

ORDINANCE NO. 999

AN ORDINANCE OF THE CITY OF PAYETTE, IDAHO, APPROVING AND CONFIRMING THE ASSESSMENT ROLL OF LOCAL IMPROVEMENT DISTRICT NO. 89-1; LEVYING ASSESSMENTS AGAINST THE PROPERTY SHOWN ON THE ASSESSMENT ROLL; PROVIDING FOR THE PAYMENT OF ASSESSMENTS IN INSTALLMENTS; AND PROVIDING FOR OTHER MATTERS RELATING TO THE CONFIRMATION OF LOCAL IMPROVEMENT DISTRICT ASSESSMENTS FOR LOCAL IMPROVEMENT DISTRICT NO. 89-1

WHEREAS, the City of Payette, Payette County, Idaho (the "City"), is a municipal corporation of the State of Idaho and is authorized by Chapter 17, Title 50, Idaho Code, to create local improvement districts within the City, to make improvements, and to levy the cost of the same against the lots and parcels of land included therein; and

WHEREAS, the City, by Ordinance No. 994, adopted by the City Council (the "Council") on June 5, 1989, duly created Local Improvement District No. 89-1 ("L.I.D. No. 89-1") for the purpose of construction and installation of certain street improvements; and

WHEREAS, said improvements have been constructed and installed, and, in accordance with the provisions of Section 50-1712, Idaho Code, the Council has received a duly certified Engineer's Report showing in detail the total cost and expenses of L.I.D. No. 89-1 and the amounts payable from assessments, and containing a preliminary assessment roll; and

WHEREAS, notice of time and place of hearing on the final assessment roll was duly and regularly given by publication thereof and by mailing to all owners of property subject to assessment within L.I.D. No. 89-1 within the time and in the manner required by law, and the hearing was duly and regularly held, pursuant to such notice, at the time and place fixed for said hearing, on February 13, 1990; and

WHEREAS, at said hearing the Council considered all protests and objections to the assessment roll and all evidence presented, and the Council now desires to confirm the assessment roll, to provide for the levy and collection of assessments, and to provide for the payment of assessments in installments.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF PAYETTE, IDAHO, as follows:

Section 1: FINDINGS

The Council hereby finds and determines that each lot, tract, parcel, and other property included within L.I.D. No. 89-1 will be specially benefited by the improvements within L.I.D. No. 89-1, as specified in the Resolution of Intention heretofore adopted and by the ordinance creating L.I.D. No. 89-1, the same being Ordinance No. 994, adopted on June 5, 1989.

Section 2: CONFIRMATION OF ASSESSMENT ROLL

The Assessment Roll and the assessments contained therein, for L.I.D. No. 89-1, a copy of which Assessment Roll as finally approved by the Council is annexed hereto as Exhibit "A" and by reference made a part hereof, are hereby approved and confirmed in all respects. No single assessment has been increased in an amount greater than twenty percent (20%) of the amount of the assessment as set forth in the Notice of Hearing.

Section 3: PROPERTY AFFECTED; LEVY OF ASSESSMENTS

Except to the extent reflected in the final Assessment Roll, as adopted by this Ordinance, all protests against the Assessment Roll are hereby overruled. Each lot, tract, parcel, or other property shown upon said Assessment Roll is hereby found to be benefited to the amount of the assessment levied thereon; and there is hereby levied and assessed against each lot, tract, parcel of land, and other property, as set forth and described in said Assessment Roll, the amount set forth against each such lot, tract, parcel of land, and other property as it appears on said Assessment Roll.

Section 4: CERTIFICATION OF ASSESSMENT ROLL;  
LIEN OF ASSESSMENTS

Immediately upon the passage of this Ordinance, the City Clerk shall certify and file the conformed Assessment Roll with the City Treasurer and shall file with the Recorder of Payette County, Idaho, a notice which shall contain the date of adoption of this Ordinance and a description of the boundaries of L.I.D. No. 89-1. The Assessment Roll and the assessments made by this Ordinance shall be a lien upon the property assessed from and after the date of recording of such notice. The City Treasurer shall also, immediately upon passage of this Ordinance, mail a postcard or letter to each property owner assessed at his or her post office address, if known, or, if unknown, to the post office at Payette, Idaho, stating the total amount of his or her assessment plus the substance of the terms of payment of the same as set forth in this Ordinance. An affidavit of mailing the foregoing notice shall be filed in the office of the City Treasurer.

