

Domestic Water
Improvement District
(DWID)
Formation Handbook



Water Infrastructure Finance Authority of Arizona

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Janet Napolitano
Governor



Stephen A. Owens
Chairman

Water Infrastructure Finance Authority of Arizona
Jay R. Spector
Executive Director

June 6, 2005

This handbook is designed to assist citizens, water providers, local officials and others in determining whether the formation of an Improvement District is a viable option to help improve water delivery and availability in their communities. Chances are that it is. Forming a Domestic Water Improvement District (DWID) allows the management of a water supply system to become a shared responsibility among the individuals benefiting from its service. Instead of the burden resting in one place (such as a private water company owner), the community becomes responsible for the technical, managerial and financial responsibilities of the water system.

Once the Domestic Water Improvement District is formed, it is eligible to apply for previously unavailable grants and other forms of subsidized financing.

DWID's are special types of County Improvement Districts, which are political subdivisions of the State, with specific geographic boundaries and the authority to acquire, construct and operate a domestic water system; finance acquisition and construction with special assessment bonds or revenue bonds; charge and collect water rates and user fees; levy ad valorem taxes for operation and maintenance.

As a Domestic Water Improvement District, the system is publicly owned and governed by a locally elected Board or the Board of Supervisors of the County depending on the county of formation. DWID's are also monitored by various State agencies. A petition of the affected property owners through a legally prescribed public process is needed to establish a DWID. This process creates the authority for acquisition, construction and operation of a domestic water system.

Legal guidance for forming Domestic Water Improvement Districts can be found in the Arizona Revised Statutes (A.R.S.). Pertinent sections from the A.R.S. have been cited throughout this handbook, but please refer to the statutes for specific issues, as this publication was developed to merely highlight some of the major points of DWID formation, business development and operations.

This is WIFA's effort to collect the pertinent statutes and provide you with some guidance but as with any important decision in your organization, legal counsel should be consulted. WIFA does not take responsibility for any changes in the law or for rule changes that occur after the publication of this document.

Sincerely,

A handwritten signature in black ink, appearing to read "Stephen A. Owens".

Stephen A. Owens
Chairman of the Board

A handwritten signature in black ink, appearing to read "Jay R. Spector".

Jay R. Spector
WIFA Executive Director

PHASES OF DWID FORMATION & OPERATION

1. Identification Phase

After reading and understanding this guide, it will become clear if forming a Domestic Water Improvement District is appropriate in the specific circumstance. Be sure to refer to A.R.S. § 48-902 for more information.

General purposes for improvements

Citizens like you form Domestic Water Improvement Districts (or “DWID’s” for short) to improve water facilities. Typical improvements include:

- ✓ Purchase of an existing waterworks system for the delivery of water for domestic purposes.
- ✓ Construction of a new waterworks system for the delivery of water for domestic purposes.
- ✓ Reconstruction or repair of waterworks for the delivery of water for domestic purposes.

Criteria for DWID formation

Prior to beginning the process of forming a DWID, you should if the following items are true:

- ✓ The geographic area is unincorporated.
- ✓ There are no unpatented mining claims affecting the geographic area.
- ✓ None of the lands within the geographical area are owned or held for mining or metallurgical purposes.
- ✓ There are no tracts of land of twenty or more acres within the geographic area used for commercial farming or commercial stock raising.

If the area to be incorporated into a DWID is within or partially within any of the above mentioned “caution zones”, consent of the city, town or land owner is needed in order to move forward.

Also, the geographic areas involved do not need to be connected; meaning that if there are several parcels of unconnected land may form a DWID. If however, the proposed boundaries of a noncontiguous (“islands” or pockets of land) district are located within six miles of an incorporated city or town, you’ll need to get permission from the town to move ahead with DWID formation.

If a county improvement district already exists, the county Board of Supervisors can opt to convert the district into a DWID in accordance with the requirements outlined in A.R.S. § 48-1018.

*Begin a public awareness
campaign*

We recommend talking to neighbors and local officials about forming a DWID. Gather their input and ask for assistance. After all, a DWID is a public entity. The Identification Phase is a good time to rally support and begin the education process. Be sure to contact the County Board of Supervisors to initiate verbal discussions goals. Depending on the particular county, staffing (including county attorneys) may be able to assist during the preliminary stages. Regardless, communicating with county representatives in advance of the Formation Phase will make the entire process easier for everybody.

2. Formation Phase

Once the preliminary research has determined a DWID makes sense, the formation phase, which involves a lot of paperwork, may begin. It is time to turn the supporters gathered into volunteers to assist in circulating petitions and get neighbors talking about forming the DWID. If good contacts have been during the Identification Phase, the Formation Phase should go smoothly. Be sure to refer to A.R.S. § 48-903 for more information. Following the steps outlined in this section will help keep the formation phase on track.

Describe the boundary of the DWID

a. Develop a description of the boundary of the Domestic Water Improvement District.

Briefly describe the boundary of the district and create a map identifying where the district is located in relation to other geographic areas such as towns, cities, rivers, reservations, etc. A plat or sketch showing the rough area and boundaries of the district is fine.

Get petitions signed by effected property owners

b. Develop a petition to form the district and incur related expenses.

Because DWID's are a form of county improvement districts, the first step is to formally let the County Supervisors know of the community's interest in forming a DWID.

51% of property owners must sign petition

A petition addressed to the board of supervisors may be filed with the clerk of the board, if signed by a majority of the persons owning real property or by the owners of fifty-one percent (51%) or more of the real property within the limits of the proposed district. Keep in mind that even with a majority of property owners supporting the need for a DWID, the final decision lies with the county Board of Supervisors (see A.R.S. § 48-271).

Petition must include these items

In accordance with A.R.S. § 48-903, the petition must include the following information:

- ✓ The name of the proposed DWID.
- ✓ Why forming the DWID is necessary.
- ✓ A general statement about why the DWID is necessary to improve the public welfare and how the property within the DWID will benefit.
- ✓ The boundaries of the proposed DWID.
- ✓ A general outline of the proposed improvements.
- ✓ Numbered lines so that petitioners may sign their name, print their name and include their address.

A sample petition is included as Sample Form #1 within Appendix A.

If the petition requests the establishment of a DWID for the purpose of purchasing an existing water system, the petition must state that the DWID will be governed by an elected Board of Directors pursuant to A.R.S. § 48-1011 through 48-1019.

Petition may include assessment for purchase or improvements

Although it is not required, a petition to incur expense may be bundled within the petition for district formation. If this petition method is chosen, the maximum amount of the proposed assessment is to be no more than \$1.50 per \$100 dollars of assessed valuation in accordance with A.R.S. § 48-915.

Verify all signatures prior to submitting to county

Prior to submitting the petitions to the County Clerk, each copy of the petition must be verified. Be sure to include the map of the general area of the district as described above.

District's can be governed by the County Board of Supervisors or a separate Board of Directors

c. Decide on the option of forming a local Board

In accordance with A.R.S. § 48-1012 there are several options for forming the local Board for the DWID. Either the County Board of Supervisors will serve as the “Board” or petitioners can request that a separate Board be elected.

Petitioners must file a bond to cover the expenses to form the district

d. File a bond

The petitioners must file a bond with security approved by the County Board of Supervisors. This bond is filed in order to pay for the expenses connected with the formation of the DWID. As prescribed by A.R.S. § 48-904, the bond can either be filed at the time of filing the petition or at any time prior to the publication of the notice of the hearing on the petition. The Supervisors may determine that the original bond is insufficient and will require an additional bond at any time during this stage. If an additional bond is not acquired, the Supervisors have the right to dismiss the petition as described in the Arizona Revised Statutes.

County Board of Supervisors sets a hearing date for the district formation

e. Set a date for a hearing

As instructed in A.R.S. § 48-905, the County Board of Supervisors shall set a date for a hearing on the petition no later than forty days after the petition has been presented to them. This hearing provides an opportunity for the public to comment on the potential formation. At any time before the hearing date, interested parties may file letters of support or objections with the clerk of the Board of Supervisors.

Keep in constant contact with the county representatives

We strongly encourage close communication with members of the Board of Supervisors and key county staff persons working directly on this process.

Mail a notice of the hearing to all property owners within the proposed district boundaries

f. Mail notice of hearing

A.R.S. § 48-905 also requires that notifications of the public hearing to the property owners are mailed within the proposed district at least twenty days before the hearing. The list of names appearing on the most recent property tax assessment roll must be used. These notices must be mailed first class.

Keep all returned mail and try to find out where owners have moved

The county clerk will keep all mail that is returned as undeliverable or incorrectly addressed and will develop a list of the names and addresses of the returned notices. The county clerk will then send this list to the county recorder or designee.

The county recorder or designee will conduct a search to determine whether the listed owner has another address or if someone else owns the property. The county recorder may charge up to three dollars for each record search to be billed against the district formation.

Revise mailing lists accordingly

The county recorder will then provide a revised list to the county clerk. Although A.R.S. § 48-905 does not require the county clerk to send notifications to the new addresses, it is highly recommended that this occur. However, this revised list must be used for all further communications on this matter.

Post a hearing notice in high pedestrian traffic areas such as the post office, grocery stores and at the county offices

g. Post notice of hearing

The current (2005) version of the Arizona Revised Statutes does not stipulate a requirement for posting the notification of the hearing, but we strongly recommend doing so. Create notification on letter-sized paper using a WHAT, WHERE, WHEN, WHO style format and post it at high-traffic pedestrian areas such as a local post office, town hall or the county courthouse. It is best to educate people educated and build a support team.

Print a copy of the notice in the local newspaper

h. Publish notice of hearing

A notice must be published twice in a newspaper that has general circulation throughout the county. The notices must appear one week apart with the first occurring no less than 10 days prior to the date of the hearing. The notification must include a description of the boundaries of the proposed improvement district. Please review A.R.S. § 48-905 for further details.

A sample public hearing notice is included as Sample Form #2 within Appendix A.

*Hold the hearing before the
County Board of
Supervisors*

i. Hold hearing on formation

At the date and time set by the County Board of Supervisors, a hearing will occur where opponents and proponents may voice their concerns on the forming of the DWID. At any time prior to the hearing date, interested parties may file letters of support or objections with the clerk of the Board of Supervisors as prescribed by A.R.S. § 48-905.

*If the County Board of
Supervisors approves, the
new district can now be
formed*

j. Managing authority orders district formation

Under the provisions of A.R.S. § 48-906 the County Board of Supervisors may declare the DWID organized after considering all objections, determining district benefits and assuring that the petition is signed by majority of property owners within the proposed boundaries. From the point of formation, the DWID functions as a corporate entity with all of the powers of a municipal corporation. The district will pay certified bills and other costs accrued by the county and the petitioners during the Formation Phase out of the new district's funds.

If the formation of a DWID is dismissed by the County Board of Supervisors, the costs accrued during the Formation Phase will be collected against the petitioners bond.

Be sure to review A.R.S. § 48-906 for further information on the above.

*Even if approval is
obtained, protestors still
can be heard*

Even after the Supervisors declare the DWID organized, opponents may still protest its formation in the superior court of the county no later than twenty days after final determination of the Board of Supervisors. This is stipulated in A.R.S. § 48-907

3. Design Phase

The design phase includes engineering design planning, business planning and identifying funding sources in order to acquire and/or improve facilities.

It is highly recommended to hire professional consultant specialists who are well versed in all aspects of DWID operation

a. Hire consultant specialists

Depending upon the unique needs of the DWID, we recommend hiring various consultants to assist the DWID Board of Directors to make appropriate, sound decisions. Ideally, a professional team of consultants should include:

- ✓ District General Manager to oversee the day-to-day functioning of the DWID.
- ✓ Operations Attorney to advise the Board of day-to-day business concerns.
- ✓ Bond Attorney to assist with project financing and citizen assessments.
- ✓ District Engineer to oversee the design and implementation of construction projects.
- ✓ Project Officer to serve as an ombudsman coordinating the efforts of the district general manager, district engineer and general contractor during construction projects.
- ✓ The general contractor is selected during the bid phase as described below.

b. General purposes for public improvements

In accordance with A.R.S. § 48-909, a DWID finances the acquisition, construction, reconstruction or repair of waterworks for the delivery of water for domestic purposes.

District Engineer prepares plans, specifications, estimates, values

The professional district Engineer is held accountable for all engineering work

c. Prepare plans, specifications and estimate of work or system value

Specific to the provisions of A.R.S. § 48-951, the DWID Engineer shall conduct all engineering work including preparing plans, specifications and estimates. The DWID Engineer is accountable for all professional work performed for the project. The engineer assures the reliability of work by:

- ✓ Certifying construction activities
- ✓ Retaining record of engineering approvals at the DWID's office

There are a variety of ways to finance purchases or fund improvement projects

d. Financing options for improvement projects and or system acquisition

Whether the DWID purchases an existing facility, upgrades an existing system, or starts from scratch, the project can be financed in a variety of ways including:

- ✓ Citizen taxation
- ✓ Selling bonds
- ✓ Obtaining a loan – through the Water Infrastructure Finance Authority, a traditional lending institution (bank) or U.S.D.A. Rural Development
- ✓ Obtaining a grant – through the Water Infrastructure Finance Authority or U.S.D.A. Rural Development. Note that funds are limited and have specific requirements for use.

4. Project Phase

The project phase is the most vital of phases and requires specialists to be on task.

