

ORDINANCE NO. 91-4

ORDINANCE CREATING LOCAL IMPROVEMENT DISTRICT NO. 1 OF THE ELLISPORT BAY SEWER DISTRICT, OF BONNER COUNTY, IDAHO; DESCRIBING AND SETTING FORTH THE BOUNDARIES OF SAID DISTRICT; PROVIDING FOR THE IMPROVEMENTS TO BE MADE THEREIN; APPOINTING AN ENGINEER TO PREPARE THE NECESSARY PLANS AND SPECIFICATIONS FOR THE WORK; AUTHORIZING THE ADVERTISING FOR BIDS FOR SAID WORK AS PROVIDED BY LAW; PROVIDING FOR THE PAYMENT OF COSTS AND EXPENSES OF SAID IMPROVEMENTS TO BE ASSESSED AGAINST THE PROPERTY WITHIN THE DISTRICT BENEFITTED THEREBY AND THE METHOD OF ASSESSMENT; PROVIDING FOR THE ISSUANCE OF LOCAL IMPROVEMENT DISTRICT BONDS AND WARRANTS; PROVIDING FOR THE PUBLICATION OF THIS ORDINANCE; AND PROVIDING FOR OTHER MATTERS PROPERLY RELATING THERETO

**ELLISPORT BAY SEWER DISTRICT
Bonner County, Idaho**

LOCAL IMPROVEMENT DISTRICT NO. 1

BE IT ORDAINED BY THE BOARD OF DIRECTORS OF THE ELLISPORT BAY SEWER DISTRICT, of Bonner County, Idaho, as follows:

WHEREAS, the Ellisport Bay Sewer District, of Bonner County, Idaho (the "District"), is a municipal corporation operating and existing under and pursuant to the provisions of the Constitution and laws of the State of Idaho, and as such is authorized and empowered to create local improvement districts and to construct improvements pursuant to Idaho Code, Title 50, Chapter 17; and

WHEREAS, the District is authorized by Idaho Code, Title 50, Chapter 17, to create local improvement districts within the District for the purpose of acquiring, constructing and installing sewer improvements and appurtenances, together with engineering, legal, accounting, costs of bond issuance, and other costs incidental thereto as authorized by law (the "Project"), and to finance said improvements by the issuance and sale of local improvement district bonds or warrants, which bonds or warrants are payable solely from assessments upon the property benefitted by said improvements; and

WHEREAS, the Board of Directors (the "Board") of the District has heretofore by Resolution No. 91-2, adopted on October 22, 1991, initiated the creation of a local improvement district for the construction and installation of the said improvements to the District; and

WHEREAS, the Board, by Resolution No. 91-3, adopted on October 22, 1991, declared its intention to form a local improvement district to be designated "Ellisport Bay Sewer District Local Improvement District No. 1" ("LID No. 1"); described the boundaries of proposed LID No. 1 and the improvements to be constructed therein; set forth the total estimated cost and the method of assessment; fixed the time and date for a public hearing to create proposed LID No. 1 and determined that it is in the best interests of the residents of the District to form proposed LID No. 1 and to acquire, construct and install such improvements; and

WHEREAS, after proper publication and mailing of notice to the property owners of the Board's intention to create proposed LID No. 1, a public hearing was held by the Board on November 19, 1991, at which hearing the residents and owners of property within the proposed LID No. 1 had the opportunity to appear and to protest, both in writing and verbally, or support the formation of the proposed LID No. 1;

NOW, THEREFORE, BE IT FURTHER ORDAINED BY THE BOARD OF DIRECTORS OF THE ELLISPORT BAY SEWER DISTRICT, OF BONNER COUNTY, IDAHO, as follows:

Section 1: The Board hereby finds and declares:

(a) That the formation of LID No. 1 will be in the best interests of the property affected and of the District;

(b) That there is a reasonable probability that the obligations of LID No. 1 will be paid.

(c) That the value of the property subject to assessment within LID No. 1 (such value being determined by the current assessed valuation of such property for ad valorem tax purposes, as shown by the records of the Assessor of Bonner County) exceeds the sum of the estimated costs to be assessed against the property included in LID No. 1; and

(d) That the Board has heard, considered, and passed upon all protests which were filed in writing in advance of the hearing, which protests are attached hereto and incorporated herein collectively as Exhibit A. The Board also heard public testimony on November 19, 1991 and has considered the same. After consideration of all public testimony and comment, the Board desires to move forward with the formation of the LID.

