage facilities shall not be provided in any area which is within the boundaries of the Grand Junction Drainage District or which discharges into one of the systems maintained by the Grand Junction Drainage District without the approval of the District. (Section 30-20-603(1)(a), C.R.S., as amended).

705 COMBINATION

A combination of any or all of these types of improvements may be included within the LID. Cooperation is encouraged, especially where more than one service needs rehabilitation or upgrading, in order to minimize disruption and construction expense. However, as a specific proposal grows more complicated (multi-jurisdictional) it will also become more difficult to form successfully.

800 THE PROCESS

LIDs may be initiated either by the Board of County Commissioners, whose process requires a resolution in accordance with Section 30-20-603(2), C.R.S., as amended, or by a petition presented by the property owners affected by the LID in accordance with Section 30-20-603(3), C.R.S., as amended.

In order to meet statutory guidelines for LIDs and remain consistent with Mesa County's philosophy and policies, the following LID formation review process will be followed.

The general requirements for LID formation are as follows:

1. The project is in the public interest.
2. 51% of the property owners within the proposed LID who pay more than one-half of the total proposed assessments need to support the improvements. (Section 30-20-603, C.R.S., as amended).

3. The project conforms with Mesa County Master Plan, Land Development Code, and other appropriate regulations.

4. The statutory actual value of the properties in the proposed LID must be more than the cost of improvements. (See also Section 805(6) of this Manual).

801 PETITIONER INITIATED LID

A group of property owners interested in forming a LID are required to initiate a meeting with the County LID Coordinator in the Mesa County Public Works Department. The LID Coordinator will answer general questions relating to the LID process and will instruct the citizens group to appoint a person representing their interests in the LID formation process. This appointed representative will function as the key contact between the County LID Coordinator and the citizens group.

The citizens group may hire a private consultant as their representative at their own expense. The County will not enter into any contracts with private consultants and will not be responsible for any consulting fees associated with the proposed LID. If the LID is approved by County Commissioner resolution, any reasonable consultant costs may be assessed to the successful LID, at the request of the citizens group. After the LID has been approved, the citizen group/consultant will be responsible for submitting an itemized listing of all services provided during the LID formation effort to the County LID Coordinator for consideration, so these costs can be added to the project total. In addition to private consultant costs, the County may assess time and material costs incurred by them during the formation process to any successful LID.

Publication of notices of hearings and resolutions to form the LID, all related mailings, and other administrative services related to the LID formation or assessment are to be coordinated by the County and charged to the LID.

1. Petitioner Responsibilities
 - a. Petitioner meets with County LID Coordinator.

 - b. Petitioner selects an appointed representative to represent their interest.

2. Petitioner's Representative Responsibilities

The petitioner's representative will coordinate with the County's LID Coordinator to provide the required information and attend any public meetings to present the LID proposal. The representative will be responsible for:

a. Preparing documentation needed to present the LID at the neighborhood meeting. Responsibility includes preparing meeting minutes, names and addresses of people in attendance, etc.

b. Preparing the feasibility report.

c. Presenting the LID proposal to the Board of County Commissioners, including the petition signed by the property owners of the proposed LID which support the proposal. See Appendix A-400 for standard petition form.

3. County LID Coordinator Responsibilities

a. Provide the petitioner or their representative with a copy of the LID manual and review the criteria by which a proposed LID is evaluated and formed.

b. Point out potential concerns early on in the review process.

c. See that all public meetings are advertised in accordance with statutory requirements.

d. Identify affected special districts and ensure they are involved in the LID formation process

802 COUNTY INITIATED LID

If a public health or safety hazard or other unusual condition exists in an area that could be remedied by road, drainage, sewer, or water improvements, the County Commissioners may declare a LID by resolution. The County reserves the right to assess successful LIDs for any services provided on a time and material basis.

1. Procedures under this scenario involve:

- a. Upon determining the presence of a significant threat to public health which they determine could be effectively abated under the LID process, the Mesa County Board of Health and the Colorado Department of Health may recommend such action as deemed necessary to the Board of County Commissioners. This action would be initiated by a petition from the Mesa County Board of Health to the Board of County Commissioners; or
- b. Upon determining the presence of a significant threat to public health, safety and general welfare, the Mesa County Division of Engineering and Design may recommend such action as deemed necessary to form a LID to the Board of County Commissioners.

2. County LID Coordinator Responsibilities:

The County LID Coordinator is responsible, either through their own efforts or through those of a hired consultant, for the following:

- a. Prepare the documentation to present the LID at the neighborhood meeting. Responsibility includes preparing meeting minutes, obtaining names and addresses of people in attendance etc.
- b. Conduct the neighborhood meeting.
- c. Prepare the feasibility report.
- d. Present the LID proposal to the Board of County Commissioners.