Plans, specifications and cost estimates must be placed on file at the district office

a. File plans, specifications and estimates of costs or system value with the district clerk

As prescribed in A.R.S. § 48-914, the DWID Engineer must prepare and file plans, specifications as well as cost estimates related to the project prior to adopting the “Resolution of Intention” described below. If the project involves the acquisition of an existing water system, include the cost or the estimated value of the system.

b. If a privately owned water system is acquired, contact the Arizona Corporation Commission

DWID Board of Directors must adopt a Resolution of Intention describing the proposed project

c. Adopt a “Resolution of Intention” (ROI) to order improvements

Before ordering an improvement authorized by A.R.S. § 48-912, the DWID Board of Directors must first pass a “Resolution of Intention” (ROI) describing the project.

The ROI describes the nature and scope of the project including a description of the boundaries where the improvement will occur or a reference to the map created by the district engineer. Be sure to refer to A.R.S. § 48-912 for specifics.

A sample “Resolution of Intention” is included as Sample Form #3 within Appendix A.

Publish the “Resolution of Intention” in the local newspaper

d. Publish “Resolution of Intention” (ROI)

The current (2005) version of the Arizona Revised Statutes does not stipulate a requirement for publishing the ROI, but it is recommended. Use a notification mailer as described in section “e” below. The notice should be published twice in a newspaper with general circulation throughout the county after the DWID Board adopts the ROI and within twenty days of the date of mailing the notice to affected property owners.

Post the Resolution of Intention in a visible public place

e. Post notice of proposed improvement

The current (2005) version of the Arizona Revised Statutes does not stipulate a requirement for posting the notification of the hearing, but we strongly recommend that you do so. Just create a notification on letter-sized paper using a WHAT, WHERE, WHEN, WHO style format and post it at high-traffic pedestrian areas such as a local post office, town hall

Exceeding requirements of the Arizona Revised Statutes is highly recommended when communicating with the public

Mail and information packet to all property owners within the district boundaries

Property owners have 20 days in which to file a written protest

When less than a majority of protests are filed, the purchase or improvements can now be officially ordered

or the county courthouse. This is a great way to get people educated and on the team.

While publishing and posting as described above are not currently required by statute, these activities are a way to communicate with district citizens. Frequent communication through a variety of means helps the process. Do not be discouraged if citizens state that they do not know about the project. District will be able to site examples of communication.

f. Mail notice of proposed improvement

In accordance with A.R.S. § 48-916, the DWID must mail a notice to all property owners within the assessment area that contains the following:

- ✓ The “Resolution of Intention” and the date that the DWID Board passed the ROI.
- ✓ A description of the improvement project and a list of the property to be assessed.
- ✓ The total amount of the engineer’s estimate of costs and expenses of the improvement project.
- ✓ A description of the Board’s intent to levy assessments and issue bonds if applicable.

The notification needs to be mailed to the owners based on the names and addresses that appear on the most recent property tax assessment roll. Be sure to include any corrected addresses and property owners that are obtained throughout the process of forming the DWID.

g. Receive objections and protests

Individuals who own property that is affected by the proposed improvements have twenty days from the date that the DWID Board mails the above-described notice to file a written protest with the district. The clerk must date stamp these protests. If a majority of the property owners object to moving forward with the improvements, the project will stop for a period of six months from the date the protest is filed. Property owners can also object to the extent of the boundaries of the assessment district. For further instructions, please refer to A.R.S. § 48-917.

Generally, good public education in the early stages of district formation and project design will avoid protests. A significant amount of work is accomplished at this stage, has already been accomplished prior to this complaint process and having an open line of communication will keep hard work from going to waste.

To hear and receive protests and objections, districts must follow a series of steps. Please refer to A.R.S. § 48-918 for the detailed procedure.

Develop a new Resolution of Intention ordering the improvements

h. Develop a resolution that orders work or purchase of The system

In accordance with A.R.S. § 48-919, if no protests are filed or less than a majority of effected property owners file protests, the DWID Board can order the proposed improvements as described in the “Resolution of Intension”.

The new resolution does not have to be as detailed as the first ROI because the first resolution can be referenced in the narrative ordering the improvement. The DWID Board shall publicly publish a notice that the resolution was passed.

Announce the work order, along with advertisements asking for bids in the local newspaper

i. Publish advertisement for proposals or purchase

A resolution ordering work along with an invitation for sealed bids (if improvements or new construction is required) must be published twice in one or more daily newspapers or once in a weekly or semiweekly newspaper with county-wide circulation. Please refer to A.R.S. § 48-919 for more information.

Post the Resolution of Intention ordering the work along with advertisements asking for bids

j. Post advertisements for proposals or purchase

Post the same notice ordering work and advertise sealed bids for a five-day period on or near the door where the DWID Board holds meetings. The notice needs to state when proposals can be filed with the clerk, which can not be any less than ten days from the date of the first publication of the notice in accordance with 48-919.

Receive the sealed bids for work at a regular district Board Meeting

k. Receive construction bids and declare the bids

At an open DWID Board meeting, the directors are to open, examine and publicly declare the bids. Any bid may be rejected if the rejection benefits the public good. All bids may be rejected in favor of lowest and best bid of a responsible bidder.

A bond must be included with all bids

Be sure that all qualifying bids are accompanied by a bid bond (payable to the DWID) and in the amount of no less than ten percent (10%) of the total proposal.

If the project involves the added complexity of providing for alternative plans, instructions for this are outlined in A.R.S. § 48-922.

The DWID Board of Directors can now accept the winning bid

l. Award construction contract or approve purchase of system

The DWID Board may now act upon a motion to award the

contract to the responsible bidder. A majority of Board members must vote in favor of the motion and this action must be recorded in the minutes of these proceedings as directed in A.R.S. § 48-922.

The winning contractor must file a new bond

In accordance with A.R.S. § 48-925, the contractor must file a bond with the district as required under the provisions of Title 34, Chapter 2, Article 2 of the Arizona Revised Statutes.

Announce the winning contractor in the newspaper

m. Publish notice of award or purchase

In accordance with A.R.S. § 48-923, the notice of the award of contract must be pushed twice in a daily newspaper or once in a weekly or semiweekly newspaper with general circulation within the county.

Within twenty days after the date of the first publication, if there are no objections, the successful bidder shall enter into a contract with the district for the purpose of executing the improvement project as directed in A.R.S. § 48-923.

DWID Board of Directors must approve the engineers assessment diagram

n. Approve assessment diagram with all lots and parcels numbered

In accordance with A.R.S. § 48-927, the DWID Engineer shall provide diagrams of the properties that will benefit from the improvement project for the DWID Board's approval.

If no objections are heard, the contractor and the district will enter into a contract for the work

o. Sign contract or purchase documents

In accordance with A.R.S. § 48-923, within twenty days after the date of the first publication, if there are no objections, the successful bidder shall enter into a contract to make the improvements as bid. If the bidder does not respond to the award, the Board can re-advertise for bids immediately and the non-responsive bidder is liable through the bond for all costs all damages incurred as a result of the failure to enter into the contract.

p. Receive objections to the award

In accordance with A.R.S. § 48-923, within fifteen days from the date of the first publication, anyone objecting to the award process may file a written notice with the clerk. If the Board agrees with the concerns, it can abandon the entire process or correct the concerns and proceed with the project.

The engineer now determines the costs for purchase and or improvements including all project related expenses

q. Prepare and record assessments with a summary of costs and amount of assessment for each lot

After the DWID receives bids or the DWID enters into a contract to purchase an existing facility, cost estimates for all the properties affected by the improvements must be generated. These costs need to include not only the cost of the

actual construction work or facility acquisition, but also any project related costs or estimates for the following incidental expenses. These costs or estimates include:

- ✓ DWID Engineering expenses
- ✓ DWID General Manager expenses (the portion of project-related time)
- ✓ Printing costs
- ✓ Advertising and posting of all notices
- ✓ Project Officer
- ✓ Costs of making and administering the assessment
- ✓ Bond discounts
- ✓ Bond fees
- ✓ Interest on bonds for the construction period plus six months
- ✓ Legal, financial and other related expenses incurred while obtaining and selling the bond

The amount of the assessment must be directly related to the amount of benefit each parcel would receive

The DWID must proportionately assess each benefiting property according to the benefit (for example, the difference in benefit between a hotel, hospital or home). The assessment should also briefly discuss the contractor who was awarded the contract; the amount of the contractor's surety bond; if the assessment is to be made after work completion; the total amount of each assessment; and the name and owner of each lot if known and if unknown label the parcel as such.

The DWID must prepare a numbered list of all effected property owners

The DWID must list all names of owners as reflected in the most recently certified property tax assessment roll and any corrections made throughout the formation process. This listing must be consecutively numbered and the assessment diagram shall be numbered in correspondence with the numbers of the list of owners.

Either the contractor or the DWID may be named responsible for the collection of these assessments. Please refer to A.R.S. § 48-927 for more information.

r. Notify the Board that assessment has been recorded

At a DWID Board meeting, the DWID Engineer should advise the Board that the above has been accomplished. Please refer to A.R.S. § 48-928 for more information.

In order for the assessment to be valid, liens must be placed against each property for the amount due

s. Notice recording of the assessment, with the County Clerk

The DWID must record the assessment and warrant, if applicable, authorizing the project and its assessments at the county as a lien on each property assessed. Please refer to A.R.S. § 48-927 for more information. **In order to avoid**

district failure (i.e. bankruptcy), following through on this step is vital. If liens are not placed on each property benefiting from the improvement, the owner has no legal obligation to pay the assessment.

Another hearing date must be set

t. Board sets hearing on assessment

As prescribed in A.R.S. § 48-928, once the DWID Engineer has notified the Board of the recording of the assessments, the Board must schedule a hearing date no less than twenty days from the date of the recording.

u. Publish notice of hearing

The hearing notification must be published for five days in a daily newspaper or two times in a semiweekly or weekly newspaper with general circulation in the county. The first publication needs to occur at least ten days prior to the hearing.

A sample hearing notice is included as Sample Form #4 within Appendix A.

Please refer to A.R.S. § 48-928 for more information.

Send notification of the hearing to all property owners

v. Mail a notice of hearing to all property owners 20 days before hearing

The DWID must mail the notification first class to all property owners affected by the improvements at least twenty days before the hearing date. Please refer to A.R.S. § 48-928 for more information.

Send letter explaining that payment in full for the assessment less interest will be accepted

w. Mail cash demand letters to property owners with notice of hearing on assessment

At the discretion and for the convenience of the property owner, paying the assessment in full will reduce the total amount of their portion of the assessment. Receiving cash for assessments will reduce the amount necessary for the bond.

Beyond this date, full payments will not be accepted unless the entire interest amount is also paid

A sample cash demand letter and remittance slip are included as Sample Forms #5 and #6 within Appendix A.

Please refer to A.R.S. § 48-928 for more information.

x. Close cash collection period and show amount collected

Within forty days from the time of the recording of the assessment and or warrant, if applicable, the DWID will close the cash collection period, record all property owners who have paid their portion of the assessment in full. For those assessments remaining unpaid or partially paid, interest rates as specified by the bond or at a rate of eight per cent (8%)

will be assessed to those amounts. These interest-bearing assessments will be paid in semiannual installments or installments as prescribed by the bond. Please refer to A.R.S. § 48-928 for more information.

y. Circulate official statement about bond sale or begin sale procedures if negotiated

Work with a bond attorney on developing this statement. Guidance may be found in A.R.S. § 48-933, 934.

*District Board of Directors
holds a hearing on the
assessment*

z. Hold hearing on assessment

The DWID Board must hold a hearing to listen to objections to the assessments no less than twenty days from the date of the recording of the assessments. Individuals may also provide their objections in writing by the day of the hearing. At this time, the Board may adjust the assessments to more accurately reflect fair apportionment of benefit.

*Based upon the cash collected
the assessment list must be
revised including only those
desiring a payment plan*

aa. Approve assessments

Based upon the outcome of the assessment hearing, the DWID Board will modify the assessment rolls and approve the assessments. See A.R.S. § 48-932 for more information.

bb. Prepare certified list of assessments to go to bond

The certified list of assessments approved by the DWID Board must be sent to the County Clerk.

*Similarly, the actual amount
needed for the improvement
bond must be recalculated*

cc. Adjust bond size for cash collection

For those assessments remaining unpaid or partially paid, interest rates as specified by the bond or at a rate of eight per cent (8%) will be assessed to those amounts. These interest-bearing assessments will be paid in semiannual installments or installments as prescribed by the bond. Please refer to A.R.S. § 48-928 for more information.

dd. Receive bond bids or loan information

At this state, the final bids and rates are received for the most beneficial bond or loan package for the district.

ee. Award bond bids or loan and adopt resolution authorizing sale or loan

In accordance with A.R.S. § 48-935, the DWID Board may now prepare a resolution directing improvement bonds be issued or loaned in the amount of the unpaid assessments. This resolution should also include when the bond will be payable not exceeding twenty-five years and three months from the date of the bonds or not to exceed forty annual installments as defined in A.R.S. § 48-934.

ff. Execute documents for closing on the bond or loan

All appropriate parties must execute, sign and approve documents as per the bond or loan agreements and the Arizona Revised Statutes.

gg. Close sale of bonds or loan and receive funds

Bond or loan documents are closed and funds are disbursed according to the executed documents.

hh. Close purchase of system if applicable

If the DWID purchased an existing system, it is now time to complete the transfer.

ii. Issue “Notice to Proceed” to contractor if improvements are sought

At this time the DWID can issue a “Notice to Proceed” for construction subject to all documentation requirements and the Arizona Revised Statutes.

jj. Commence construction or operation

The DWID may begin construction or operation.

