

Flathead County
Board of Commissioners
(406) 758-5503



PUBLIC INFORMATION

FORMATION OF RURAL SPECIAL IMPROVEMENT DISTRICTS

We are providing a copy of Flathead County's Procedure for the Creation and Administration of a Rural Special Improvement District (RSID) that was recently updated/amended on May 24, 2006. We have made every effort to streamline this process so a potential RSID project can be completed in the most efficient and affective way possible.

Flathead County will provide advisory and informational services to individuals and neighborhood groups in the initial phases of an RSID project. For more information on RSIDs, you may call the County Administrator's Office at 758-5501. We will do all that we can to assist you in moving your project forward as per the legal requirements established by Montana State Law.

Engineering and legal services (bond counsel) will be required, but County administrative and legal staff can initially provide direction and advice to help you with your project.

We look forward to working with you in an effort to make needed capital improvements that will improve the quality of life here in Flathead County.

FLATHEAD COUNTY, MONTANA

PROCEDURE FOR THE CREATION AND ADMINISTRATION OF

RURAL SPECIAL IMPROVEMENT DISTRICTS (RSID)

APRIL 1992

AMENDED - SEPTEMBER 8, 1992 - SECTION XX

AMENDED - AUGUST 29, 1994 - SECTION III

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FLATHEAD COUNTY, MONTANA
PROCEDURE FOR THE CREATION AND ADMINISTRATION OF
RURAL SPECIAL IMPROVEMENT DISTRICTS

POLICY STATEMENT

A Rural Special Improvement District is undertaken by the County of Flathead (the "County") pursuant to the provisions of Title 7, Chapter 12, M.C.A. The purpose of a Rural Special Improvement District is to allow residents of the County, in areas outside of incorporated cities and towns, to finance and construct needed public improvements. By statute, the Board of County Commissioners (the "Board") of the County is vested with the authority to authorize the creation of Rural Special Improvement Districts. The Board wishes to make available to residents of the County, through Rural Special Improvement Districts, the financing needed to allow the building of public improvements, while safeguarding the County Rural Special Improvement District Revolving Fund and avoiding a burden to County taxpayers. Since the residents of the district and the residents of the County are financially obligated when a district is created, Rural Special Improvement Districts will only be created after there has been full consideration of all factors. The Board wants the residents of the proposed district, the Board and other County officials to receive adequate information on which to make an informed decision. To this end the Board hereby adopts the following procedures and guidelines for the creation of Rural Special Improvement Districts.

The following definitions and abbreviations are used throughout this policy in order to save space and avoid the need for continued defining of common terms.

ATTORNEY means a qualified person under the terms of Title 37, Chapter 61 of the Montana Code Annotated.

BOARD shall mean the Board of County Commissioners of Flathead County.

COUNTY shall be used to refer to the political subdivision of the State of Montana known as Flathead County.

PERCENTAGE, when it is a requirement of this document or of a statute, cannot be rounded up from a lower percentage. The percentage number given is the standard which must be attained.

PETITIONER when used herein refers to those individuals presenting the petition and other documents for Board action. A petitioner may be one or more of the individuals signing the

petition to create an RSID or may be the engineer or attorney for the project.

PROFESSIONAL ENGINEER means a qualified person under the terms of Title 37, Chapter 67 of the Montana Code Annotated.

RSID is used to refer to rural special improvement districts created under the provisions of Title 7, Chapter 12 of the Montana Code Annotated.

SECTION I. PROJECTS CONTEMPLATED UNDER RSIDS

The RSID procedure may be utilized for projects involving water systems, sewer systems, road paving and other similar projects as set forth in Section 7-12-4102, M.C.A. Specific sections of the law governing the creation of these types of public works shall be followed.

The Board will consider projects proposed under this section on an individual basis. The Board encourages residents to utilize the RSID method of creating public work projects, but reserves the right to approve or disapprove the use of an RSID.

