

Special Improvement District Policy

NRS 271.710 to 271.730

Under chapter 271 of NRS, the County is authorized to acquire, improve, equip, operate and maintain a project including street, sidewalk, water, sewer, curb, gutter, flood control and other publicly owned "infrastructure" improvements that benefit new development by the creation of a special improvement district. The purpose of this policy is to outline the circumstances under which the County will consider this type of financing for new developments by private property owners who intend on developing property for residential, commercial, industrial or other mutually agreed upon uses. After a recommendation from County staff, the Board of County Commissioners may impose additional requirements, modify specific requirements, or waive specific requirements listed herein on a case-by-case basis. Such modifications shall be recorded in the approval of any petition with a finding and reason(s) the deviation from this policy is in the best interest of the County and its residents. The Board of County Commissioners delegates administrative decisions and processes to applicable staff throughout the SID application and administration processes.

A. Eligible Improvements.

1. **Public Ownership Requirement.** Only infrastructure built to local government standards to be dedicated to a public body is eligible for financing. Privately-owned improvements such as electric, gas, and cable television improvements, streets or roads which are not dedicated to the County, and private portions of other improvements, such as water and sewer service lines from the property lines to the home or other structures are not eligible for financing.
2. **Benefits to Properties to be Assessed.** The improvements proposed to be constructed must create a special benefit to any property proposed to be assessed by an amount at least equal to the amount of the assessment.
3. **The Benefits of the Improvements.** The County will use the SID process for financing projects which are determined to benefit the County generally in addition to benefitting a particular subdivision, and which are shown to fit within ongoing and expected future operation and maintenance budgeting. Only the portion of the infrastructure that benefits the SID beneficiaries according to the County's design standards shall be included within the project SID; oversizing and/or capacity improvements of infrastructure must be financed separate from the SID.
4. **Size.** Generally, the County will not consider standalone improvement districts which involve less than \$15 million in bonds.

5. Title Report. All SIDs will require a title report that includes lienholder consent to issue bonds with an assessment lien on the property co equal with taxes. If the lienholder(s) change before the closing of the bonds, all new lienholder(s) must consent.
- B. Environmental Matters. A level 1 environmental assessment (hazardous waste assessment) completed by an engineer acceptable to the County, on the property on which the improvements are to be located and, on any property to be dedicated to the County, must be provided by the property owner prior to the time the County commences any work on the improvement district and before any bonds are issued. At application, the property owner must provide the County with an indemnification agreement in a form provided by the County, indemnifying the County for any and all liability and/or costs associated with any environmental hazards located on property assessed, property on which improvements financed with the improvement district are proposed to be located or on any property dedicated to the County. In appropriate cases, e.g., where the level 1 assessment indicates that there may be an environmental hazard on any of the property, the property owner will be required to post security for environmental remediation costs.
- C. Development.
 1. Property Owner Experience and Financial Information. The property owner must demonstrate to the County that they have the expertise and financial resources to develop the property involved in the improvement district. In order to demonstrate its ability to develop, the property owner must furnish the County with the following: (a) its last three years prior financial statements audited by a qualified CPA firm including any defaults, assignments and/or judgments to ensure ability to perform, (b) a list of prior developments of similar or larger size which the property owner has completed, (c) a list of references consisting of the names of officials of other political subdivisions in which the property owner has completed similar or larger size developments, and (d) evidence that the property owner has the financing to proceed with the development. (This evidence could consist of a commitment letter from a bank or other financial institution or other evidence that the property owner has sufficient resources in its bank accounts and other investments to commence and complete development.) The County may accept, in place of financial statements stated in (a) above, a comfort letter from a mutually acceptable CPA firm indicating for the past three (3) years: (1) that a minimum level of net worth, acceptable to the County, has been maintained; (2) whether or not there have been any material adverse changes in operations; and, (3) whether or not there have been any exceptions in the accountant's opinion letter on the property owner's financial statements. If this alternative is utilized, the property owner shall also provide such other financial information as the County and its consultant's request.
 2. Land Use. The proposed development must be consistent with the County's