5. Construction Completion Phase

During the construction completion phase, the project must be completed satisfactorily and final payments are issued.

The DWID Board of Directors must send a notice of completion to each real property owner

a. Complete project

Ensure that all phases of the project are completed and all regulatory issues are addressed.

b. File certificate of substantial completion and deliver to Board

Obtain all construction documents and prepare a certificate of substantial completion. Submit the certificate for Board review and acceptance.

c. Mail “Notice of Completion” to each property owner

Send out notices of completion to each property owner. It is advisable to include a newsletter at this time to alert the property owners of the upcoming assessments.

d. Make final payment of retention to contractor

If work is completely satisfactory, the DWID can release retention.

e. Commence with issuing service bills (See Section 7)

The billing procedures begin according to the previously approved format.

6. Assessment Invoicing Phase

Critical to the assurance of a project loan repayment, the Assessment Invoicing Phase is a separate and distinct function from the Service Billing Phase. Understand the intricacies involved with collecting assessments acting in a timely fashion on delinquent accounts.

Begin collecting assessments early so bond repayment will not be late

a. Publish notice of assessments

In accordance with A.R.S. § 48-937, assessment installments will be due on December 1 or June 1 so that the bond repayments can be made by January 1 or July 1. A.R.S. § 48-938 prescribes that the assessment invoices need to be released at least thirty days before it becomes due. It is advisable and permissible to send invoices well in advance of these dates so that bond payments can be made on time. Be sure to provide notification in the local newspaper as well.

Remember that the liens the DWID files on the property will be in full force and affect on the property until the assessment is fully paid.

Penalties occur if assessments are not paid in time

If payment is not made, the DWID will add an installment to the next payment with interest and penalties. Penalties include all costs associated with work involved in handling non-payments such as administrative, phone, etc. plus any percentage as prescribed by the district Board.

Be sure that the number of installments corresponds to the number of years bond payments are made, but that they do not exceed forty years, as prescribed in A.R.S. § 48-934.

b. Mail notice of assessments

The assessment invoice needs to include the DWID's name, the amount of the installment of the parcel due at that time and the date that the property will be put up for sale if the installment is not paid by the due date

Samples assessment invoices are included as Sample Forms #7 and #8 within Appendix A.

c. Mail assessment invoices to all property owners

At least thirty days before any assessment installment is due, mail an invoice to the addresses shown on the most recent property tax roll. The mailing needs to be prior to ten days before the due date. Be sure to continually update the assessment records as property is sold and be sure to send the assessment invoices to the new property owner. For more information, please refer to A.R.S. § 48-938.

Be sure to keep track of all penalties accrued if payment is delinquent

If assessment payments are not received, the DWID has the right to sell the property in order to be paid the assessment, interest and penalties due

Mail and post the auction notifications

Prior to the auction, property owners may pay assessments in full in order to avoid auction of property

d. Assessment payments due

Work with a bond attorney on developing payment practices. The Arizona Revised Statutes do allow certain flexibility in the way payments are made.

e. Delinquent assessment payments add 5% penalty

All payments not received by the due date can be certified as delinquent and a five percent (5%) penalty can be added to the amount of each delinquent installment. The penalty can be added the day after the due date if payments have not been received. For more information, please refer to A.R.S. § 48-938.

f. Publish list of assessment payment delinquencies, with intent to sell notice

In accordance with A.R.S. § 48-939, within twenty days from the delinquency date, the DWID needs to prepare a list of all delinquent assessments. This list needs to include:

- ✓ A description of each parcel of property
- ✓ The name of the owner
- ✓ The amount of the delinquency
- ✓ The late fee and other costs due including the cost for advertising.

The notice should also include a statement that unless each delinquent installment (including interest) plus the late fees and costs isn't paid, the entire amount of the assessment is due in full – basically nullifying the ability of the property owner to pay the assessment in installments. If no payment is received, the property will be sold at a public auction at a time and place specified in this same notice.

The DWID must mail this notice at least ten days before the public auction date. Post this same notice where the auction is to take place as well at the door where the DWID Board holds their meetings. See A.R.S. § 48-940.01 for further instructions.

Prior to the auction, any person may pay the delinquent installment (including interest), late fees and charges on the lot assessed. At this time the delinquency is cleared. See A.R.S. § 48-940 for more information.

Further instruction regarding court proceedings and the sale of delinquent property by the district can be found in A.R.S. § 48-1003.

g. Continue sale for 60 days

*Conduct record search
for all delinquencies*

h. Begin title searches on property remaining delinquent
As prescribed in A.R.S. 48-940.01, prior to the sale date the DWID needs to obtain a record search that shows the names and addresses or record for all lien claimants that are in a delinquent status.

*The DWID may sell the
delinquent property*

i. Mail notice of continued sale to all interested properties

j. Conduct sale
In accordance with A.R.S. § 48-941, on the auction date, the DWID may commence with the sale of the property as advertised proceeding in numerical order. Each lot separately assessed must be sold separately. The amount of the sale is for the entire amount of the assessment due including interest plus the late installment, penalty and fees. The bidder who will pay this amount for the least quantity of ownership in the property becomes the purchaser.

*If no outside purchaser
is found, the DWID
may purchase it*

If there is no purchaser, the DWID purchases the property for the same amount as provided for in A.R.S. § 48-952. The DWID may sell these properties after the redemption phase at a public or private sale.

*Once purchased, a
certificate stating such
must be delivered to the
County Recorder*

k. Issue certificates of purchase to winning bidder
After the sale is done, the DWID will issue a certificate of sale stating the following:

- ✓ Description of the property sold
- ✓ Name and address of the owner and all lien claimants
- ✓ Statement that the property was sold for a delinquent assessment
- ✓ Specify the nature of the improvement project for which the assessment was made
- ✓ The amount of property sold
- ✓ The date of the sale
- ✓ The name of the buyer
- ✓ The first date when the buyer can apply for a deed.

A list of these certificates bearing the same information must then be delivered to the county for recording purposes.

The owner of the property can avoid totally surrendering his property by paying a redemptive amount within 13 months

As directed in A.R.S. § 48-943, a redemption may be made by anyone interested in the property at any time prior to the execution and delivery of a deed by paying the district the amount that the property was sold plus:

- ✓ Five percent (5%) if its paid within three months
- ✓ Ten percent (10%) if its paid within six months
- ✓ Twelve percent (12%) if its paid within nine months
- ✓ Fifteen percent (15%) if its paid within twelve months
- ✓ Twenty percent (20%) if its paid at any time after twelve months.

When redemption is made, the superintendent shall note this fact on the certificate of sale and deposit the amount paid with the treasurer who credits the purchaser when the certificate of sale is returned. The redemptive funds must be put into a special fund created for the repayments of the bonds issued for the project in accordance with A.R.S. § 48-945.

After 13 months, if no one claims the property, the successful bidder may apply for a deed after diligently attempting to contact the owner.

After thirteen months from the sale, the DWID will inform the buyer that they have complied with the provisions of A.R.S. § 48-944 and that no one has come forward to redeem the property. The purchaser must notify the owner, lien claimants and occupant of his intent to apply for a deed in writing. After a thorough search, if the owner cannot be found a notification of this action will be posted in an obvious place on the property for at least thirty days prior to the application for a deed.

7. Service Billing Phase

There are a variety of billing methods for the collection for the actual service provided. It is important to remember that the assessments on the purchase of the system and or its allied improvements are completely different from the service fees for the actual delivery of the finished water product to the property.

Fees should be set keeping in mind all appropriate costs related only to actual service delivery

In accordance with A.R.S. § 48-910, the Board of Directors of a Domestic Water Improvement district has the authority to set fees following a public hearing.

User fees can include any of the following items:

- ✓ A proportionate share of the cost of operation, maintenance and replacement of the water delivery system including the cost of hired consultant specialists as described earlier;
- ✓ Hook up fees for connection to the district water system not including the costs of the actual physical connection;
- ✓ Lateral fees for the cost of constructing a lateral line from the users' property to the middle of the easement where the water system is located.

In the event that the user fees become delinquent, the DWID has the right to also place a lien against the property similarly to that attached with the assessments. Please refer to A.R.S. § 48-910 for further instructions.

8. Bond/Loan Close-out Phase

For all bond and bond close out issues, refer to a bond attorney as state laws differ depending on the type of district formed.

9. Recapitulation Phase

This phase provides an opportunity to review the actual versus estimated costs of the improvement project. Essentially, property owner assessment accounts are now reviewed against actual costs and reconciled accordingly.

Property owners have one year from the date the certificate of completion was filed to register a complaint that work was not completed properly

In accordance with A.R.S. § 48-928 and § 48-935, at any time within one year that a project certificate of completion is filed, owners may provide a written notice that the work as described in the “Resolution of Intention” and plans has not been performed substantially. At this time, the DWID Board must set a date for a hearing on this issue notifying all parties involved of this hearing. At the hearing the Board will decide if the claim is legitimate and take appropriate action against the contractor’s surety bond or reduce the amount of the assessment.

District Engineer prepares a recalculation of the actual versus estimated expenses for the project

After all work is complete, the district engineer must prepare a recalculated assessment based on actual work and expenditures. The district engineer must then file a statement with the Board demonstrating the difference between the contractors’ bid and the actual (recapitulated) amount ordering that each assessment be increased or decreased as the case may be.

Surpluses may pay for maintenance, a reserve account or be refunded to property owners

A.R.S. § 48-958 stipulates that if any money or property remains in the special bond issue fund after all the bonds have been repaid, the surplus should either go to the general fund of the DWID for maintenance purposes or to the county general fund. It is also permissible to use the surplus to pay any other outstanding bonds of any improvement DWID if it does not have enough money to fully repay its bonds.

As prescribed in A.R.S. 48-964, if the district Board so chooses, it can also use the surplus to:

- ✓ Pay all maintenance and operation costs of the district (as outlined in A.R.S. § 10-1013).
- ✓ Set up a reserve account.
- ✓ Purchase or improve the system or pay bonds or other obligations for that purpose.
- ✓ Refund the surplus to the property owners.

10. General Business Operations Phase

After all phases are complete, customary business operations may be developed.

The district Board of Directors as appointed by the county Board of Supervisors must draw lots to determine terms of office

DWID Board can fill vacancies without election

In a district of 10,000 residents or less an elector can own property within the district but hold a primary residence elsewhere

Board members may receive no more than \$75 per meeting and travel reimbursement

District Board has the same authority as the County

a. Appointing and electing district Board of Directors

The county Board of Supervisors may decide that the new DWID be governed by an elected Board of at least three members as specified in the petition for formation (A.R.S. § 48-903 and 48-1012). The initial Board will be appointed by the county Board of Supervisors and then elected by the voters in the district thereafter.

The initial Board will draw lots, to determine the length of their individual terms of office. The initial Board will be comprised of close to an equal number of individuals serving four-year terms and two-year terms. When the first set of two-year terms expires, the public will elect a new director for each expired term and the newly elected directors will serve a term of four years.

The DWID Board may fill vacancies with a qualified property owner of the district if the vacancy occurs through resignation, death or disability. Be sure to review A.R.S. § 48-1012 for further instructions.

As outlined in A.R.S. § 48-1012, if the district's population is ten thousand persons or less, according to the most recent U.S. Census, any person who is a qualified elector of the state and a property owner within the district is eligible to vote in a district election without regard to that person's residency.

On an annual basis, the district Board needs to elect among them, a president.

b. Board compensation and expenses

According to A.R.S. § 48-1013, each director is eligible to receive no more than \$75.00 dollars for each Board meeting attended and travel reimbursement for the purpose of attending these meetings for no more than four Board meetings in a month. Compensation is to be paid by the district.

c. Board authority

The DWID Board possesses the same powers and authority that the county Board of Supervisors previously possessed over the DWID (See A.R.S. § 48-1014).

If the population of the district is under 10,000, the County may review and veto financial transactions

If the DWID Board of Directors is remiss in attending meetings, the County may dismiss all Board members and elect new ones

However, according to A.R.S. § 48-1015, if the DWID has a population under ten thousand, according to the most recent U.S. Census, the county Board of Supervisors may review and have veto authority over all financial transactions of the district Board of Directors.

In the event that a quorum is not met for any reason for more than thirty days, the county Board of Supervisors may dissolve the district Board pursuant to A.R.S. § 48-1016. The county Board of Supervisors may also revoke the district Board's authority at any time in order to protect the residents of the district. Authority is then returned to the county Board of Supervisors who may opt to call for new elections for the district Board of Directors if so desired. Please note that this action can only take place with the Board as a whole, not individual directors. Remember that elections can only be held at specified dates and are administered at the expense of the district.

d. Day to day operations

Work with hired consultant specialists to establish daily operation procedures. For a helpful resource on setting up operations, the Kansas Rural Water Association offers several helpful guidebooks. They are listed in Appendix "B" of this handbook.

Appendix A: SAMPLE FORMS

This section contains a variety of sample forms, which will assist you through all the processes described in the previous section. Feel free to modify them to suit the specific needs of your DWID.