SECTION II. PUBLIC INTEREST OR CONVENIENCE

As set forth in Section 7-12-2102, M.C.A., the Board may create rural special improvement districts whenever the public interest or convenience may require.

SECTION III. PETITION AND PROCEDURE

A. PETITION:

A petition (Appendix 1 or Appendix 2) may be presented to the Board requesting that an RSID be created. The petitioner should include the following information with the petition:

- a. A description of the project.
- b. A map of the proposed district and a description of the outside boundary of the proposed district, showing all existing lots or tracts within the boundaries of the proposed district, all existing roads and rights-of-way and the location and extent of the proposed improvements.
- c. A legal description of all of the property proposed to be included in the RSID, by metes and bounds.

- d. Designation of an engineer or engineering firm.
- e. A cost estimate as certified by engineer or engineering firm of the proposed project including county administration costs.
- f. A suggested method of assessment to be used.
- g. The total number of individual lots or tracts within the proposed district.
- h. The total number of individual lots or tracts within the proposed district with buildings on them.
- i. Signatures from a sufficient number of property owners in the proposed district to indicate general support for the creation of the RSID.

B. PROCEDURE:

When a petition to create an RSID is filed with the Clerk and Recorder, the Clerk and Recorder shall verify the signatures attached to the petition and submit the petition to the Board for consideration.

SECTION IV. UNDEVELOPED DISTRICT, ADDITIONAL SECURITY

If more than 60% of the lots or parcels in the proposed RSID do not contain residential or commercial buildings that are completed or will be completed by the time the proposed assessments are to be spread, the District will be deemed an Undeveloped District.

Since Undeveloped Districts may present additional risks to the County's Revolving Fund, the County may require additional security in order to create the RSID and issue bonds secured by the County Revolving Fund.

In determining whether to require additional security, the County will consider among other things the following: the amount of the proposed assessment against the parcels in comparison to the market value of the parcels; the tax and special assessment delinquency rate of the owners of undeveloped parcels; if the undeveloped property is owned by a developer, the developer's reputation and timeliness of payment of special assessments and other relevant factors.

The County may require that an additional 5% of the principal amount of the bonds be included in the budget for the District to create a district reserve account as authorized by Section 7-12-2182(c), which would be used to make delinquent payments prior to

the use of the Revolving Fund, or it may require that the owners of undeveloped property provide a letter of credit or other financial assurance to assure the County that the assessments will be paid on time.

SECTION V. CREATION OF RSID UPON RECEIPT OF PETITION BY 100% OF THE PROPERTY OWNERS.

Upon receipt of a completed petition in the form provided in Appendix 2, and signed by 100% of the owners of the property in the proposed RSID, the Board may immediately create a RSID. Section 7-12-2102, MCA.

SECTION VI. ASSESSMENT

The costs for bonds and interest shall be assessed pursuant to the authority found in Section 7-12-2151, M.C.A. The Board shall assess the entire cost of the improvements against benefited lots, tracts, or parcels of land in the district, based upon the benefits received. One of the following methods of assessment shall be suggested in the required petition:

- A. Each lot, tract, or parcel of land assessed in the district may be assessed with that part of the whole cost which its assessable area bears to the assessable area of all the benefited lots, tracts, or parcels in the district, exclusive of streets, avenues, alleys and public places. For the purposes of this subsection (VI.A), "assessable area" means the area of a lot, tract, or parcel of land representing the benefit conferred upon the lot, tract, or parcel by the improvement. Assessable area may be less than but may not exceed the actual area of the lot, tract or parcel.
- B. Each lot, tract, or parcel of land assessed in the district may be assessed with that part of the whole cost of the improvement based upon the assessed value of the benefited lots or pieces of land within said district, if the Board determines such assessment to be equitable in proportion to and not exceeding the benefits received from the improvement by the lot, tract, or parcel.
- C. Each lot, tract, or parcel of land in the district abutting upon the street where the improvement has been made may be assessed in proportion to its lineal feet abutting the street.
- D. Each lot, tract, or parcel of land in the district

may be assessed an equal amount based upon the total cost of the improvement.

