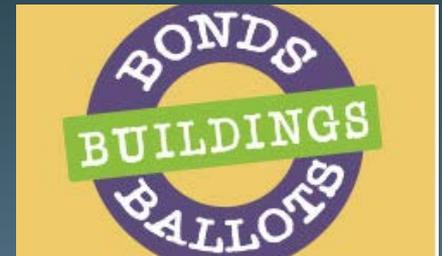


# Bonds: From Dreams To Reality Part 2

*After The Election – Now What??*

January 10, 2014



# Participants



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## November 2008: Salem-Keizer Voters Said Yes!

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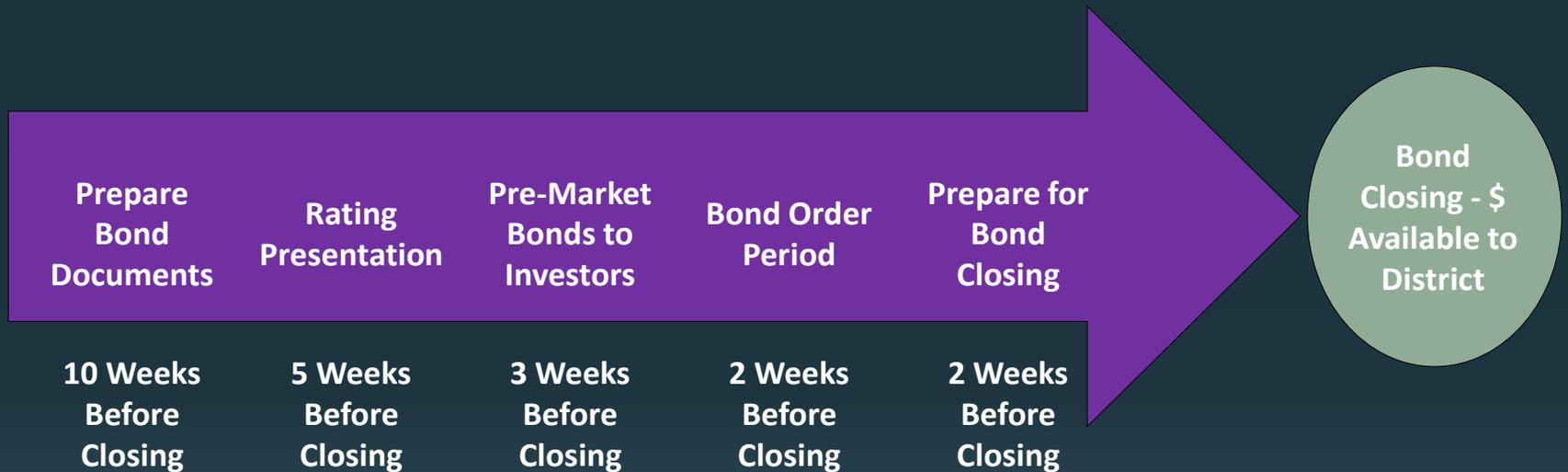
### Official Voter Tally

	Number of Votes	Percentage of Total Votes
<b>Yes</b>	<b>53,296</b>	<b>58.62%</b>
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*Source: Marion and Polk Counties Elections Divisions, November 24, 2008.*

# Now what?

## General Timeline to Funds



# First, Salem-Keizer SD Hired a Team

**Team Members included:**

- ✓ **Underwriter**
- ✓ **Bond Counsel**
- ✓ **Paying Agent**
- ✓ **Rating Agencies**



## Team Member: Underwriter

Salem needed a financial specialist to serve as ‘traffic cop’ for the issue, and retained an Underwriter (“UW”). The UW did the following:

- Coordinated schedule of events for sale of bonds
- Reviewed bond authorization documentation
- Prepared disclosure documentation (“Official Statement”)
- Assisted district in obtaining bond rating and OSBG qualification
- Structured bonds and determined tax rate impacts of different structures
- Planned and executed the sale
- Coordinated closing details

A financial specialist may be an underwriter or a financial advisor.