SAMPLE FORM #1 – Petition to Form a Domestic Water Improvement District

**PETITION TO FORM A
DOMESTIC WATER IMPROVEMENT DISTRICT**

To the <<Name>> County Board of Supervisors, this petition has been established in order to form the <<Name>> Domestic Water Improvement District to serve residents and businesses existing within the boundaries of <<West 97th Street; East 25th Street; North 2nd Avenue and South 103rd Avenue>>. Governance is to be provided by a separate Board of Directors elected pursuant to the Arizona Revised Statutes Title 48, Chapter 6, Article 4.

The formation of this Domestic Water Improvement District will promote the public convenience and welfare by providing <<a safe, reliable and economically sound drinking water product>> to those within the above described boundaries.

Those signatures below represent individuals owning real property within the proposed boundaries and provide affidavit that the real property will be subject to assessment for the <<purchase and or improvement of a domestic water delivery system>>. The existing system to be purchased is <<description>> and will require the following improvements: <<description>>.

1. Print name	Signature	Address
2. Print name	Signature	Address
3. Print name	Signature	Address
4. Print name	Signature	Address
5. Print name	Signature	Address
6. Print name	Signature	Address
7. Print name	Signature	Address
8. Print name	Signature	Address
9. Print name	Signature	Address
10. Print name	Signature	Address

SAMPLE FORM #2 – Public Hearing Notice

PUBLIC HEARING NOTICE

Pursuant to A.R.S. § 48-905, notice is hereby given that on <<date>>, the <<name>> County Board of Supervisors will be holding hearing on the petition to form a Domestic Water Improvement District within the boundaries of <<West 97th Street; East 25th Street; North 2nd Avenue and South 103rd Avenue>>.

Anyone owning real property within these boundaries wishing to object to the establishment of the district may do so at this time. Objections may also be filed in writing with the clerk of the Board of Supervisors prior to the date of the hearing.

(This format can be used for both a poster and newspaper advertisement.)

SAMPLE #3 – Resolution of Intention to Order Improvement or Purchase

**RESOLUTION # <<number>>
RESOLUTION OF THE BOARD OF DIRECTORS OF THE
<<name>>DOMESTIC WATER IMPROVEMENT DISTRICT
DECLARING ITS INTENTION TO <<describe action to be taken
such as acquire an existing system, make improvements, etc.>>**

WHEREAS, the <<name>> Domestic Water Improvement District has determined that it is necessary to acquire and construct the improvements hereinafter described and to assess a portion of the costs thereof upon property owners located within the improvement district; and

WHEREAS, the majority of property owners located in the improvement district have signed a petition requesting the district to undertake the hereinafter described acquisition and construction have been completed and filed with the Clerk of the District; and

WHEREAS, plans, specifications and estimates of costs for such acquisition and construction have been completed and filed with the Clerk of the District; and

WHEREAS, the costs and expenses of such acquisition and construction will be assessed in accordance with the benefits received by such property owners.

NOW, THEREFORE, be it resolved by the Board of Directors of the <<name>> Domestic Water Improvement District, Arizona that:

Section 1. The public interest or convenience requires and it is the intention of the Board of Directors of the <<name>> Domestic Water Improvement District to order the acquisition of <<name existing facility>> and make improvements involving <<describe improvements>>. The improvements shall be performed in accordance with that certain set of plans and specifications on file in the office of the Clerk of the District and have been hereby approved and adopted by the Board of Directors of the District. Said plans and specifications are hereby referred to for a more particular description of the Improvements to be made and by this reference such plans and specifications are made a part hereof.

Section 2. That the Improvements, in the opinion of the Board of Directors of the District, are of more than local or ordinary public benefit, and are of special benefit to the respective lots, pieces and parcels of land within the assessment area hereinafter described, and the Board of Directors of the District hereby makes and orders the cost and expense of the Improvements chargeable upon the assessment area and hereby declares that the area benefited by Improvements, and to be assessed to pay the costs and expenses thereof in proportion to the benefits derived therefrom, is described and bounded as set forth in an exhibit attached hereto.

PASSED, ADOPTED, AND APPROVED by the Board of Directors of the <<name>> Domestic Water Improvement District, this <<date>>. (Affix appropriate signatures).

SAMPLE #4 – Notice Of Recording Of Assessment And Notice Of Hearing On The Assessment

**NOTICE OF RECORDING OF THE ASSESSMENT OF <<name>>
DOMESTIC WATER IMPROVEMENT DISTRICT AND NOTICE OF
HEARING ON THE ASSESSMENT**

Pursuant to the provisions of Title 48, Chapter 6, Section 48-927, 928, of the Arizona Revised Statutes, as amended, please take notice that on <<date>> an assessment apportioning the total estimated cost of the acquisition and improvements of <<name facility>> was recorded in the district Office. The assessment was approved and confirmed by the Board of Directors of the district on <<date>>. The assessments against the property within the boundaries of the district must be paid in cash to the Treasurer of the district within forty days of the date of the recording of the assessment and therefore must be paid on or before <<date>>. If an assessment is not paid in full by <<date>>, improvement bonds will be issued against the principal amount of the assessment remaining unpaid. The improvement bonds will extend over a period of not to exceed twenty years and will bear interest at a rate of not to exceed eight percent per annum on the unpaid balance.

FURTHER NOTICE IS HEREBY GIVEN that the Board of Directors of the <<name>> Domestic Water Improvement district have set <<date>> at the hour of <<time>> for hearing any objections to the legality of the assessment or to any of the previous proceedings connected herewith. The hearing will be held at <<location>>. The owners and all other persons directly interested in the improvements or in the Assessment who have any objection to the legality of the Assessment or to any of the previous proceedings taken in connection herewith may, prior to the time fixed for the hearing, file a written notice briefly specifying the grounds of their objections. All such notices should be mailed to the Clerk of the Board of Directors of the <<name>> Domestic Water Improvement District at <<address>>.

Sincerely,

President of the Board of Directors

SAMPLE #5 – Cash Demand Letter

**DEMAND FOR CASH PAYMENT OF ASSESSMENT
<<NAME>> DOMESTIC WATER IMPROVEMENT DISTRICT**

<<Assessment Number: _____>>

<<Tax Parcel No. _____>>

<<Name of Property Owner>>

<<Address>>

<<City/State/Zip>>

<<Assessment Amount _____>>

The above-described property is located within the <<name>> Domestic Water Improvement District. This notice is being sent to you pursuant to the provisions of Title 48, Chapter 6, Section 48-928 of the Arizona Revised Statutes, as amended, to advise you that on <<date>>, an assessment was recorded in the office of the District. You are hereby notified that your assessment, in the amount set forth above is now due and payable.

Pursuant to law, this notice is to be mailed to you if you are the owner of property located within the boundaries of the district, as shown on the last equalized county tax roll, or if your ownership of such property is known to the Clerk of the District. If you do not own the parcel or parcels listed above, we request that you forward this Demand for Cash Payment to the owner, if such is known to you, or return it to the Clerk with a notice that you do not own the property listed above. A form is attached hereto for your convenience.

If the assessment is not paid in full by <<date>>, improvement bonds will be issued against the amount of the assessment remaining unpaid. The improvement bonds will extend over a period of not to exceed <<number>> years and will bear interest at the rate of not to exceed eight percent per annum (8%) on the unpaid balance.

Unless the assessment is paid in cash, annual installments of principal and interest in the unpaid balance of the assessment will be collected by the district in the manner provided by law.

If you desire to pay the assessment in cash, please return the attached remittance slip, together with your check in the amount set forth above made payable to <<name>>Domestic Water Improvement District, to the Treasurer of the District at <<address>>. If you wish improvement bonds to be issues against your property and the assessment to be paid in installments, you do not have to take any further action and do not need to return this notice.

Sincerely,

District Board President

SAMPLE #6 – Remittance for Cash Collection

**<<name>> Domestic Water Improvement DISTRICT
PAYMENT OF ASSESSMENT**

REMITTANCE FOR CASH COLLECTION

**To: Treasurer, <<name>> Domestic Water Improvement District
<<address>>
<<City/State/Zip>>**

Re: Assessment for <<description>>

I herewith deliver to you the sum of \$_____ in payment of that certain assessment mentioned above.

Name of Owner

Signature of Owner

(cut along dotted line)

**STATEMENT OF NON-OWNERSHIP
<<name>> Domestic Water Improvement District Assessment**

**To: Treasurer, <<name>> Domestic Water Improvement District
<<address>>
<<City/State/Zip>>**

Please be advised that I do not own the parcel of land described in the notice mailed to me.

To the best of my knowledge, the owner is:

Name: _____
Address: _____

SAMPLE # 7 – Assessment Invoice Cover Letter

<<name>> **Domestic Water Improvement District**
<<address>>
<<city, state, zip>>
<<phone>>

<<DATE>>

<<Property Owners Name>>
<<Address>>
<<CityStateZip>>

Re: Notice of Special Assessments Due on Improvements

To Whom It May Concern:

You are currently listed as owning the property described as Assessment # <<ASSM#>>, Parcel # <<PARCEL#>>. Pursuant to the provisions of the Arizona Revised Statutes, § 48-938, an assessment installment of <<INSTALL>> is due and payable on or before the <<date>> for the system acquisition and improvements currently underway.

If the assessment installment of <<INSTALL>> is not paid on or before <<date>>, this assessment installment will become certified as delinquent. All penalties will be assessed per Arizona Revised Statutes and the ordinances of the <<name>> Domestic Water Improvement District.

If you no longer own the above-described property, kindly complete the attached form and return it to <<name>> Domestic Water Improvement District.

Should you have any questions please do not hesitate to call the offices of the <<name>> Domestic Water Improvement District at <<phone number>>.

Sincerely,

President of the Board of Directors

encl: invoice/remittance/non-ownership

SAMPLE # 8 – Assessment Invoice and Statement of Non-Ownership

ASSESSMENT INVOICE

Assessment Date: <<DATE>>

Assessment payment for: <<AREA>>

<<ASSM#>>

<<PARCEL#>>

Payment amount Due: <<INSTALL>>

Please make payments to: Treasurer, <<name>> Domestic Water Improvement District

<<address>>

<<city, state, zip>>

Keep the Top Portion for Your Records

<<name>> *Domestic Water Improvement District*

REMITTANCE

Date: <<DATE>>

To: Treasurer, <<name>> Domestic Water Improvement District

<<address>>

<<city, state, zip>>

Re: <<AREA>>

<<ASSM#>>

<<PARCEL#>>

I am enclosing an assessment installment in the amount of <<INSTALL>> for the above named property.

Detach and Mail with Payment

<<name>> *Domestic Water Improvement District*

STATEMENT OF NON-OWNERSHIP

Date: <<DATE>>

To: Treasurer, <<name>> Domestic Water Improvement District

<<address>>

<<city, state, zip>>

Re: <<AREA>>

<<ASSM#>>

<<PARCEL#>>

Please be advised that I do not own the parcel of land described in the Notification mailed to me. To the best of my knowledge, the owner is:

Name: _____

Address: _____

Phone: _____

Detach and Mail if Needed

Appendix B: RESOURCES

You do not need to go it alone when forming a DWID. In fact, the entire process is a lot easier when you seek the advice and council of others. This section contains some helpful contacts.

NAME	ADDRESS	PHONE
Arizona Department of Environmental Quality	1110 W. Washington Street Phoenix, AZ 95007	602-771-2300 phone 800-243-5677 toll free
Arizona Small Utilities Association	1955 West Grant Road, Ste. 190 Tucson, AZ 85745	520-620-0230 phone 520-620-0610 fax
County Supervisors Association of Arizona	1905 W. Washington St., Suite 100, Phoenix, AZ 85009	602-252-5521 phone 602-253-3227 fax
USDA Rural Development – Phoenix Office	230 North 1st Avenue, Suite 206 Phoenix, Arizona 85003	602-280-8701 phone 602-280-8770 fax
Water Infrastructure Finance Authority of Arizona (WIFA)	1110 W. Washington Street Phoenix, AZ 95007	602-364-1310 phone 602-364-1327 fax

Appendix C: Glossary of Terms

DWID formation involves becoming acquainted with perhaps some new terminology and “buzz” words. This section provides some translation in this regard.

Ad valorem taxes	Taxes imposed at a rate percent of value.
Arizona Revised Statutes	The statutes governing activities of the State of Arizona.
Community Water System	A public water system which: a) serves 15 or more service connections that are used by the same person for at least six months per year; or b) serves the same 25 or more persons for at least six months per year.
Domestic Water Improvement District	A county improvement district that is either formed for the purpose of constructing, improving, or purchasing a drinking water delivery system.
Recapitulation	A phase of DWID operation. The reconciling (summing up) of assessment accounts once the project has been completed and all actual costs are known.
Redemption	A phase of DWID operations. Essentially, to buy something back. It is an opportunity for a property owner to pay off the assessment due plus penalties as a final step prior to the DWID auctioning the property.
Revenue bonds	Bonds issued by a political subdivision to construct, improve or purchase buildings, facilities, equipment and other long term public infrastructure. The bonds are payable from user fees and related revenues collected by the political subdivision.
Special assessment bonds	Bonds issued by a political subdivision to construct, improve or purchase buildings, facilities, equipment and other long-term public infrastructure. The bonds are payable from assessments paid by property owners whose property benefits from the public infrastructure.
U.S.D.A. Rural Development	A division of the U.S. Department of Agriculture offering loans and grants for public improvement projects.
Water Infrastructure Finance Authority	A state agency, which provides financial assistance for water, water reclamation, and drinking water.