803 NEIGHBORHOOD MEETING

This meeting occurs regardless of the method used to initiate the LID. At this meeting the County LID Coordinator (Commissioner-initiated LID) or Petitioner's Representative (citizen-initiated LID) will:

1. Present the project in its conceptual stage.
2. Review possible boundaries of the LID, and assessment alternatives.
3. Review major cost items associated with the project. This may require different cost estimates to be prepared associated with different LID proposals, such as those represented by different service boundaries or scope of project limits.
4. Note any major physical or financial concerns at this stage.
5. Review the LID Review Process, including the tentative time schedule, standards for approval, methods of assessment, etc.
6. Emphasize financial responsibilities of the Petitioners and other affected entities.
7. Take a poll of the people in the proposed district to determine community interest.

Materials which should be used in this presentation include an assessor's map of the area in question, outline of cost categories, and any relevant service boundary maps. A brief handout should be provided in order to give a short explanation of the proposed improvement district.

804 FEASIBILITY REPORT

Based upon whether a majority of residents support the proposed LID, the Petitioner's Representative or County LID Coordinator will either proceed with the Feasibility Report or halt the process. Should there be a majority, the Petitioner's Representative or the County LID Coordinator will set up a meeting with Planning, Engineering, and Finance staffs to discuss major issues in the LID's formation.

The contents of the Feasibility Report must follow the format outlined below:

1. Summary of Findings, including:
 - a. Proposed boundary description and acreage.
 - b. Brief description of the improvements.
 - c. Summary of estimated project costs.
 - d. Proposed assessments (method and magnitude).
2. Background Information

The Mesa County Planning & Development Director should be consulted during this step. Background information needs to be prepared to address the following:

- a. Description of the zoning and land use in the area.
 - b. Description of relevant environmental factors.
 - c. Analysis of impacts to other services/utilities, and consistency with applicable service area plans.
 - d. Analysis of current zoning, potential build out, and area policies and plans.
3. Boundary Determination

An explanation of the reasoning used in determining the proposed LID boundaries and service boundaries, and an outline of other alternatives considered. The reasoning behind rejection of these alternatives should be explained.

4. Preliminary Design

A detailed account of improvements associated with the LID proposal, supplemented with property and topographic map needs to be provided. All applicable design standards need to be cited.

5. Proposed Schedule for the LID.

6. Description of Proposed Assessment Method

This should include a description of the proposed assessment valuation method.

7. Estimated Eligible Project Costs

8. Ineligible Costs

Ineligible costs included in the project costs expected to be carried by entities other than the proposed LID boundary must be included. For example these costs may be associated with private utility relocates, private consultant fees paid in advance not assessed to the LID, etc.

9. Review Agencies

A list of review agencies, current mailing addresses and main contact person for the proposed LID needs to be provided. Refer to Appendix A-200 for a listing of applicable review agencies.

10. Financing Considerations

A discussion by the County Finance Department outlining the probable interest ranges on the assessments, including standards that the proposal must meet with regard to financial viability, as well as the process of selling the LID bonds. (Refer to Section 1000 for a more detailed summary of bond requirements.)

11. Results of Neighborhood Meeting

The results of the neighborhood meeting shall be summarized in writing, including:

- a) A summary confirming the majority level of interest in the LID formation to warrant the proposal.
- b) A summary of concerns and requirements voiced by residents in support or opposition to the LID.
- c) A list of people in attendance, their addresses, and who they represented.

Copies of the Feasibility Report are distributed by the County LID Coordinator to review agencies and members of the work group. Written comments must be returned within thirty (30) days of receipt of the report. Petitioner and County LID Coordinator must present the Feasibility Report to the Utilities Coordinating Committee for their comments and endorsement.

The Feasibility Report, the signed Petition, the accompanying recommendation of approval of the County LID Coordinator, review agency comments, and the adopted master/comprehensive plans are then transmitted by the County LID Coordinator to the County Commissioners for the formation hearing.

805 COUNTY COMMISSIONERS FORMATION HEARING

Publication of the notice concerning the County Commissioner's hearing to consider authorizing the LID is prepared by the County Clerk and published by the County in a newspaper of local circulation. All legal notices required by statute must be certified by the County Clerk. The resolution to authorize the LID should be included in the notice (Section 30-20-603(6), C.R.S., as amended).

No less than thirty (30) days after publication of notice, the County Commissioners Formation Hearing is held to authorize or deny the proposed LID. The County Commissioners will consider, among other factors, whether or not:

1. The improvements would be in the public interest.
2. Definite benefit exists for affected property owners.
3. The establishment of the LID complies with all relevant statutes.
4. Proper notification was given to the property owners.
5. The cost of improvements to be authorized as outlined by the Feasibility Report bears a reasonable relationship to the benefits received and underlying property values.
6. The assessment needs to meet certain criteria in order to provide successful financing of a local improvement district. These criteria can be applied to petition or County initiated LIDs, but may not fit an area where there is a serious health hazard. The following minimum criteria needs to be met for a successful assessment package:
 - a) As long as assessments are outstanding, down zoning of the property involved in the LID, which would result in a reduction in the property value, shall not be allowed. Down zoning which results in the reduction of property value would act to dilute the bond security and pose a financial risk to the County.
 - b) Projects involving property which is substantially undeveloped should be assessed in amounts no greater than one-fourth of their statutory actual value on a per-lot basis.