*Salem-Keizer retained Seattle-Northwest (Piper Jaffray) as Underwriter.*

## **Sidebar: How are bonds sold?**

**In order to sell bonds, an issuer needs an Underwriter. An UW is a broker dealer that purchases bonds from the issuer for resale to investors. An UW can be retained in one of two ways:**

- Negotiated sale – the UW is retained up front and assists with structuring the bonds, reviewing documentation and ensuring levy rate targets are met.**
- Competitive sale – the underwriter is selected through a bidding process. A Financial Advisor (FA) assists in structuring and documentation activities.**

**Most Oregon school districts have utilized a negotiated sale for their bond issues.**

# FAs and UWs: What's the difference?

A district may choose to have only an UW, or both an FA and an UW. The district then chooses who fulfills the following financial functions:

<u>Task</u>	<u>FA</u>	<u>UW</u>
<i>Pre-election:</i>		
Bond structuring and tax rate calculations	X	X
Review ballot title	X	X
<i>Post-election:</i>		
Coordinate schedule of events	X	X
Review legal documentation	X	X
Prepare Official Statement	X	X
Advise on method of sale	X	

# FAs and UWs: What's the Difference? (cont'd)

<u>Task</u>	<u>FA</u>	<u>UW</u>
Assist with bond rating	x	x
Sell Bonds		x
Coordinate closing details	x	x
Has fiduciary responsibility	x	
Has duty to deal fairly	x	x

- In Oregon, most districts have chosen to use UWs only, rather than both UWs and FAs.
- The SEC has recently published a new rule on “municipal (financial) advisors” that defines who is an FA and creates a standard of fiduciary responsibility. It does not require the use of an FA.

# SEC Muni Advisor Rule

The new rule becomes effective January 13, 2014. Much is still unclear, but key provisions are as follows:

- **Municipal (Financial) Advisors must be registered; in the future, they will also need to be licensed, with various continuing education requirements. UWs are already subject to these types of requirements.**
- **UWs may not serve as both an UW and a MA on the same transaction.**
- **UWs may provide 'advice' to issuers, but only if the issuer has signed an engagement agreement with the UW for a specific transaction, or if the issuer has a FA as well.**
- **UWs must provide certain disclosures to the issuer.**

# Team Member: Bond Counsel

Salem needed a specialized attorney to provide the following services:

- Preparing/reviewing the ballot title and explanatory statement for impartiality and legal requirements.
- Writing the election resolution which includes reimbursement language
- Advising the District on the state and federal tax law parameters of their projects and the project timing
- Advising the District on the legal requirements for the bond sale including federal security law requirements
- Writing the authorizing resolution and other legal documents
- Issuing the validity, enforceability and tax opinion which the purchaser of the bonds requires.

*Salem-Keizer retained K&L Gates (Hawkins, Delafield and Wood) as Bond Counsel.*

## Team Member: Paying Agent

**Salem needed a financial agent for debt service payments:**

- **Collects debt service payments from issuer and acts as Issuer's agent in disbursing payments to bondholders**
- **Usually a bank.**
- **May have additional notification responsibilities if Oregon School Bond Guaranty is utilized.**

*Salem-Keizer retained US Bank as paying agent.*

## Team member: Rating Agencies

- A rating agency is an independent company that provides an objective evaluation of the credit quality of the bonds being issued
- Ratings are issued as letter grades, with AAA being the highest, then AA, A, BBB, etc.
- There are intermediate gradations between categories (such as A+, A and A-). Most school districts in Oregon are in the “A” category.
- Moody’s Investor Service and Standard and Poor’s Corporation are the prime raters of Oregon school district debt.