Appendix D: Arizona Revised Statutes

Select Arizona Revised Statutes

Title 48 – Special Taxing Districts

Chapter 6 COUNTY IMPROVEMENT DISTRICTS

48-902. Authorization for improvement district; areas and lands excluded

A. An improvement district may be established in any unincorporated area, whether or not contiguous, by the Board of Supervisors of the county in which the proposed district is located, for the purpose of constructing and operating a wastewater treatment facility and making other local improvements or acquisitions in the district or for the benefit of the district that are permitted by this article, and may contract for or in any other manner provide transportation services within the district through special assessments in such districts, or the issuing of bonds or making other contractual arrangements for improvements, and levying taxes for the operation and maintenance of improvements and streets within the district or for the benefit of the district.

B. With written consent of the state land commissioner an improvement district may include state lands or state trust lands within its boundaries, but those lands shall not be included for purposes of forming or objecting to the formation or expansion of a district.

C. Notwithstanding subsection A of this section, an improvement district established for the purposes described in section 48-909, subsection A, paragraph 1, 6, 7 or 10 may include areas in an incorporated city or town with the consent of the city's or town's governing body.

D. At the time of the establishment of an improvement district, none of the following shall be included in the improvement district:

1. Territory lying within an incorporated city or town except as provided in subsection C of this section.
2. Lands owned or held by any common carrier for use in connection with interstate or intrastate commerce.
3. Unpatented mining claims.

E. Unless the improvement district is formed for the purposes described in section 48-909, subsection A, paragraph 7, at the time of establishment of an improvement district, none of the following shall be included in the improvement district if the owner objects to such inclusion as provided in subsection F of this section:

1. Lands owned or held for mining or metallurgical purposes.
2. Any tract of land of twenty or more acres in area actually used for commercial farming or commercial stock raising, or any subdivided lands of which lots or blocks have not been offered generally for sale since the lands were subdivided.

F. The owner of any property included in the classifications listed in subsection E of this section may have the property excluded from the proposed improvement district if the owner files a verified statement with the Board of Supervisors prior to the adoption of the resolution ordering the formation of the district, stating that the person executing the statement is one of the owners of the respective lot or parcel, the respective classification, that the lot or parcel is within such classification on the date of the statement, the legal description of the lot or parcel and that the signer requests that the lot or parcel be excluded from the improvement district. Any property owner may contest the statement at the hearing on formation of the improvement district. The Board of Supervisors shall rule on all such objections.

G. A domestic water improvement district may be formed or expanded in noncontiguous areas. If the proposed boundaries of a noncontiguous district are located within six miles of an incorporated city or town, the district shall obtain the consent of the governing body of the city or town prior to the formation or expansion of the district.

48-903. Petition to establish district; elected Board; verification; plat

A. A petition addressed to the Board of Supervisors requesting the establishment of an improvement district may be filed with the clerk of the Board, if signed by a majority of the persons owning real property or by the owners of fifty-one per cent or more of the real property within the limits of the proposed district.

B. A petition with the required number of signatures shall not be declared void on account of any alleged defect, but the Board of Supervisors shall allow the petition to be amended in form and substance to conform to the requirements of this article. One or more similar petitions, or copies of the same petition with additional signatures, for the establishment of any improvement district may be filed prior to the time of the hearing on the first petition, and shall be considered as though filed with the first petition. The petition shall be presumed to contain the signatures of the persons whose signatures appear thereon, unless the contrary is proved.

C. The petition shall set forth:

1. The name of the proposed improvement district.
2. The necessity for the proposed district.
3. That the public convenience, necessity or welfare will be promoted by the establishment of the district and that the property to be included in such district will be benefited.
4. The boundaries of the proposed district.
5. A general outline of the proposed improvement.
6. Such other matters as are required by this article.

D. A petition requesting the establishment of an improvement district for the purpose of purchasing an existing domestic water delivery system shall provide that the district be governed by a Board of Directors elected pursuant to article 4 of this chapter. Establishment of an improvement district with an elected Board of Directors shall be subject to the approval of the Board of Supervisors.

E. Upon compliance with the requirements prescribed by subsection A, the owners of real property and qualified electors within the limits of an existing district formed for the purpose of purchasing an existing domestic water delivery system may petition the Board of Supervisors to allow an elected Board of Directors to govern the district.

F. Each copy of the petition shall be verified by one of the petitioners and shall be accompanied by a plat or sketch indicating the approximate area and boundaries of the district.

48-905. Hearing on petition; summary establishment; notice

A. Except as provided in subsection C of this section, upon receipt of a petition for the establishment of a district, or for an addition to an existing district, the Board of Supervisors shall set a date for a hearing on the petition not later than forty days after presentation of the petition. At the hearing all interested property owners may appear and be heard on any matter relating to the establishment of the proposed improvement district, or addition to an existing district. Any person wishing to object to the establishment of the district or addition may, before the date set for the hearing, file the person's objections with the clerk of the Board of Supervisors.

B. Notice announcing the hearing and stating the boundaries of the proposed district or addition shall be published twice in a newspaper of general circulation in the county within which the proposed district or addition is located. The publications shall be one week apart, and the first publication shall be not less than ten days prior to the date of the hearing. The notice shall also be mailed by first class mail at least twenty days before the hearing to the owners of the real property within the area of the proposed district according to the names and addresses that appear on the most recent property tax assessment roll.

C. If the petition is signed by the owners of all of the real property in the proposed district and if the petitioners provide a copy of a record search that shows the names of the owners of all the property in the proposed district, the Board of Supervisors may summarily order the formation of the district and a hearing is not required.

D. The clerk shall retain all notices that are mailed pursuant to subsection B of this section and that are returned to the clerk as undeliverable or that indicate that the address is incorrect. The clerk shall prepare a list of the names and addresses on the returned notices and shall deliver that list to the county recorder or a searcher of records.

E. The county recorder or a searcher of records shall determine from the records in the office of the county recorder whether the listed owner has another address or whether a different person is shown as the owner of the parcel. The county recorder or a searcher of records shall provide to the clerk the new information on the owners and the addresses as shown in the records. The new information shall be used by the clerk for purposes of sections 48-916, 48-917, 48-924 and 48-928 until a new assessment roll is approved by the Board of Supervisors of the county. The recorder may charge up to three dollars for each record search. The charges of the recorder or of a searcher of records are incidental expenses pursuant to section 48-927.

F. A district may be formed or its boundaries may be changed without mailing notice to new owners or new addresses that are provided to the clerk pursuant to subsection E of this section.

48-909. Purposes for which public improvements may be undertaken; powers incidental to public improvements

A. When the public interest or convenience requires, the Board of Directors of an improvement district may order:

1. The whole or any portion, either in length or width, of one or more of the streets of the district graded or regraded, paved or repaved, landscaped or otherwise maintained, improved or reimproved.
2. The acquisition, construction, reconstruction or repair of any street, tunnel, subway, viaduct or conduit in, on, under or over which the district may have an easement or right-of-way therefor.
3. The construction or reconstruction of sidewalks, crosswalks, curbs, gutters, culverts, bridges, tunnels, siphons, manholes, steps, parkings and parkways.
4. The placement, replacement or repair of pipes, hydrants and appliances for fire protection.
5. The acquisition, construction, reconstruction, maintenance or repair of wastewater treatment facilities, sewers, ditches, drains, conduits, pipelines and channels for sanitary and drainage purposes, with outlets, cesspools, manholes, catch basins, flush tanks, septic tanks, connecting sewers, ditches, drains, conduits, channels and other appurtenances in, under, over or through any street or any land of the district or any right-of-way granted or obtained for such purpose, either within or without the district limits.
6. The acquisition, construction, reconstruction or repair of waterworks for the delivery of water for domestic purposes, and of wells, ditches, canals, channels, conduits, pipelines and siphons, together with the necessary or usual appurtenances for carrying storm water or water from irrigation ditches,

watercourses, streams or springs into, through or out of such district in, under, over or through any street, or any land of the district or any right-of-way granted or obtained for such purpose, either within or without the district limits. Nothing in this section shall be construed to prohibit the Board of Directors of an improvement district from purchasing an existing domestic water delivery system within the district or outside the district or constructing an initial or improving an existing domestic water delivery system inside or outside the district.

7. The construction, reconstruction or repair of breakwater levees or walls, riverbank protection or replacement of riverbanks and supporting land. A district established for this purpose shall cooperate and coordinate its plans and activities with the county flood control district established in the county and any incorporated city or town in which the district is established.

8. The acquisition, construction, reconstruction or repair of lighting plants and poles, wire conduits, lamps, standards and other appliances for the purpose of lighting and beautifying streets or other public lands.

9. The construction, reconstruction or repair of any work incidental to or connected with any such improvement.

10. The acquisition, in the name of the district, by gift, purchase or otherwise and the maintenance, repair, improvement or disposal of any real or personal property necessary or convenient for district operation for a community center, park or recreational area.

11. Pursuant to the provisions of section 48-902, the Board of Directors of an improvement district may contract for or in any other manner provide transportation services within the district.

B. In addition to the powers specifically granted by or reasonably inferred from the provisions of this article, an improvement district through its Board of Directors may:

1. Acquire by gift, purchase, condemnation or otherwise in the name of the district and own, control, manage and dispose of any real or personal property or interest in such property necessary or convenient for the construction, operation and maintenance of any of the improvements provided for by this article.

2. Join with any other improvement district, any city, town, governmental agency or Indian tribe, or any agency or instrumentality of an Indian tribe, or any person in the construction, operation or maintenance of any of the improvements hereby authorized.

3. Join with any other improvement district or any city, town, county or Indian tribe, or any agency or instrumentality of an Indian tribe, in improving streets running upon or along the boundary of the district and levy assessments and issue bonds for the district's part of the cost of such improvements.

4. Sell, lease or otherwise dispose of any property of the district or interest in such property when the property is no longer required for the purposes of the district or the use of which may be permitted without interfering with the use thereof by the district.

5. Sell or otherwise dispose of any property or material acquired in the construction or operation of any improvements as a by-product or otherwise, and acquire rights-of-way for such disposal by condemnation or otherwise.

6. Accept from the state of Arizona or the federal government, or any agency, department or instrumentality of either, grants for or in aid of the construction of any of the improvements provided for by this chapter.

7. Notwithstanding any other law, sell improvement bonds to the federal government, or any agency, department or instrumentality of the federal government, for the construction of any of the improvements provided by this chapter.

8. Enter into contracts with the state of Arizona or the federal government, or any agency, department or instrumentality of either or both, for the construction or supervision of construction by the state of Arizona or the federal government, or any agency, department or instrumentality of either or both, but reserving to the district the right to assess against the property benefited by the improvement, and located within the district, that portion of the cost of the improvement which does not qualify for aid under a state or federal grant.

9. Operate, maintain and repair the streets within the district and any improvements made pursuant to this chapter.

10. Do all things incidental to the exercise of the powers granted by this article.

C. A county improvement district formed for the purpose of purchasing an existing or constructing a new domestic water delivery system within the district or outside the district shall have the same authority and responsibility as an incorporated city or town pursuant to the provisions of title 45 and chapters 22 and 28 of this title.

D. An improvement district which proposes to provide domestic water service within the certificated area of a public service corporation serving domestic water shall provide just compensation to the public service corporation pursuant to section 9-516 for the facilities or certificated area taken. The right to compensation for a public service corporation from an improvement district shall not apply if no facilities of the public service corporation are actually acquired by the improvement district and either of the following conditions exist:

1. At the time the law providing for compensation became effective the certificated area for which compensation is sought is an area which was within the boundaries of an improvement district.

2. A certificate is issued to a public service corporation for any area which is within an improvement district at the time the certificate is issued.

48-909.01. Wastewater treatment facility; sewer collection system and nonpoint source projects; financial assistance loan repayment agreements; definition

A. Notwithstanding any other law, a county improvement district including a domestic wastewater improvement district may construct or improve a wastewater treatment facility, sewer collection system or nonpoint source project or any combination of those projects with monies borrowed from or financial assistance provided by the water infrastructure finance authority of Arizona pursuant to title 49, chapter 8.

B. To repay financial assistance from the water infrastructure finance authority of Arizona, a county improvement district including a domestic wastewater improvement district may enter into a financial assistance loan repayment agreement with the authority. A financial assistance loan repayment agreement is payable from any revenues otherwise authorized by law to be pledged to repay long-term indebtedness. A financial assistance loan repayment agreement may be secured either by assessments or by a pledge of revenues of the district or any combination of those sources. If the financial assistance loan repayment agreement is secured in whole or in part by assessments levied pursuant to this article, the financial assistance loan repayment agreement shall be treated as a series of bonds to the extent that they are secured by those assessments and the Board of Directors of the district has all powers and

duties to collect assessment installments and enforce delinquent assessments through sale and eventual issuance of deeds in the same manner as if the assessments were evidenced by bonds.

C. The Board of Directors of the district shall obtain approval for the financial assistance loan repayment agreement in the same manner provided by law for approving and issuing bonds or other long-term indebtedness that is secured by those assessments or revenues or a combination of assessments and revenues that are to be pledged to repay the loan.

D. A financial assistance loan repayment agreement entered into pursuant to this section shall contain the covenants and conditions pertaining to constructing a wastewater treatment facility, sewer collection system or nonpoint source project or any combination of those projects and repaying the loan as the water infrastructure finance authority of Arizona deems proper. Financial assistance loan repayment agreements may provide for paying interest on the unpaid principal balance of the agreement at the rates established in the agreement. The agreement may also provide for paying the district's proportionate share of the expenses of administering the clean water revolving fund established by section 49-1221 and may provide that the district pay financing and loan administration fees approved by the water infrastructure authority of Arizona. These costs may be included in the assessment and revenue amounts pledged to repay the financial assistance loan repayment agreement. Districts are bound by and shall fully perform the financial assistance loan repayment agreements, and the agreements are incontestable after the loan is funded by the water infrastructure finance authority of Arizona. The district shall also agree to pay the authority's costs in issuing bonds or otherwise borrowing to fund a loan.