- c) Projects involving substantially developed property should be assessed in amounts no greater than one-third of their statutory actual value on a per-lot basis.

- d) Incidental costs such as the issuance cost of underwriter, bond counsel, bond printing, registrar, and official statement must be included. These costs must be absorbed by the LID, rather than by the County.

- e) The assessment method proposed for a LID must meet the requirements provided by State law.

Other issues include the desires and interests of the affected property owners. These can be attained through public testimony during the public hearing process as well as by review of the petition.

Should the County Commissioners decide in favor of the LID, they will pass a Resolution to create the LID and issue a preliminary non-binding order authorizing the preparation of the final plans, specifications, cost estimates, assessment schedule, and bidding of the project. The Resolution may also authorize the preparation of financing, assessment, and related bond proposals, LID boundary map and payment schedule. (Section 30-20-603(7-12), C.R.S., as amended).

900 DESIGN/BID

The Division of Engineering and Design shall be responsible for final design either through their own efforts or through the efforts of a consultant hired specifically for this effort. In cases where the Persigo System LID process is used, design will be done by Persigo staff.

The Mesa County Division of Engineering and Design, as well as any other review agency designated by the Division, must review and approve the final plans and specifications before the project is bid. Other review agencies will always include the service entity responsible for final ownership and maintenance.

Service entities or utilities affected by the improvements will review the costs of any relocation. If a service entity or utility wishes to make improvements, these may be noted as part of the construction schedule and may be included in the cost of the LID. If there are relocations involved for which the proposed LID would normally be responsible, the costs, as determined in

the Feasibility Report and preliminary estimates approved by County staff, shall be included in the project (Section 30-20-603 C.R.S., as amended.)

After final approvals are secured from the County Division of Engineering and Design, the bid request is published, and the bids are taken. Upon a determination that the bids are reasonable and responsive and the project is within budget, the County LID Coordinator will secure a contract for the project with the lowest qualified bidder. Construction may proceed at this point or may be deferred based upon the schedule included in the Feasibility Report.

When construction is approved, the County Treasurer must be notified of the individual parcels which are involved in the pending assessments.

1000 ISSUANCE OF BOND PACKAGE AND ACTIONS

LIDs relying on bond financing or county-financed multiple year fiscal obligation are subject to voter approval, and events must be scheduled in accordance with the required November election dates.

Any proposed bond issue must have adequate amounts of pre-funded interest, and interest earnings must be pledged to the bond fund. Pre-funded interest is needed to make an interest payment prior to the assessment installments coming due. This keeps the LID in a favorable cash flow situation.

The bond company must prepare and submit to the LID Coordinator a final cost sheet with estimated project costs, including the actual construction bid and other anticipated costs. The County Clerk will advertise a public notice of the County Commissioner's Hearing to adopt the resolution ordering improvements, the bond resolutions, and related resolutions.

In preparing a project budget, the bond company will calculate the amount of capitalized interest necessary to make interest payments coming due before the first assessment installment is payable. The payment dates for assessment will be coordinated with the County Treasurer's collection cycle for property taxes.

Capitalized interest requirements will be computed to coincide with the assessing information being provided to the County Treasurer no later than December 15th of the year preceding the assessment installment collection date.

Closing and delivery of the bond proceeds may occur any time after the Bonding Resolution is passed by the County Commissioners.

Interest on the bond proceeds earned prior to and during construction may be used in the construction program. If construction earnings are not used in the construction account, the remaining balance may be used for early redemption of the bonds.

2000 CONSTRUCTION

Construction may commence upon the appropriation of funds for the improvements from the County or related entity, the successful closing of any related bond financing, or the adoption by the Board of County Commissioners of a resolution allowing funds to be advanced for construction purposes which may be reimbursed from the proceeds of a subsequent bond issue (subject to the limitations of federal tax law).

3000 NOTICE OF APPORTIONMENT

Upon completion of any local improvements and receipt of a statement of expenses, the County Clerk shall notify the owners of the property to be assessed that the improvements have been made in accordance with Section 30-60-608, C.R.S., as amended.

4000 HEARING FOR ASSESSMENT

A thirty (30) day legal notice and resolution for establishing assessments on property owners, based on approved estimates or actual costs as confirmed by the County's Engineering and Finance Staff, will be prepared. The County Commissioners will review the proposed Assessment Resolution, hear public testimony and by Resolution assess the costs of the apportioned LID improvements. (The Assessment Resolution must be approved prior to December 15th in order to be considered for the following January tax billing).

Mesa County has determined that the equitable basis for assessment for LIDs shall be front footage, acreage, or density. (Section 30-20-604, C.R.S., as amended). Density includes existing and potential density and is determined by environmental and service constraints, existing zoning, acreage, and developed patterns projected over the duration of bonds, usually 10 years.

The County Finance Department shall be responsible for proposing the specific assessments. Input shall be solicited from the property owners' involved, county staff and financial consultants, and shall be reviewed and approved by the LID Coordinator and the Board of County Commissioners.