- E. Each lot, tract, or parcel of land in the district served by a utility connection may be assessed an equitable lump sum for the connection based upon the bid price in the applicable contract.

SECTION VII. BONDS

The Board will finance an RSID through the sale of bonds. The sale of bonds shall be in accordance with the applicable statutes of the State of Montana.

The County does not accept any liability for payment of engineering fees in the event the bonds fail to sell. These costs will be the sole responsibility of the petitioners. All other costs incurred in the formation of the district will also be the sole responsibility of the petitioners in the event the bonds fail to sell.

SECTION VIII. PAYMENT OF BONDS AND INTEREST

Bonds issued for RSIDs will be redeemed as proscribed by statute. Individual property owners may pay off that portion of the bonded indebtedness attributable to their property without penalty.

SECTION IX. COUNTY RESPONSIBILITY FOR ROADS, STREETS AND OTHER IMPROVEMENTS CREATED BY A RURAL SPECIAL IMPROVEMENT DISTRICT.

No road, street or other improvement shall, upon approval of the RSID, become the responsibility of the County to maintain, except that the Board will continue to maintain any road that is paved or otherwise improved by an RSID if that road was maintained by the County when the RSID was created.

SECTION X. MAINTENANCE COSTS

The maintenance costs of improvements created by an RSID shall be borne by the district. The County will require that a separate legal entity undertake maintenance responsibilities of improvements or will create a maintenance district when the RSID is created to maintain improvements. Flathead County, by the action of the Board, assumes no responsibility for the maintenance of the project.

SECTION XI. PROFESSIONAL ASSISTANCE

It shall be the policy of the Board that it is the duty of those presenting the petition to obtain the services of a qualified professional engineer to assist in the preparation of the necessary documents, who will be designated in the petition. The County will

provide interested parties with names of engineers and firms who have expressed interest in providing engineering services for RSIDs. The County will not be responsible for compensating the engineer for any work performed in the creation of the RSID. If the RSID is approved, the engineer will be paid out of the proceeds of the bond sale as an eligible expense of creating the district. It shall be the responsibility of the engineer to estimate the costs of the project.

SECTION XII. COUNTY ADMINISTRATIVE COSTS

A fee payable to the County to compensate for the time and effort of its employees in setting up, reviewing and administering the Rural Special Improvement District will be assessed. The initial fee shall be payable to Flathead County and shall be in the amount of five percent (5%) of the amount of bonds sold. This fee may be paid out of the proceeds of the bond sale. This fee does not include out of pocket expenses incurred in the formation of the district including, but not limited to, Bond Counsel, Bond Printing, Mailings and Posting, Publications and other costs which may be directly attributable to the formation of the District. The District shall assume all like costs which may be paid from the bond proceeds.

SECTION XIII. RURAL SPECIAL IMPROVEMENT DISTRICT REVOLVING FUND

It shall be the policy of the Board to establish and maintain, pursuant to the authority in Sections 7-12-2181, 7-12-2182, 7-12-2183, 7-12-2184, 7-12-2185 and 7-12-2186, M.C.A., a Rural Special Improvement District Revolving Fund. The fund will be maintained and administered according to the above mentioned statutes and the provision of this policy statement.

SECTION XIV. RSID BUDGET

The following items are to be included in the budget for creating a special improvement district:

1. Estimated cost of engineering and construction.
2. Contingency costs of up to 10%.
3. Any right of way costs.
4. County administrative fees equal to 5 % of the principal amount of the Bonds.
5. Revolving Fund contribution equal to 5% of the principal amount of the Bonds.
6. Costs of issuance of the Bonds, including bond counsel fees, underwriters' discount, and financial advisor fees (if needed).