E. The water infrastructure finance authority of Arizona shall not require that payment of a financial assistance loan repayment agreement be made from other than those sources permitted in subsection B of this section. The financial assistance loan repayment agreement may also include covenants concerning the operation of the system, the setting of rates and provisions for the appointment of a receiver to take charge of and operate a sewer collection and wastewater treatment system if the financial assistance loan repayment agreement is not paid in a timely manner and, in the sole discretion of the water infrastructure finance authority of Arizona, if the district will not be able to cure the default.

F. A district may employ or contract for the services of attorneys, accountants, financial consultants and other experts in their fields as deemed necessary to perform services with respect to the financial assistance loan repayment agreement. These costs are incidental expenses and shall be included in any assessments.

G. This section is supplemental and alternative to any other law under which a district may borrow money or issue bonds. This section shall not be construed as the exclusive authorization to enter into loan agreements with the water infrastructure finance authority of Arizona.

H. A district may borrow additional monies or enter into additional financial assistance loan repayment agreements with the water infrastructure finance authority in an amount up to the amount approved pursuant to subsection C of this section less the amount that the district is obligated to repay to the water infrastructure finance authority pursuant to a financial assistance loan repayment agreement.

I. For purposes of this section, "nonpoint source project" has the same meaning prescribed in section 49-1201.

48-910. Domestic water and domestic wastewater improvement districts; authority to set fees; liens; foreclosure

A. The Board of Directors of a domestic water improvement district or a domestic wastewater improvement district shall have the authority to set fees for the district following a public hearing. Fees may include any of the following:

1. User fees that are proportionate shares of the cost of operation, maintenance and replacement of a water delivery system, a water disposal system or a wastewater treatment and disposal system or any combination of those systems, including a system for the treatment and use of effluent, and may include the cost of administrators, surveyors, sanitation experts, engineers, legal counsel and other persons as are reasonably necessary for the operation, maintenance and replacement of the systems. The fees may also include any contractual amounts required to meet covenants relating to bonds or other obligations of the district secured by a pledge of, or promise to pay from, the district's fees.
2. Hookup fees for connection to the district water or wastewater system, not including the cost of the actual physical connection.
3. Lateral fees for the cost of constructing a water or wastewater lateral from the property line of the user to the middle of the easement or right-of-way in which the water system or wastewater system is located.
4. For a domestic wastewater improvement district only, either of the following:
 - (a) A capacity fee based on the cost of developing the wastewater collection, treatment and disposal facilities that are required to treat the flows into the system from a particular wastewater connection.
 - (b) An availability fee that is charged on all property in the district that is not connected to the existing wastewater treatment system but that is adjacent to a wastewater line and that is based on the cost of having the wastewater line and treatment facility capacity to accommodate that property if it is developed. An availability fee is limited to fifty per cent of the user fee.

B. Notice announcing the hearing shall be posted in not less than three places within the district for not less than ten days prior to the date of the hearing and shall be published twice in a newspaper of general circulation within the district. The newspaper publications shall be not less than one week apart, and the first publication shall be not less than ten days prior to the date of the hearing. The district may also mail notice of the hearing to all district customers. The notice may be included in the district's regular billings and shall be mailed at least ten days before the date of the hearing.

C. The Board of Supervisors shall be notified by mail of the hearing not less than ten days prior to the date of the hearing. The Board of Supervisors may be represented at the hearing and may advise the Board of Directors.

D. At the hearing all interested district property owners and customers may appear and be heard on any matter relating to the establishment of the proposed fees. Any person wishing to object to the establishment of the proposed fees may, before the date set for the hearing, file objections with the chairman or the clerk of the Board of Directors.

E. A domestic water improvement district or domestic wastewater improvement district may file a lien on property for the nonpayment of user fees for services provided to the property if the fees are delinquent for more than ninety days. At least thirty days before filing the lien, the district shall provide written notice to the owner of the property and shall include notice of an opportunity for a hearing before a designated officer of the district. The notice of lien shall be personally served on the property owner or mailed by certified mail to the property owner's last known address or to the address to which the most recent property tax assessment was mailed. If the property owner does not reside on the property, the notice shall be mailed by certified mail to the owner's last known address.

F. The unpaid user fees are a lien on the property from the date of recording in the office of the county recorder in the county in which the property is located until the fees and all costs are paid. The lien is subject and inferior to the lien for general taxes and to all prior recorded mortgages and encumbrances of record. A sale of the property to satisfy a lien assessed pursuant to this section shall be made on a judgment of foreclosure and order of sale. A domestic water or domestic wastewater improvement district may bring an action to foreclose the lien in the superior court in the county in which the property is located any time after recording. Failure to foreclose the lien does not affect its validity. The recorded unpaid user fees are prima facie evidence of the truth of all matters recited in the recording and of the regularity of all proceedings before the recording.

G. Unpaid user fees pursuant to this section accrue interest at the rate prescribed by section 44-1201.

H. The district shall add all costs incurred by the district, including interest, attorney fees and costs in filing and enforcing the lien, to the unpaid user fees, and the costs are a liability of the property owner payable from the proceeds of the sale.

I. A prior assessment of unpaid user fees pursuant to this section does not bar a subsequent assessment pursuant to this section, and any number of liens on the same parcel of property may be enforced in the same action.

J. A district shall not file a lien for unpaid user fees against a residential property that is occupied by a lessee and at which the lessee is responsible for payment of the user fees. The district shall determine the status of leased residential property before filing the lien.

48-912. Resolution of intention to order improvement

A. Before ordering an improvement authorized by this article that will result in an assessment against one or more lots within the district, the Board of Directors of the district shall pass a resolution of intention briefly describing the improvement. By the resolution of intention and the subsequent proceedings, one or more of the improvements may be made on one or more streets or any portion of any street and shall constitute one improvement and be constructed under one contract. If any such work is already done for any lot, the lot shall be excepted from that assessment to the extent of the work done.

B. When the proposed improvement in the opinion of the Board of Directors is of more than local or ordinary public benefit, it may order the expense of the improvement chargeable upon an assessment district, and shall describe the extent of such assessment district in general terms in its resolution of intention, either by reference to street lines or block numbers, or by designating its exterior boundaries by their courses and distances from the street or streets the improvement of which is contemplated, and may refer for a more particular description of the district to a map on file with the district engineer, showing the exterior boundary lines of the assessment district, and delineating block and lot numbers or containing such details as will show the location of the lines.

C. The Board of Directors in the resolution of intention may provide that the improvement described in the resolution may be made according to any of several alternative plans and specifications, methods, classes or kinds of construction or classes or kinds of material to be determined by the Board of Directors.

48-913. District engineer; appointment; compensation

A qualified engineer shall be appointed or employed as district engineer and his compensation fixed by the Board of Directors. Claims of the engineer for compensation or expenses, approved by the Board of Directors, may be paid out of the county general fund, and the general fund shall be reimbursed out of the funds of the district.

48-914. Plans; specifications; estimate of cost; limitation on assessment

Before passing the resolution of intention, plans and specifications and estimates of the cost and expenses thereof shall be prepared by the engineer and filed with the clerk. The assessment for any lot shall not exceed its proportion of the estimate.

48-915. Petition to incur expense; sufficiency

A. Before incurring any expenses for which the district may become liable and that will result in an assessment against one or more lots within the district, the Board of Directors shall require that there be filed with the clerk a petition signed by property owners as provided by this section.

B. The petition may consist of one or more like or similar instruments filed with the clerk. The sufficiency of the signatures shall be determined by the rules prescribed for determining the sufficiency of protests against the improvement.

C. The petition may be accepted as sufficient by the Board of Directors if it or its several parts have attached the affidavit of a property owner whose property is subject to assessment for the improvement, stating on oath that the property owner has examined the petition and that the signatures are the genuine signatures of the owners of a majority of the frontage of the property fronting on the proposed improvement or, if the cost of the improvement is proposed to be made chargeable upon an assessment district, the owners of a majority of the frontage of property contained within the limit of the assessment district.

D. Notwithstanding subsection C, if the Board of Supervisors of a county finds that a proposed assessment by the district is a matter of public health, welfare and safety and on a showing that a reasonable effort has been made by first class mail to contact absentee owners, the Board of Directors may accept the petition as sufficient if it is signed by the majority of resident and responding absentee owners, as determined by the Board of Directors, of a majority of the frontage of the property fronting on the proposed improvement or contained within the district, as the case may be. Mailed petitions shall provide for either acceptance or rejection by the owner and shall include a notice stating that only returned petitions will be counted. The absentee owners who are contacted by first class mail have thirty days from the date the mail is postmarked to return the petition. The maximum amount of the proposed assessment under petitions authorized by this subsection shall be no more than one dollar fifty cents per one hundred dollars of assessed valuation.

48-915. Petition to incur expense; sufficiency

A. Before incurring any expenses for which the district may become liable and that will result in an assessment against one or more lots within the district, the Board of Directors shall require that there be filed with the clerk a petition signed by property owners as provided by this section.

B. The petition may consist of one or more like or similar instruments filed with the clerk. The sufficiency of the signatures shall be determined by the rules prescribed for determining the sufficiency of protests against the improvement.

C. The petition may be accepted as sufficient by the Board of Directors if it or its several parts have attached the affidavit of a property owner whose property is subject to assessment for the improvement, stating on oath that the property owner has examined the petition and that the signatures are the genuine signatures of the owners of a

majority of the frontage of the property fronting on the proposed improvement or, if the cost of the improvement is proposed to be made chargeable upon an assessment district, the owners of a majority of the frontage of property contained within the limit of the assessment district.

D. Notwithstanding subsection C, if the Board of Supervisors of a county finds that a proposed assessment by the district is a matter of public health, welfare and safety and on a showing that a reasonable effort has been made by first class mail to contact absentee owners, the Board of Directors may accept the petition as sufficient if it is signed by the majority of resident and responding absentee owners, as determined by the Board of Directors, of a majority of the frontage of the property fronting on the proposed improvement or contained within the district, as the case may be. Mailed petitions shall provide for either acceptance or rejection by the owner and shall include a notice stating that only returned petitions will be counted. The absentee owners who are contacted by first class mail have thirty days from the date the mail is postmarked to return the petition. The maximum amount of the proposed assessment under petitions authorized by this subsection shall be no more than one dollar fifty cents per one hundred dollars of assessed valuation.

48-916. Notice of resolution

A. The district shall mail to the owners of all real property within the area to be assessed a notice that contains the following:

1. A notice of the passage of the resolution of intention with the date of the resolution of intention.
2. A description of the work to be performed and the property to be assessed.
3. The total amount of the engineer's estimate of costs and expenses of the work.
4. A description of the Board's intention to levy assessments and issue bonds, as applicable.

B. The notice shall be mailed to owners based on the names and addresses that appear on the most recent property tax assessment roll.

48-917. Protest against proposed improvement; protest as bar to improvement proceedings; objection to extent of assessment district

A. The owners of a majority of the frontage of the property fronting on the area of the proposed improvement, or, when the cost of improvement has been made chargeable upon a district, the owners of a majority of the acreage of property contained within the limits of the assessment district, may make a written protest against the improvement within twenty days after the date of the mailing of the notice of the passage of the resolution of intention.

B. The protest shall show a description of the property and the amount of the frontage or acreage, as applicable, owned by each signer together with his post office address. The protest shall be filed with the clerk who shall endorse thereon the date of delivery to him. Protests so delivered and endorsed, if sufficient, shall be a bar to any further proceedings in making the improvement for six months from the date the protest is filed, unless the owners of one-half or more of the frontage or acreage, as applicable, meanwhile petition for the work to be done. No portion of the improvement included in any proceeding barred by the protest shall be included within a new proceeding within six months from filing the protest unless the owners of one-half or more of the frontage or acreage, as applicable, petition for the work to be included in the new proceeding.

C. When the cost of the improvement has been made chargeable upon an assessment district, objections to the extent of the district to be assessed to pay the expenses of the improvement may be made by an owner in the assessment

district within the time provided for the filing of protests against the work. The objections shall show the amount of frontage owned by each signer and his post office address.

D. When an objection to the extent of the proposed assessment district has been filed, the Board of Directors shall fix a time for hearing the protest, and the clerk shall notify the objectors by mail of the address given by each objector of the date of the hearing at least ten days prior thereto.

E. At the hearing, which may be adjourned, the Board of Directors shall hear and pass upon the objections, and its decisions shall be final and conclusive. The Board may modify the extent of the proposed assessment district, in which event a new resolution of intention shall be passed containing a description of the modified assessment district, which shall be published, and notices thereof posted as required of an original resolution of intention.

48-919. Resolution ordering improvement; notice; bids

A. When no protests against the proposed work or no objections as to the extent of the proposed assessment district have been filed within the time specified, or when a protest is found by the Board of Directors to be insufficient, or when the objections to the extent of the proposed district have been heard and denied, the Board of Directors may order, by resolution, the proposed improvements described in the resolution of intention.

B. The resolution need not fully describe the improvement nor the extent of the assessment district, but may refer to the resolution of intention for such description.