*Salem-Keizer obtained ratings from both Moody’s and S&P.*

# Oregon School Bond Guarantee Program

- Approved by electorate in 1998. State guarantees payment of debt service on school district GO Bonds. State can withhold operating funds if used.
- Districts receive State's rating (Aa1 or AA+), which is second highest available, results in lower interest rates.
- Districts apply to State Treasury to receive "Certificate of Qualification"
- \$250 application fee. Fee of 0.03% of total debt service. District must also pay for at least one rating

# Steps involved

- Board approved authorizing resolution
- Official statement drafted
- Bond rating obtained
- OSBG obtained
- Bond structure finalized
- **Bonds sold to investors**
- Closing
- Bond proceeds invested
- Projects begin!

Process takes 8-10 weeks to completion

# **LEGAL PARAMETERS**

# Federal Tax Exemption

- Assuming proceeds of bonds will be used for public purpose, interest paid to investors will be exempt from federal (and state) taxation.
- There are certain tax rules and regulations that should be discussed in detail with bond counsel. Topics to discuss include:
  - Timing on expenditure of proceeds – typically 3 years
  - Investment regulations – limitations on your ability to earn interest on proceeds (“arbitrage”)
  - Reimbursement regulations — limitations on ability to reimburse issuer for prior expenditures related to bond projects
  - Private use limitations
  - IRS Audit Risk – even for local governments.

# Tax Laws: Private Use of Bond Financed Property

- **“Private Activity Bonds” Status**
- **Private Business Use Limitations**
- **Private Business Use (e.g. used by or owned federal agency or other private party) AND Private Payment or Security Test (e.g. lease payments from federal agency or other private party secure or used to pay bonds) (5% if not related and disproportionate or otherwise 10%)**
- **Private Loan Financing Test (greater of 5% of proceeds or \$5,000,000 used to finance loans to private persons)**
- **Management Contracts (favor periodic fixed fee which can last 15 years)**
- **After Issuance Sales (redeem bonds, expend cash within 2 years for another project)**

# Continuing Disclosure Requirements

Securities and Exchange Commission Rule 15c2-12

- **Requires issuers of municipal securities and certain “obligated persons” to enter into a written agreement for the benefit of the holders of the securities to provide:**
- **Annual Financial Information**
- **Notice of certain Material Events**
- **Notice of any failure to provide required Annual Financial Information**

# Continuing Disclosure Compliance

Securities and Exchange Commission Rule 15c2-12

- **Mechanics of Disclosure**
- **MSRB will be the only entity you submit to for past and future CDC's.**
- **Investors can access through EMMA (Electronic Municipal Market Access).**

# Investment of Proceeds

- Interest earnings and any premiums may be used for projects under the ballot title or for payment of debt service, and therefore can provide an important source of contingency funds.
- Given significant dollar amount of most bond issues and length of time of most construction projects, it's important to identify investment strategy in advance of bond sale.
- Caution: earnings may be subject to federal arbitrage rebate so understanding rules is important.
- If investment horizon (construction period) is longer than 18 months, investment policy needs to be sent to Oregon Short Term Fund Board (STFB) for review and comment.
- ORS 294.035 dictates eligible investment securities.
- STFB has a sample policy on their website.