Appendix 1 - Petition Form

The following form may be used in petitioning the Board of Commissioners to form an RSID:

PETITION

We, the undersigned citizens, hereby petition the Board of Commissioners of Flathead County, Montana, to create a Rural Special Improvement District (RSID) under the provisions of Sections 7-12-2101 through 7-12-2198, M.C.A., for the purpose of _____
 _____ . The undersigned are property owners in the proposed RSID and the boundaries of the proposed RSID are shown on the map attached here and are set forth in the legal description attached hereto.

Printed Last Name	Signature	Address	City, Zip
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
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_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

**PETITION AND CONSENT OF ALL OWNERS OF PROPERTY
FOR THE CREATION OF A RURAL SPECIAL IMPROVEMENT DISTRICT
IN THE COUNTY OF FLATHEAD, MONTANA**

The undersigned hereby represent and warrant that they constitute all of the owners of the real property described on Exhibit A hereto (the "Property"), and that the Property is located within Flathead County, Montana (the "County"). Each of the undersigned hereby voluntarily and irrevocably petitions for, and consents to, the creation of a rural special improvement district by the County including the Property and the levying of special assessments in an aggregate principal amount not to exceed \$ _____ against the Property for the purpose of financing [a portion of] the direct and incidental costs of certain local improvements, all as further and more particularly provided in the proposed form of resolution creating such rural special improvement district, which is attached as Exhibit B hereto. Each of us has reviewed the proposed resolution for a description of the nature, location and estimated cost of the improvements, the identity of the proposed engineer for the district, the method(s) by which the special assessments are proposed to be levied, the term over which the special assessments will be payable and other particulars. Each of us further acknowledges and agrees that the amount of special assessments proposed to be levied against each lot, tract or parcels that we own does not exceed the special benefit conferred upon such lot, tract or parcel by the improvements to be undertaken in the proposed district.

The undersigned acknowledge that, following receipt of this petition, the Board of County Commissioners of the County will have jurisdiction in its discretion to create the rural special improvement district and order the local improvements by adoption of a resolution substantially in the form of that attached as Exhibit B, without a public hearing and without notice to the undersigned.

The undersigned acknowledge and agree that the provisions of this Petition and Consent shall be deemed to run with the land and to bind subsequent assignees of their interest in the Property, and that this Petition and Consent may be recorded to advise prospective successors or assigns of the provisions hereof.

DATED as of this _____ day of _____, 20__.

SIGNATURE PAGE TO
PETITION AND CONSENT OF ALL OWNERS OF PROPERTY
FOR THE CREATION OF A RURAL SPECIAL IMPROVEMENT DISTRICT
IN THE COUNTY OF FLATHEAD, MONTANA
DATED AS OF _____, 20__

Printed Name

Date

Signature

Description of Property Owned:

STATE OF MONTANA)
) ss.
COUNTY OF _____)

On this _____ day of _____, 20__, before me, a Notary Public for the State of Montana, personally appeared _____, known to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that he/she executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal the day and year first above written.

(Notarial Seal)

Notary Public for the State of Montana
Printed Name _____
Residing at _____
My Commission expires _____

EXHIBIT A

LEGAL DESCRIPTION OF THE PROPERTY TO BE INCLUDED IN THE RSID

FLATHEAD COUNTY – RSID BASIC PROCEDURES

a) Projects Contemplated Under RSID's:

- MCA 17-12-2102 states, "Whenever the public interest or convenience may require, the board of county commissioners may order and create rural special improvement districts for the benefit of the district."

b) Resolution of Intention to Form RSID, Notice to Property Owners and Resolution Creating RSID:

- Before creating a rural special improvement district the board of commissioners shall pass a resolution of intention that:
 - a) Designates the number of the district.
 - b) Describes the boundaries of the district.
 - c) States in the resolution the general character of the improvements that are to be made.
 - d) Designates the name of the engineer who is to have charge of the work and an approximate estimate of cost of the work.
 - e) Specifies the method or methods by which the costs of the improvement will be assessed against property in the district.
- A notice will be published and mailed to each property owner in the proposed RSID.
- Each property owner (except where a waiver of protest is attached to property ownership) has the right to protest the formation of the RSID at any time within 30 days after the date of the first publication of notice of passage of the resolution of intention to form an RSID.
- A resolution creating an RSID will be approved by the commissioners unless there is sufficient protest to cause the project to fail due to the inability to achieve support of 50% or more the project assessment value.