C. The superintendent shall then publish a notice of the passage of the resolution ordering the work, and inviting sealed bids for making the improvement therein ordered, twice in one or more daily newspapers or once in a weekly or semiweekly newspaper, published and circulated in the county in which the district is located, and shall post a copy of the notice for five days on or near the door of the meeting place of the Board of Directors. The notice shall state the time within which proposals may be filed with the clerk, which shall not be less than ten days from the date of the first publication of the notice.

D. When in the resolution of intention the Board of Directors has provided for alternative plans and specifications, the invitation for bids for making the improvement may require separate bids according to each of the several alternative plans and specifications.

48-920. Assessment of public property; no rescission

A. When a lot belonging to the United States, the state, a county, city or school district or any political subdivision or institution of the state or county fronts upon the proposed work or improvement, or is included within the assessment district declared by the Board of Directors in its resolution of intention to be the district to be assessed to pay the costs and expenses thereof, the Board of Directors shall, in the resolution of intention, declare whether or not such lot shall be omitted from the assessment thereafter to be made.

B. If the lot is omitted from the assessment, the total expense of all work done shall be assessed on the remaining lots fronting on the work or improvement, or lying within the assessment district, without regard to the omitted lot.

C. If the Board of Directors declares the lot included in the assessment, or if no declaration is made respecting the lot, the district shall be liable for and shall pay such sum as thereafter may be assessed against the lot. The amount of the assessment levied against the lot may be included in any bonds issued for the improvement, and if so included, the assessments shall bear the same interest, and be payable by the district in installments, as assessments against property of private persons.

D. The district may contract with the state, or body to which the lot belongs, for payment to the district of the assessment and interest as it becomes due and payable, and the state, or such body, shall perform the contract.

E. Any city, town, county, school district or other political subdivision of a county or this state shall not rescind or otherwise take or continue any action to terminate an agreement to pay or otherwise support an assessment levied pursuant to this article until all assessments are fully paid. An agreement is deemed to support an assessment if it provides for the sale of property to a district that was financed in whole or in part with assessments levied pursuant to this article or with revenues generated by bonds issued pursuant to this article.

48-921. Payment of costs from other sources

When any money is available from the county, or a state or federal agency, or the general fund of the district, or from any other source, for paying the cost of the whole or any part of any of the work provided for in the resolution of intention, the Board of Directors may in the resolution of intention or in any resolution adopted before the assessment is finally approved, order that such money be applied to the whole or any portion of the improvements for which it is available and direct the remainder of the costs and expenses to be assessed proportionately upon the lots liable to be assessed for such improvement.

48-922. Bids; bond; award of contract

A. Bids shall be submitted accompanied by a bond payable to the district, for an amount not less than ten per cent of the aggregate proposal. Alternative bids may be accompanied by one bond at least equal to ten per cent of the amount of the highest proposal submitted.

B. The Board of Directors shall, in open session, open, examine and publicly declare the bids, and may reject any or all when deemed for the public good, and shall reject all bids other than the lowest and best bid of a responsible bidder. The Board may award the contract for the work or improvement to the lowest and best responsible bidder at the price named in his bid, upon motion, noted in its minutes, and upon a majority vote of its members.

C. When the resolution of intention to make the improvement and the resolution ordering the work has provided for alternative plans and specifications, and the notice has invited separate bids in accordance with alternative plans and specifications, the Board of Directors shall not award the contract for the improvement until fifteen days after the bids have been opened, examined and declared. If within such period the owners of a majority of the frontage of property fronting on the proposed improvement, or, when the cost of the improvement has been made chargeable upon an assessment district, the owners of a majority of the frontage of property contained within the limits of the assessment district, in writing require that the proposed improvement be constructed in accordance with any particular one of the alternative plans and specifications, then the Board of Directors shall so determine and require, and shall award the contract to the lowest and best responsible bidder. If no such written requirement is filed, then the Board of Directors shall determine which of the alternative plans and specifications shall be adopted, considering the cost and efficiency thereof, and shall award the contract accordingly.

48-927. Diagrams of property affected; estimate of benefits; assessment; warrant; lien

A. The district engineer shall make duplicate diagrams of the property fronting upon the proposed work or improvement, or contained within the assessment district when the expenses of the proposed improvement are to be

assessed upon a district. The diagrams shall show each separate lot, numbered consecutively, the approximate area in square feet of each lot, and the location of the lot in relation to the work proposed to be done.

B. When the diagrams have been approved by the Board of Directors, and the clerk has certified that fact and the date of approval, the diagrams shall be delivered to the superintendent of streets.

C. At any time after bids are received for the construction of the work or the district enters into a contract to purchase an existing facility, the superintendent shall estimate on the lots fronting on the work when no district has been established, or, when an assessment district has been established, upon each of the lots within the district, the benefits arising or expected to arise from the work. The superintendent shall then make an assessment to cover the sum due for the work performed and specified in the bid of the person to whom the contract was awarded, and in addition, the incidental expenses, and shall assess upon and against the lots the total amount of the costs and expenses of such work. In so doing the superintendent shall assess the total sum upon the several lots, each respectively in proportion to the benefits to be received by each lot.

D. When the work has not been declared by the resolution of intention to be of more than local or ordinary public benefit, and has not been made assessable upon an assessment district, the lots liable to be assessed for the improvement shall be those fronting upon the street or streets improved, and those situated in the quarter blocks and irregular blocks adjoining and cornering upon the crossings, or where there is a termination in the two quarter blocks adjoining and cornering on the lots, halfway to the next main street crossing and all the way to a boundary line of the district when no cross street intervenes.

E. The assessment shall cover the sum due for the work performed or to be performed as specified in the bid of the person to whom the contract was awarded, and in addition, all incidental expenses. The incidental expenses shall include the compensation of the district engineer for work done by him, the cost of printing, advertising and posting, the compensation of the person appointed by the superintendent to take charge of and superintend the work of constructing the improvements and the expenses of making and administering the assessment, any discount on the bonds, any paying agent's fees, interest on the bonds for a period not longer than the expected period of construction and six months beyond and all legal and financial fees, expenses and costs incurred in the drafting of the proceedings and in the sale of the bonds. The amount of all such incidental expenses shall be settled and allowed by the superintendent upon verified itemized bills.

F. The assessment shall briefly refer to the award of the contract or to the contract if it has then been executed and shall name the person to whom the contract has been awarded and such person's surety, and the amount to be paid as stated in the winning bid or as finally computed by the engineer, if the assessment is not made until the work is completed, together with the incidental expenses, the amount of each assessment, the name of the owner of each lot, if known, and if unknown, the word "unknown" shall be written opposite the number of the assessment, together with the amount assessed on the lot. The superintendent of streets shall list the names of owners as shown on the most recently certified property tax assessment roll and any other person of whom the superintendent has personal knowledge that such other person may be the owner of the respective lot. The assessments upon the lots assessed shall be consecutively numbered, and the diagram shall be numbered to correspond with the numbers of the assessments.

G. If the contractor is charged with collecting the assessment, a warrant, signed by the superintendent and countersigned by the chairman of the Board of Directors, shall be attached to the assessment, and shall be substantially in the following form: "By virtue hereof, I (name of superintendent of streets), of the (name of district),

by virtue of the authority vested in me as said superintendent of streets, do authorize and empower (name of contractor), the contractor's agents or assigns, to demand and receive the several assessments upon the assessment hereto attached, and this shall be the warrant for the same." If the district charges itself with collection of the assessment and the making of cash demands on the owners of the property assessed, no warrant need be issued, and in this article, the terms "assessment and warrant" or "warrant and assessment" refer only to the assessment.

H. The assessment and warrant, if applicable, shall be recorded in the office of the superintendent not earlier than the date of the award of the construction contract, and one diagram shall be filed in that office. When so recorded the several amounts assessed shall be a lien upon the lots assessed for a period terminating on the date the assessment against the respective lot is paid in full, and such recording shall be notice to all persons interested of the contents of the record.

I. The lien of the assessment is a first lien on the property assessed, subject only to the lien for general taxes and prior special assessments.

Article 4 Alternative Form of Government for Domestic Water Improvement Districts and Domestic Wastewater Improvement Districts

48-1011. Definitions

In this article, unless the context otherwise requires:

1. "Clerk" means the person appointed by the Board of Directors to act as the clerk for the district and to perform the duties otherwise prescribed for a clerk pursuant to this chapter. The Board shall establish and make known an office and mailing address for the clerk.
2. "Domestic wastewater improvement district" means a county improvement district that is either formed for the purpose of purchasing an existing domestic wastewater treatment facility within the district and, if necessary, improvements to the system or that is converted pursuant to section 48-1018.
3. "Domestic water improvement district" means a county improvement district which is either formed for the purpose of constructing or improving a domestic water delivery system or purchasing an existing domestic water delivery system and, if necessary, improvements to the system or a district that is converted pursuant to section 48-1018.
4. "Superintendent" means the person employed by the Board of Directors to perform the duties otherwise prescribed for a superintendent pursuant to this chapter. The Board shall establish and make known an office and mailing address for the clerk.

48-1012. Elected Board of Directors; initial members; qualifications; terms; filling vacancy; chairman; qualifications of electors

A. At the option of the Board of Supervisors after presentation of a petition requesting the establishment of a domestic water improvement district or a domestic wastewater improvement district, or upon the submission of a separate petition following the establishment of an improvement district as prescribed by section 48-903, and subsequent to the approval of the county Board of Supervisors, the district shall be governed by an elected Board of Directors. The elected Board shall consist of the number of members, not less than three, specified in the petition for establishment of the district. The first directors of such Board shall be selected by the Board of Supervisors at the

time the district is established. Members of the Board of Directors shall be qualified electors of the district and, after the members first appointed by the Board of Supervisors, shall be elected by the qualified electors of the district.

B. Immediately after the selection and qualification of the first directors of the Board, the directors shall meet and divide themselves by lot into two classes as nearly equal in number as possible. Directors of the first class shall serve for a term of four years, and directors of the second class shall serve for a term of two years. Every director shall continue to discharge the duties of office until a successor is appointed and qualifies. Thereafter, at each regular election, one director for each expired term shall be elected and shall hold office for a term of four years, and until a successor is elected and qualifies. The dates of elections and of expiration of terms shall be specified in the petition for establishment of the district.

C. If a vacancy in the district Board occurs due to death or disability or any other cause other than resignation, the Board of Directors of the district shall appoint a qualified elector of the district to fill the office for the remaining portion of that term. If there is a vacancy in the district Board due to resignation, the district Board shall accept the resignation and appoint a qualified elector to fill the remaining portion of that term of office. If the district Board lacks a quorum for any reason for more than thirty days, the county Board of Supervisors may revoke the authority of the appointed or elected Board of Directors pursuant to section 48-1016.

D. The Board of Directors shall annually elect a chairman from among its members.

E. If only one person files or no person files a nominating petition for election to fill a position on the Board of Directors of the district, the county Board of Supervisors, by resolution, may cancel the election for that office and appoint the person who filed the nominating petition to fill that position. If no person files a nominating petition for an election to fill a district Board office, the county Board of Supervisors, by resolution, may cancel the election for those offices and those offices are deemed vacant and shall be filled as otherwise provided by law. A person who is appointed pursuant to this section is fully vested with the powers and duties of the office as if elected to that office.

F. For the purposes of a domestic water improvement district that is organized pursuant to this article and that has a population of ten thousand persons or less according to the most recent United States decennial census, in addition to any other qualified elector of the district, any natural person who is a qualified elector of this state and who is a real property owner within the district is eligible to vote in a district election without regard to that person's residency.

48-1013. Compensation; expenses

A. Each director of an elected domestic water improvement district or domestic wastewater improvement district Board of Directors is eligible to receive not more than seventy-five dollars for each meeting of the Board attended and reimbursement for necessary travel expenses for attending not more than four meetings of the Board during a calendar month. Compensation shall be paid by the district.

B. Each director shall receive reimbursement for necessary expenses while engaged in official business of the district as authorized by the Board.

48-1014. Powers and duties of an elected or appointed Board of Directors

A. The Board of Directors of a domestic water improvement district or domestic wastewater improvement district elected or appointed pursuant to this article shall have all the powers and duties of the Board of Supervisors sitting as the Board of Directors of a county improvement district formed for the purposes prescribed in section 48-909,

subsection A, paragraph 5 or 6, including the related powers and duties prescribed in section 48-909, subsection B and section 48-910, and that are not in conflict with the provisions of this article.

B. Additions to and alterations of the district shall be made in the manner provided for the establishment of the district, except that notification shall be published in a newspaper of general circulation within the district, petitions shall be filed with the district Board and all actions related to a proposed boundary change are the responsibility of the district Board.

C. Notwithstanding section 48-906, subsection D, on approval of any boundary change of the district, the district Board may order the successful petitioners to pay all of the costs of the boundary change.

48-1015. Financial transactions of elected Board of Directors; review; veto authority

A. The Board of Supervisors may review and comment but shall not have veto authority over financial transactions of the Board of Directors of an improvement district elected pursuant to this article.

B. This section does not apply to a district with a population of more than ten thousand persons according to the most recent United States decennial census.

48-1016. Revocation of authority of elected Board of Directors

The Board of Supervisors of the county in which a domestic water improvement district or domestic wastewater improvement district is located may at any time revoke the authority of an elected Board of Directors in order to protect the residents of the district. Any district in which the authority of an elected Board of Directors is revoked pursuant to this section shall be governed by the Board of Supervisors as provided by section 48-908 and the Board of Supervisors shall have the option of calling for new elections for the district Board of Directors.