Section 2: There is hereby created and established a local improvement district within the Ellisport Bay Sewer District, to be designated "Ellisport Bay Sewer District Local Improvement District No. 1" ("LID No. 1"), the boundaries of which local

improvement district are set forth in Exhibit "A", which is annexed hereto and by reference made a part of this Ordinance.

Section 3: The improvements to be made within LID No. 1 are as follows:

A. The acquisition, construction and installation of sewage transmission lines, collection lines and pump stations; and

B. The acquisition, construction and installation of sewage treatment facilities, including, but not limited to a storage area for treated effluent, land disposal facilities, spray-irrigation land application facilities and related appurtenances.

Section 4: The costs and expenses of the improvements shall be paid from special assessments against the lots and parcels within proposed LID No. 1 according to the benefits derived method of assessment.

Section 5: The total estimated cost of the proposed Project is approximately \$3,813,525, of which \$1,095,073 will be paid for by a levy of assessments against the property benefited. The remaining cost of the Project will be paid by grant funds from the State of Idaho and other legally allowable sources. The assessable costs shall be paid from special assessments against the abutting, adjoining, contiguous, and adjacent lots and lands benefitted and included in LID No. 1, each lot and parcel of land being separately assessed for the cost thereof on the basis set forth in Section 4 of this Ordinance. Said assessments may be paid in forty (40) equal annual installments of principal and interest as nearly as practicable, if not otherwise paid as provided by law.

Section 6: Costs and expenses as herein provided shall include the contract price of the improvements, engineering and clerical services, advertising, costs of inspection, costs of collecting assessments, interest on any warrants issued to temporarily pay for the improvements, and for legal services for preparing the proceedings and in advising in regard thereto, and for the costs of acquiring land, if necessary.

Section 7: The Board hereby finds that such apportionment is equitable and is based upon the special benefits each parcel will receive from the Project.

Section 8: Ruen-Yeager and Associates, Inc., of Coeur d'Alene, Idaho, is hereby appointed as engineer for the Project and shall prepare the necessary plans and specifications for the construction of the improvements.

Section 9: To provide for the immediate payment of the improvements herein provided for, pending the payment of the

installments on special assessments hereinabove provided for, the District shall issue bonds as provided in Idaho Code §§ 50-1715, 50-1722, and 50-1724. For the purpose of making payments for said improvements as the same are installed, prior to the issuance or sale of bonds, the District may issue warrants against LID No. 1 special assessments, payable to the contractor or other persons upon the estimate of the engineer for the District, bearing interest at not in excess of allowable limitations as determined by the Board, which warrants, together with interest thereon to the date of the issuance of the bonds, if issued, shall be redeemed and retired by the proceeds of special assessments paid in full and proceeds of the sale of said bonds.

Section 10: All matters and things done and performed in regard to the creation of said LID No. 1, and each and all of the provisions thereof in regard to all of said matters concerning the creation of LID No. 1 and the doing of the improvements and payment thereof, are hereby expressly incorporated as part of this Ordinance.

Section 11: This Ordinance shall take effect and be in full force from and after its passage, approval, and publication one time in the official newspaper of the District.

DATED this 5th day of December, 1991.

ELLISPORT BAY SEWER DISTRICT
Bonner County, Idaho


Chairman

ATTEST:


Secretary

(S E A L)

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I, the undersigned, the Secretary of the Ellisport Bay Sewer District, of Bonner County, Idaho, hereby certify that the foregoing Ordinance is a full, true, and correct copy of an Ordinance duly adopted at a regular meeting of the Board of said District, duly and regularly held at the meeting of proof held December 5, 1991, of which meeting all members of the board had due notice and at which a majority thereof voted in favor and that at said meeting said Ordinance was adopted by the following vote:

AYES, and in favor thereof, Directors:

Barbara Carpa

*Levy
LIDI*

NOES, Directors:

ABSENT, Directors: *Maxine Conger*

ABSTAIN, Directors;

I further certify that I have carefully compared the same with the original Ordinance on file and of record in my office; that said Ordinance is a full, true, and correct copy of the original Ordinance adopted at said meeting; and that said Ordinance has not been amended, modified, or rescinded since the date of its adoption, and is now in full force and effect.

IN WITNESS WHEREOF, I have set my hand and affixed the official seal of the District on December 5, 1991.

Sandy D Ross
Secretary

(S E A L)