Comprehensive Plan and Capital Improvement Program. The property owner must demonstrate that they have performed necessary due diligence to obtain the required discretionary development permits (e.g. subdivisions) in sufficient time to proceed with the development to and to achieve development close-out. The developer must provide written evidence from the appropriate utility purveyors (for example: electric, gas, broadband, water, sewer and reclaimed water) that the utility is aware of the future infrastructure demands resulting from the planned development, and also identifies infrastructure enhancements, expansions and/or replacements that are the responsibility of the developer and when those improvements must be made. Written evidence must include reference to all applicable local and state codes, statutes and permits submitted to the County before approval of the SID.

3. Water Rights. It must be shown that sufficient water rights in good standing are available to be offered or dedicated to the water purveyor for the project or that the appropriate water provider has provided notice of intent to serve letters for a sufficient amount of water for the development to proceed to completion as proposed.
4. Sewer Capacity. Unless the development with the approval of the Health Department is not to be served by a sewage treatment plant, the property owner must provide a notice of intent to serve letter from the entity providing sewer service to the development stating that sufficient capacity then in existence or in the process of being designed or built for the development to proceed to completion as proposed has been reserved.
5. Other Permits. The property owner must demonstrate that there are no significant permitting requirements (i.e. permitting requirements which could result in substantial delay or alteration in the project as proposed, e.g., wetlands permits, archeological permits, etc.) applicable to the project or other governmental impediments to development which have not yet been satisfied, and which are required to be satisfied for the development to proceed to completion as proposed. Bond proceeds may be used for recording, building and planning fees.

D. Assessment Bonds and Bond Security.

1. Primary Security. The primary security for bonds will be the assessment lien on the land proposed to be assessed. Property owner guarantees of payment of the assessments will be required unless a letter of credit or bond insurance policy is provided guaranteeing payment of the bonds or unless the appraisal indicates that the value of the property and other security pledged to the bonds is significantly in excess of the minimums described below. If guarantees are required, they will be released with respect to any parcel (1) which has been improved in any manner if the appraised value (as determined by an appraiser acceptable to the County)

of the parcel is five or more times the amount of the unpaid assessment on such parcel or (2) on which a substantial improvement (e.g., a home or commercial building) has been completed if the parcel has a size of two acres or less.

2. Appraisal; Value to Lien Ratio. The property owner must demonstrate to the County that there is not significant financial risk to the County in issuing the bonds. The County will require that the property owner obtain and provide to it an appraisal of the property which will be assessed which indicates that the appraised value of the property "as is" (prior to further subdivision and without considering the installation of the improvements) is at least one and one-half (1.5) times the amount of the bonds proposed to be issued, and that the value of the property after the improvements financed with the assessment bonds are installed is at least three and one-half (3.5) times the amount of the bonds proposed to be issued. The appraiser must be acceptable to the County. To the extent the land involved does not meet this appraisal requirement, the property owner is permitted to provide other security to the County, such as a letter of credit or surety bond, so that the total value of the security pledged to the bonds including the land and the additional security meets the above requirements. In circumstances where the benefit to the County from the improvements is substantial and sufficient other protections are provided, both as determined by the Board, the Board may accept an appraisal which indicates that the value of the property "as is" is at least one and one-half (1.5) times the amount of bonds proposed to be issued, and that the value of the property after the improvements financed with the assessment bonds are installed is at least three (3) times the amount of the bonds proposed to be issued.
3. Absorption Study. The property owner must provide the County with funds for an expert to prepare an absorption study. The County and property owner(s) shall mutually agree upon the expert who is to prepare this study illustrating the economic feasibility of the project based upon supply and demand trends and estimated conditions in the market area for the proposed product mix.
4. Variable Rate Bonds. The County will not consider applications for variable rate bonds.
5. Bond Reserves. The County shall follow the IRS regulations for a reasonably required reserve equal to the least of the following amounts: ten percent (10%) of the proceeds of the bonds; one hundred percent (100%) of the maximum annual debt service on the bonds; or one hundred twenty-five percent (125%) of average annual debt service on the bonds. The Reserve amount shall be calculated upon issuance of the bonds and not recalculated until the bonds are retired.
6. Capitalized Interest. The bonds may include capitalized interest for a period equal to two years, Nevada Revised Statutes limitation or the IRS limitation, whichever

is less.