c) Assessment Options:

- Each lot, tract, or parcel of land may be assessed with that part of the whole cost which its assessable area bears to the assessable area of all the benefited lots, tracts or parcels in the district.
- Each lot, tract, or parcel of land may be assessed with that part of the whole cost of the improvement based upon the assessed value of the benefited lots or pieces of land within the district if equitable.
- Each lot, tract, or parcel of land may be assessed in proportion to its' lineal feet abutting the street.
- Each lot, tract, or parcel of land may be assessed an equal amount based upon the total cost of the improvement.
- Each lot, tract, or parcel of land served by a utility connection may be assessed an equitable lump sum for the connection based upon the bid price in the applicable contract.

d) Bonding:

- The Commissioners will finance an RSID through sale of bonds or other approved financing method.
- Bonds issued for RSID's will be redeemed as proscribed by statute.
- Individual property owners may pay off that portion of the bonded indebtedness attributable to their property without penalty.

e) Maintenance:

- If the improvement project is for a road that the county has maintained in the past, it will continue to be maintained in the same manner as other improved county roads subject to budget prioritization and funds available.

f) County Administrative Costs:

- A fee payable to the county to compensate for the time and effort of its employees in setting up, reviewing, collecting assessments and administering the RSID will be assessed. The initial fee shall be five percent (5%) of the bonds sold.
- It will be the policy of the county to establish and maintain a revolving fund for RSID projects.

g) RSID Budget:

- Estimated cost of engineering and construction.
- Contingency cost up to 10%.
- Any right of way costs.
- County administrative fees equal to 5% of the principal amount of the bonds.
- Revolving fund contribution equal to 5% of the principal amount of the bonds.
- Cost of issuance of the bonds, including bond counsel fees, underwriters' discount, and financial advisor fees (if needed).

General Engineering Services for Rural Special Improvement Districts (RSIDs)

The following firms have submitted a "Statement of Qualifications and Proposal for Engineering Services" for RSID projects. All the firms are available to provide these services. Other engineering firms may be used, if desired.

Morrison Maierle, Inc.
1228 Whitefish Stage Road
P. O. Box 8057
Kalispell, MT 59904-1057
(406) 752-2216

NCI Engineering 35
40 Second Street East, Suite 240
Kalispell, MT 59901
(406) 752-5478

Stelling Engineers, Inc.
1372 Airport Road
Kalispell, MT 59901
(406) 755-8602

WGM Group
431 First Ave West
Kalispell, MT 59901
(406) 756-4848

Robert Peccia & Associates
102 Cooperative Way, Suite 300
Kalispell, MT 59901
(406) 752-5025

Jackola Engineering & Architecture
2250 Highway 93 South
P. O. Box 1134
Kalispell, MT 59901
(406) 755-3208

DCI Engineers
Branton Sorbel
450 Corporate Drive, Suite 112
Kalispell, MT 59901
P: 406-752-5675

APEC, Inc.
2593 Highway 2 East, Suite 3
Kalispell, MT 59901
(406) 755-755-1333

Thomas, Dean, & Hoskins
Three Mile Drive, Suite 101
Kalispell, MT 59901
(406) 751-5246

Advanced Engineering &
Environmental Services (AE2S)
1845 Highway 93 South, Suite 110
Kalispell, MT 59901
(406) 257-8990

WGM Group
1111 East Broadway
Missoula, MT 59802
(406) 728-4611

Carver Engineering
1995 Third Avenue East
Kalispell, MT 59901
(406) 257-6202

Territorial-Landworks, Inc.
Nathan Lucke, PE
2858 US Highway 93 South
Kalispell, MT 59901
406-257-1701