# THE SALEM-KEIZER EXPERIENCE

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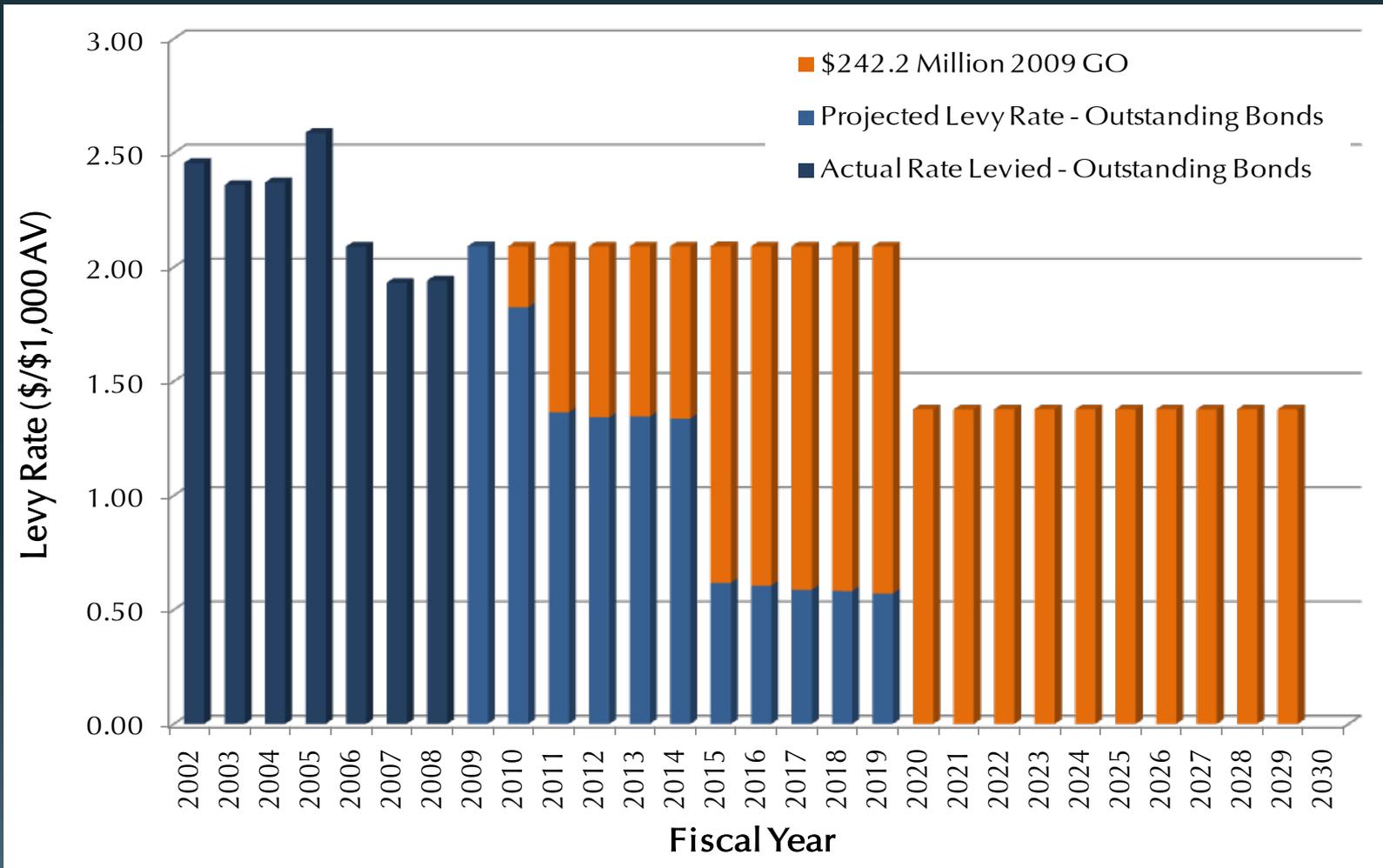
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# Salem-Keizer GO Bonds

- **The District divided their issuance into three different series:**
  - **\$178.7 million Series 2009A and B sold in February 2009.**
  - **\$31.9 million Series 2009C sold in December 2009 as a “Qualified School Construction Bond.” (A federally subsidized bond program that provided low cost funds under the federal stimulus package.)**
  - **\$31.6 million Series 2011 bonds sold in June 2011.**