7. No Pledge of General Fund or Taxing Power. The County will not pledge its general fund or taxing power to bonds issued to finance improvements for undeveloped land.
8. Bond Underwriting Commitment. The property owner must demonstrate to the County and its financial advisor that bonds proposed issued for the financing are saleable. Prior to the time the County commences work on the improvement district, the property owner must provide the County with a letter from a reputable underwriter or bond buyer, acceptable to the County, which states that the underwriter believes the bonds are marketable at an interest rate acceptable to the property owner based on then prevailing market conditions and that it is willing to contract with the County to underwrite the bonds on a best efforts basis or that the bond buyer intends to acquire the bonds at an interest rate which the bond buyer and property owner agree is acceptable and that it is willing to contract with the County to so acquire the bonds.

E. Consultants. The County will permit the property owner to choose the appraiser, consulting engineers and underwriter provided that the entities chosen are acceptable to the County. The County will select the assessment engineer. The payment of all fees and expenses of these consultants shall be the responsibility of the property owner; however, these consultants will be responsible to, and will act as consultants to, the County in connection with the district.

F. Expenses. The property owner will be required to pay out of its own pocket all of costs of the project prior to the time bonds are issued, including the costs of consulting engineers, assessment engineers, underwriters, the County's financial consultant, the County's bond counsel, the cost of preparing the appraisal, absorption study, environmental review, staff time spent working on the SID (reviewing the application, preparing and issuing bonds, engineering review and recording among other applicable tasks) and other matters listed above. These items will be eligible for reimbursement from bond proceeds if the bonds are ultimately issued; however, the property owner must agree to pay these costs even if bonds are not issued. Developers must work with the County in order to ensure a proper reimbursement resolution is adopted by the Board of County Commissioners before expenditures occur.

G. Administrative Fee. The County's administrative fee for administering the SID will be no more than the statutory maximum (currently two percent). The administrative fee is intended to offset actual County costs to administer the SID beyond the expenses covered in Section F, above.

H. Procedure.

1. Pre-Application Meeting. Initially, the property owner shall schedule a meeting with such representatives of the County as are designated by the County Manager

to review the proposed development to discuss whether the development is one which may be eligible for financing under these guidelines.

2. Application. If the property owner decides to proceed after the initial meeting, the property owner and all owners of record of property in the proposed district must sign a petition for the district and file the petition and an application which contains sufficient information and exhibits to demonstrate that the proposed district will comply with parts A-F of these guidelines. The petition and application must be filed with the County Manager's office.
3. Coordination with Other Public Entities. A property owner proposing a project that proposes the construction and dedication of improvements to public entities other than Washoe County shall, at the request of Washoe County, draft an interlocal agreement between the public entities which states the terms, conditions and responsibilities for: i) ownership, construction, and operation of infrastructure within the jurisdiction or service territory of each entity; ii) the review, approval, conditioning and dedication of infrastructure associated with project; (iii) assessment and collection of fees and charges, including connection, development and user fees; and (iv) the securing of required permits for work associated with maintenance, repair, and replacement of the infrastructure. The final interlocal agreement is subject to the approval of Washoe County and the other public entities.
4. Board Approval. If after an initial review, the County staff believes the application satisfies parts A-F hereof, an item will be placed on the Board of County Commissioner's agenda authorizing negotiations with respect to the proposed project. If this item is approved by the Board, it is anticipated that staff will be authorized to begin negotiating the particulars of the financing with the property owner and other appropriate parties.
5. Security for Costs. Prior to entering negotiations, the property owner must post a letter of credit, surety bond or other acceptable form of security for payment of the costs described in F above.