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Via electronic mail (dhasegawa@cityofboise.org)

September 28, 2021

The Board of the Harris Ranch Community Infrastructure District No. 1 ("HRCID")
c/o David Hasegawa, District Manager
150 N. Capitol Blvd.
Boise, Idaho 83702

Re: Response to September 13, 2021 Harris Ranch CID Taxpayers' Association ("HRCIDTA") Letter Re: Contiguity Requirements within the HRCID

Dear Members of the Board:

This letter responds to HRCIDTA's claim that the HRCID is invalid due to "contiguity" questions. As noted in prior correspondence, this is not an issue that is up for debate at the October 5, 2021 hearing, which is noticed for a discussion and potential approval of certain payment requests and a bond resolution. Once again, we respond simply to ensure HRCIDTA's legal argument meets with a response.

Response to HRCIDTA

The HRCIDTA claims that HRCID is invalid because of a lack of contiguity, inflammatorily alleging that there was "a transparent subterfuge to avoid the clear and express requirement imposed by the State Legislature in the Idaho CID Act that *all* properties in a CID be 'contiguous.'" The actual language of the CID Act and the section referenced by HRCIDTA shows this is clearly untrue. In fact, of all the letters and theories put forth by the HRCIDTA, this is perhaps the most misleading from a legal perspective.

Idaho Code Section 50-3101, *et seq.* (the "CID Act") contains the procedures and standards for formation of the HRCID. Among those procedures are certain requirements identified in the very definition of a "District." Section 50-3102(5) states, first, that:

"A district shall only include contiguous property *at the time of formation*."

(emphasis added). The final five words of the sentence are critical as they indicate the contiguity requirement only applies at the time of initial formation.

A CID is, thereafter, free to annex additional, noncontiguous property if there is a "nexus" to the initial district or the community infrastructure anticipated to be finance or constructed by the CID:

> **"Subsequent to a district's formation, a district <u>may include noncontiguous property</u> but only if specifically determined by the district board to have a substantial nexus to the initial district or to the community infrastructure contemplated by the initial district, and then authorized by the district board in its discretion and pursuant to section 50-3106."**

(emphasis added).

The language quoted above is from the very statute that the HRCIDTA cites in their letter: I.C. § 50-3102(5). It clearly authorizes annexation of noncontiguous property. It clearly <u>does not</u> require annexation of only contiguous properties.

Conclusion

This HRCIDTA letter states the following:

> *"If cities and developers were allowed, by predesign, to include non-contiguous properties in a CID in this manner, it would make the limitation in the CID Act meaningless. And, as you likely know at least intuitively, or your lawyers can explain, statutes are construed by the courts to so that material provisions, especially of limitation, are not rendered meaningless."*

(see Page 3). Neither the lecturing tone nor the irony of this statement should be lost on the Board. The Board does not need its lawyers to "explain" these provisions to see that it is the HRCIDTA's argument that eliminates entire swaths of the very section they have relied upon to make their argument in the first place.

There is no "smoking gun" here, as claimed by the HRCIDTA. To the contrary, no rigorous legal analysis is required to see that the CID Act <u>explicitly authorizes annexation of non-contiguous property</u>. The HRCIDTA's legal claims entirely misrepresent the actual language of the CID Act.

Very truly yours,

T. Hethe Clark
HC/bdb

c: CID Board Members
CID Staff (Jim Pardy (CID Engineer), Rob Lockward (CID Counsel))
Client