Section 5: DUE DATE OF ASSESSMENTS; PAYMENT  
IN INSTALLMENTS

Said assessments shall become due and payable to the City Treasurer within thirty (30) days from the date of adoption of this Ordinance. An assessment paid in full within such thirty (30) day period shall be reduced by the cost of the reserve fund included in the assessment against the property. Any property owner who has not paid his or her assessment in full within said thirty (30) day period shall be conclusively presumed to have chosen to pay the same in fifteen (15) annual installments, the first of which shall become due and payable one (1) year from the date of adoption of this Ordinance, with a like payment due on the same day of each year thereafter until the full amount of the assessment, with interest due thereon, shall be paid in full. Assessments paid in installments shall bear interest on the whole unpaid sum from the date of adoption of this Ordinance. The rate of interest such installments shall bear is hereby fixed as the rate of interest on the L.I.D. No. 89-1 Bonds, plus one percent (1.0%). If any installment is not paid within twenty (20) days from its due date, the same shall become delinquent, and the City Treasurer shall add a penalty of two percent (2%) thereon. Installments may be prepaid in the manner provided by Section 50-1715, Idaho Code.

For the purpose of securing the payment of and interest on local improvement bonds issued for L.I.D. No. 89-1, it is the intent of the Council to create a reserve fund in an amount equalling ten percent (10%) of the principal amount of the bonds to be issued to fund that portion of the assessments not paid within the thirty-day prepayment period, in accordance with Section 50-1771, Idaho Code. The proportionate cost of the reserve fund shall be included in the assessment upon each property in L.I.D. No. 89-1; however, such cost shall be deducted from the assessment of any property whose owner has paid his or her assessment in full within thirty (30) days from the date of adoption of this Ordinance. If a lesser reserve fund is required because of assessments paid within the thirty-day prepayment period, the City may proportionately reduce the assessments paid in installments.

Section 6: INSTALLMENT DOCKET

The City Treasurer shall, upon passage of this Ordinance, establish a Local Improvement Installment Docket for L.I.D. No. 89-1 as provided in Section 50-1717, Idaho Code.

Section 7: APPEAL PROCEDURE

The confirmation of the Assessment Roll for L.I.D. No. 89-1 herein made is a final determination of the regularity, validity, and correctness of said Assessment Roll, of each assessment contained therein, and of the amount levied on each lot or parcel of land or other property within L.I.D. No. 89-1, subject to the right of appeal as set forth in Idaho Code Section 50-1718. Appeal may be made by filing within thirty (30) days from the date of publication of this Ordinance written notice of appeal with the City Clerk and with the Clerk of the District Court of Payette County in the manner provided by Section 50-1718, Idaho Code. After said thirty (30) day appeal period has run, no one shall have any cause or right of action to contest the legality, formality, or regularity of any assessment.

Section 8: RATIFICATION OF PROCEEDINGS

All proceedings heretofore had in connection with the creation of L.I.D. No. 89-1, the preparation and adoption of said Assessment Roll, the hearing thereon, and the giving of notice of said hearing on said Assessment Roll, are hereby in all respects ratified, approved, and confirmed.

Section 9: SEVERABILITY

If any section, paragraph, clause or provision of this Ordinance shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of each section, paragraph, clause, or provision shall in no manner affect any remaining provision of this Ordinance.

Section 10: PUBLICATION AND EFFECTIVE DATE

This Ordinance, or a summary thereof in conformance with Section 50-901A, Idaho Code, shall be published in one (1) issue of the official newspaper of the City, and shall take effect immediately upon its passage, approval, and publication.

DATED this 5 day of March, 1990.

CITY OF PAYETTE  
Payette County, Idaho

By J. Laugel L. Meyer  
Mayor

ATTEST:

John P. Franks  
City Clerk

City Clerk

( S E A L )

EXHIBIT "A"

ASSESSMENT ROLL