48-1017. Reimbursement for county services

Services provided by a county to a domestic water improvement district or domestic wastewater improvement district are subject to reimbursement pursuant to section 11-251.06.

48-1018. Conversion of county improvement district to domestic water improvement district or domestic wastewater improvement district; notice; costs

A. A county improvement district that has acquired, has constructed or owns a water system that provides domestic water to residents of that district or a county improvement district that has constructed and owns a wastewater treatment facility that serves the residents of that district may be converted to a district under this article by either of the following methods:

1. A Board of Supervisors, by resolution, may order conversion of a county improvement district into a domestic water improvement district or a domestic wastewater improvement district after a public hearing conducted with not less than twenty days' notice mailed to the owners of real property in the county improvement district as shown on the most recent property tax assessment roll.
2. The owners of at least fifty per cent of the property that is subject to an assessment to pay for existing improvements within a county improvement district may petition the Board of Supervisors for a finding and an order that the county improvement district be converted into a domestic water improvement district

or a domestic wastewater improvement district, and after consideration of the petition the Board, by resolution, shall order that conversion.

B. On adoption of an order for conversion as provided in subsection A of this section, a county improvement district is converted to a domestic water improvement district or a domestic wastewater improvement district and from that date is subject to this article. Pursuant to section 48-1012, the Board of Supervisors shall specify the number of members to serve on the Board of Directors of the district and shall appoint the initial members.

C. All costs, expenses and attorney fees incurred by the county improvement district and by any petitioners in seeking a conversion of a county improvement district are a liability of the domestic water improvement district or domestic wastewater improvement district if conversion is ordered. If conversion is not ordered, all costs, expenses and attorney fees incurred by the county improvement district and by any petitioners in seeking a conversion of a county improvement district are a liability of the county improvement district.

D. All assets and liabilities of the converted county improvement district become the assets and liabilities of the domestic water improvement district or domestic wastewater improvement district. The domestic water improvement district or domestic wastewater improvement district is the successor in interest of the former county improvement district and succeeds to all rights, privileges and powers of the former county improvement district with full rights to collect any debt, liability, obligation or assessment owed to the former county improvement district and to levy assessments, issue bonds and levy and collect taxes for the payment of the general obligations of the district. A person shall not be relieved of any debt, liability, obligation or assessment to a county improvement district by reason of its conversion pursuant to this section.

E. Nothing in this section shall be construed to affect the authority of a Board of Supervisors pursuant to section 48-1016.

48-1019. Drinking water facility projects; financial assistance loan repayment agreements; definitions

A. Notwithstanding any other law, a domestic water improvement district may construct, acquire, or improve a drinking water facility with monies borrowed from or financial assistance, including forgivable principal, provided by the water infrastructure finance authority of Arizona pursuant to title 49, chapter 8.

B. To repay financial assistance from the authority a district may enter into a financial assistance loan repayment agreement with the authority. A financial assistance loan repayment agreement is payable from any revenues otherwise authorized by law to be used to pay long-term obligations.

C. The Board shall obtain approval for the financial assistance loan repayment agreement in the same manner provided by law for approving and issuing other obligations payable from those revenues that are to be used to pay the loan.

D. A financial assistance loan repayment agreement entered into pursuant to this section shall contain the covenants and conditions pertaining to the construction, acquisition or improvement of a drinking water facility and repayment of the loan as the authority deems proper. Financial assistance loan repayment agreements may provide for the payment of interest on the unpaid principal balance of the agreement at the rates established in the agreement. The agreement may also provide for payment of the domestic water improvement district's proportionate share of the expenses of administering the drinking water revolving fund established by section 49-1241 and may provide that the domestic water improvement district pay financing and loan administration fees approved by the authority. These costs may be included in the assessment amounts pledged to repay the loan. Districts are bound by and shall

fully perform the loan repayment agreements, and the agreements are incontestable after the loan is funded by the authority. The domestic water improvement district shall also agree to pay the authority's costs in issuing bonds or otherwise borrowing to fund a loan.

E. A financial assistance loan repayment agreement under this section does not create a debt of the domestic water improvement district, and the authority shall not require that payment of a loan agreement be made from other than those sources permitted in subsection B of this section.

F. A domestic water improvement district may employ or contract for the services of attorneys, accountants, financial consultants and other experts in their field as deemed necessary to perform services with respect to the financial assistance loan repayment agreement.

G. This section is supplemental and alternative to any other law under which a district may borrow money or issue bonds. This section shall be construed as the exclusive authorization to enter into loan agreements with the authority.

H. A district may borrow additional monies or enter into additional financial assistance loan repayment agreements with the water infrastructure finance authority in an amount up to the amount approved pursuant to subsection C of this section less the amount that the district is obligated to repay to the water infrastructure finance authority pursuant to a financial assistance loan repayment agreement.

I. For the purposes of this section:

1. "Authority" means the water infrastructure finance authority of Arizona.
2. "Board" means the water infrastructure finance authority of Arizona Board of Directors.

Article 6 Revenue Bond Financing

48-1061. Definitions

In this article, unless the context otherwise requires:

1. "Authorized purpose" includes any one or more of the following purposes:
 - (a) The payment of district obligations.
 - (b) The cost of acquiring, constructing, reconstructing, equipping, maintaining and repairing a waterworks as defined in section 48-901.
 - (c) The acquisition of real property for waterworks needs.
- (d) The payment of bond related expenses.
2. "Bond related expenses" means any expenses incurred by the district to issue and administer its bonds including underwriting fees and costs, trustee fees, financial consultant fees, printing and advertising costs, fiscal agent fees, paying agent fees, registrar fees, transfer agent fees, legal, accounting, feasibility consultant and other expert fees and expenses, cost of credit enhancement fees, attorney and accounting fees and expenses related to credit enhancement, bond insurance or liquidity enhancement, remarketing fees, rating agency fees and costs, travel and telephone expenses and all other fees deemed necessary by the Board of Directors in order to market and administer the bonds.
3. "Bonds" means bonds of the district issued pursuant to this article.
4. "District" means a county improvement district that operates or is formed for the purpose of operating a domestic water delivery system within the district, whether or not the district is governed in the manner described in article 4 of this chapter.

5. "Real property for waterworks needs" means those real properties, rights to surface or groundwaters and any appurtenances to real properties which are designated or may be designated by the Board of Directors as a location for or as appropriate to the construction of a waterworks system project, including lands, easements, rights-of-way and other interests in lands, the use or occupancy of which are necessary or appropriate to construct, reconstruct, repair, maintain, extend, develop, improve, use or operate waterworks facilities and improvements.

6. "Revenues" includes any charge, income or receipt by the district of money or any other thing of value except that revenues shall not include monies paid to or for the account of the district for the levy of any tax or assessment or the sale of any property by the district to satisfy or pay any delinquent tax or assessment.

48-1062. Authorization and issuance of bonds; election

A. The district may, pursuant to this article:

1. Issue its bonds in the principal amount as set forth in action by the Board of Directors, as necessary to:

- (a) Provide sufficient monies for any authorized purpose.
- (b) Establish reserves to secure the bonds.
- (c) Pay the necessary costs of issuing, selling, enhancing the credit of and redeeming the bonds.
- (d) Pay all other costs and bond related expenses incidental to and necessary and convenient to carry out those purposes.

2. Issue refunding bonds if the Board of Directors deems refunding expedient. The Board of Directors may provide for investing and holding the proceeds of the refunding bonds in trust for the benefit of the holders of the bonds or other obligations being refunded.

3. Refund any bonds or other obligations issued by the district without regard to whether the refunded bonds or obligations are secured from the same revenues or source of revenues as the bonds authorized in this article, by issuing new bonds, whether the bonds or obligations to be refunded have or have not matured.

4. Issue bonds for any two or more purposes described above, consistent with this article.

5. Covenant and agree to maintain revenues sufficient to provide for the timely payment of principal, interest and other charges with respect to bonds of the district together with other obligations and expenses of the district.

B. On determining the amount of money necessary to be raised for any purposes stated in subsection A, the Board of Directors shall immediately call a special election and shall submit to the electors of the district the question of whether or not revenue bonds should be issued in the amount so determined. No election need be called or held with respect to bonds issued solely for refunding and related purposes.

C. The district shall issue a public notice of the election that specifies the date of the election, the amount of the bonds of each series proposed to be issued, the maximum rate of interest for each series of the bonds and the denominations of the series of the bonds. The notice shall be:

- 1. Posted in three public places in each election precinct of the district for at least twenty days before the election.
- 2. Published in a newspaper of general circulation in the county in which the district is located once a week for at least two consecutive weeks.

D. The election shall be held and the results determined as nearly as practicable pursuant to the general election laws of this state, except as otherwise provided by this article. An informality in conducting the election does not invalidate the election if the election was otherwise conducted fairly.

E. At the election the ballots shall identify and describe generally the amount and purpose for which each series of bonds is proposed to be issued and contain the words "bonds--yes" and "bonds--no". If a majority of the votes cast at the election approves the bonds or any series thereof, the Board of Directors shall cause the bonds or the series approved at the election to be issued at the terms and time the Board of Directors deems appropriate pursuant to this article. If a majority of the votes cast at the election disapproves the bonds or any series thereof, the Board of Directors shall declare and enter the result of the election on its record, and if at any time thereafter one-fourth of the qualified electors of the district petition the district, or if the Board of Directors so directs, the district shall resubmit the question to the electors of the district in the manner prescribed by this section. Disapproval by the electors of the issuance of any bonds or series of bonds shall not bar subsequent submission of the issue to electors of the district.

F. The Board of Directors shall authorize the bonds by resolution. The resolution shall prescribe as to each series of bonds authorized:

1. The amount and principal purpose of the bonds.
2. The rate or rates of interest, which may be fixed or variable, and the denominations of the bonds.
3. The date or dates of the bonds, of the maturity thereof and any requirement for periodic deposits into any sinking or similar fund.
4. The coupon or registered form of the bonds.
5. The manner of executing the bonds.
6. The medium and place of payment.
7. The terms of mandatory or optional redemption which may include a premium for early redemption.
8. The security for and source of payment of the bonds.

G. The district shall publish a notice of its intention to issue bonds under this article for at least five consecutive days in a newspaper of general circulation in the county. The last day of publication must be at least ten days before the Board of Directors authorizes issuance of the bonds. The notice shall state the amount of the bonds to be sold and the intended date of issuance.

H. The bonds shall be sold at public or private sale at the price and on the terms as the Board of Directors determines pursuant to this article. Bonds to fund or refund other bonds may be either sold or exchanged with the holders of bonds being funded or refunded on terms as determined by the Board of Directors. All proceeds from issuing the bonds shall be deposited in and disbursed from a segregated fund as determined by the Board of Directors.

I. The district, out of any available monies, may purchase bonds or other obligations of the district, which may thereupon be cancelled, at a price not exceeding the following:

1. If the bonds or obligations are then redeemable, the applicable redemption price plus accrued interest to the next payment date.
2. If the bonds or obligations are not then redeemable, the redemption price applicable on the first date after purchase on which the bonds become subject to redemption plus accrued interest to that date.

J. Neither the members of the Board of Directors nor any person executing the bonds is personally liable for the payment of the bonds.

K. Title 35, chapter 3, article 7 applies to the district and to bonds issued under this article.

48-1063. Securing principal and interest; lien of pledge

A. To secure the principal and interest on the bonds the Board of Directors by resolution may:

1. Establish and segregate a pledged revenues fund and if appropriate, one or more accounts and subaccounts, to secure bonds or other obligations of the district. Any of the accounts or subaccounts may be pledged or assigned to the bondholders as security for the bonds or to a trustee who may be appointed to act on behalf of the bondholders.
2. Provide that bonds issued under this article may be secured by a first lien on all or part of the monies paid into a pledged revenues fund or into any account or subaccount in the pledged revenues fund.
3. Pledge and assign to or in trust for the benefit of the holder or holders of the bonds all or part of the monies in the pledged revenues fund or an account or subaccount as is necessary to secure and pay the principal, interest and any premium on the bonds as they come due.
4. Establish priorities among bondholders based on criteria adopted by the Board of Directors.
5. Set aside, regulate and dispose of reserves and sinking funds.
6. Provide that the proceeds from the sale of the bonds or from any other revenues of the district may be used to fully or partly fund any reserves or sinking accounts established by the bond resolution.
7. Prescribe the procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, the amount of bonds the holders of which must consent to and the manner in which the consent may be given.
8. Provide for payment of bond related expenses from the proceeds of the sale of the bonds or other revenues available to the district.
9. Provide for the services of trustees, co-trustees, agents, registrars, paying agents, consultants and other specialized services with respect to the bonds.
10. Take any other action which may affect the security and protection of the bonds or interest on the bonds.

B. Any pledge made under this article is valid and binding from the time the pledge is made. The monies pledged and received by the district to be placed in a pledged revenues fund are immediately subject to the lien of the pledge without any future physical delivery or further act. Any lien of any pledge is valid and binding against all parties who have claims of any kind in tort, contract or otherwise against the district, regardless of whether the parties have notice of the lien. The official resolution or trust indenture or any instrument by which this pledge is created, when placed in the district's records, is notice to all concerned of the creation of the pledge, and those instruments need not be recorded in any other place to perfect the pledge.