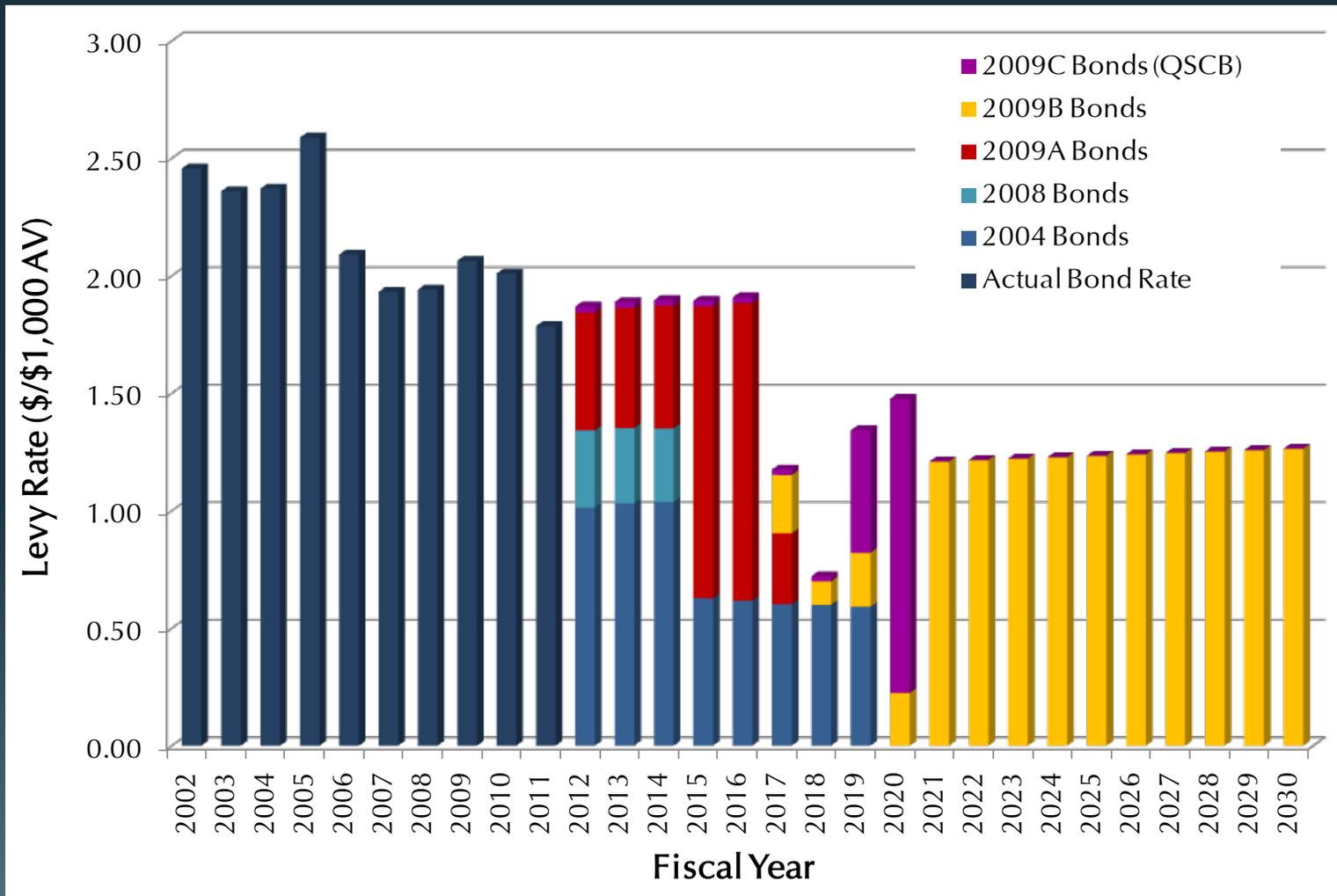
# Projected levy rate for new bonds pre-election

District projected levy rate would not exceed existing \$2.09/\$1,000.



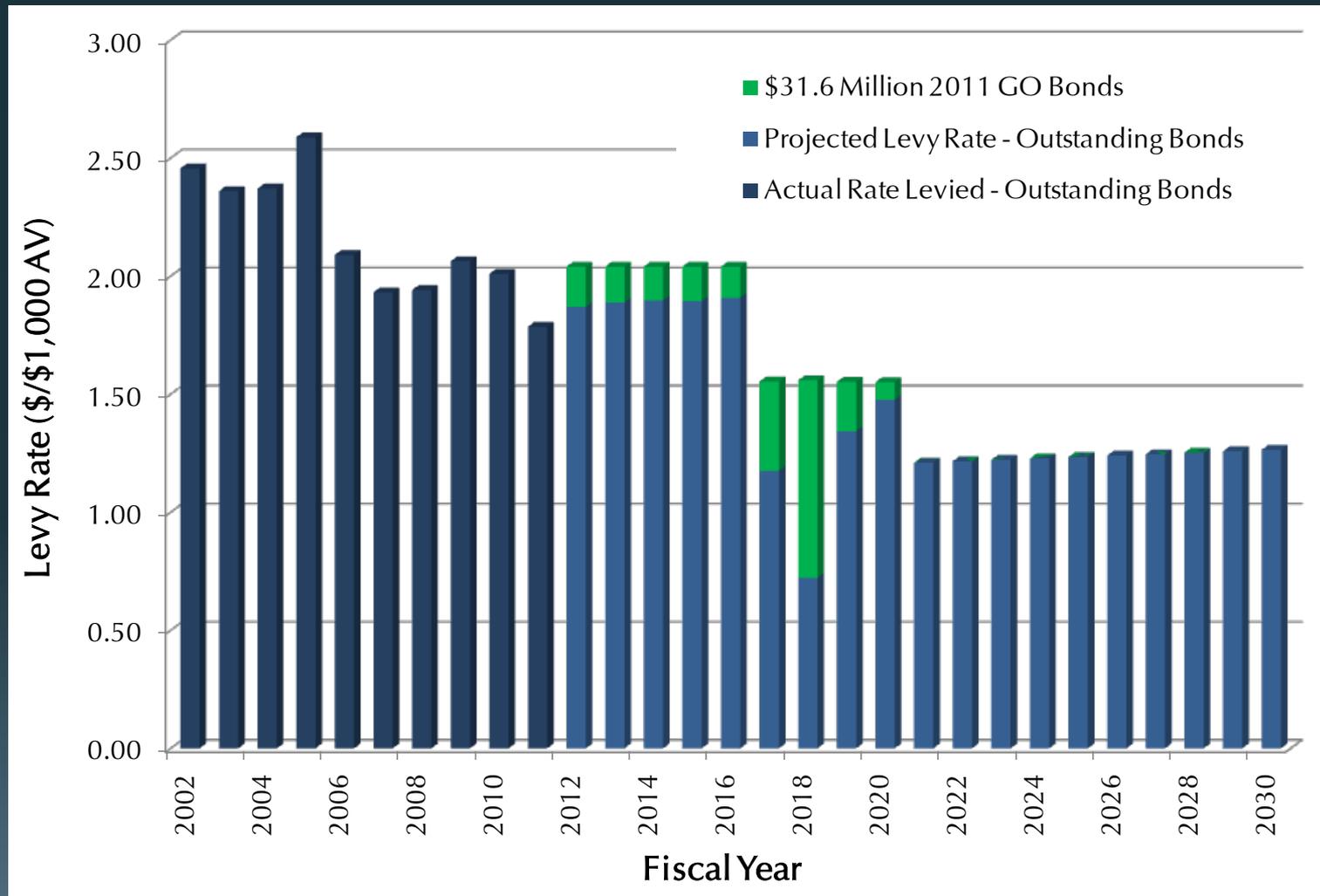
# Projected levy rate post 2009 sales

Low interest rates enabled District to issue 2009 bonds with an initial levy rate of \$2.04, and provide a window for 2011 issue.



# Projected levy rates post 2011 Issue

Lower than expected levy rates enabled district to maintain levy rate at \$2.04 and build in second 'step' in 2022.



# Delivering the Bond – Keeping the Promise

## ➤ **Three Things To Remember:**

- **Never Lose Sight of the Bond Title**
- **Scope, Schedule, Budget and Quality**
- **You Cannot Over-Communicate**

# What to do with Excess Funds?

- **Never Lose Sight of the Bond Title!**
- **Each Situation Is Unique**
- **It's A Political Decision**
- **You Cannot Over-Communicate**

# Contacts



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