CANYON HIGHWAY DISTRICT No. 4

ORDINANCE NO. 3

AN ORDINANCE OF THE BOARD OF COMMISSIONERS OF CANYON HIGHWAY DISTRICT NO. 4; CANYON COUNTY, IDAHO, SETTING FORTH CERTAIN FINDINGS REGARDING PRIOR PROCEEDINGS; PROVIDING THE OFFICIAL NAME OF THE LOCAL IMPROVEMENT DISTRICT AS "LOCAL IMPROVEMENT DISTRICT NO. 08-01 FOR CANYON HIGHWAY DISTRICT NO. 4, CANYON COUNTY, IDAHO"; RATIFYING AND CONFIRMING THE CREATION OF THE LOCAL IMPROVEMENT DISTRICT; FINDING THAT THE VALUE OF THE ASSESSED PROPERTY EXCEEDS THE COSTS OF THE IMPOVEMENTS BEING ASSESSED; PROVIDING FOR AND LEGALLY DESCRIBING THE REAL PROPERTY TO BE ASSESSED AND DESCRIBING THE IMPROVEMENTS MADE; PROVIDING THE MANNER OF ASSESSMENT THAT SHALL BE MADE AGAINST BENEFITTING PROPERTY; FINDING AND CONFIRMING THE COSTS OF THE IMPROVEMENTS MADE TO BE PAID BY THE ASSESSMENTS AND BY THE HIGHWAY DISTRICT; FINDING ASSESSMENTS ARE IN PROPORTION TO THE BENEFIT OF EACH PROPERTY ASSESSED; CONFIRMING THE ASSESSMENT ROLL AND THE AMOUNT OF EACH ASSESSMENT AGAINST EACH PROPERTY AND IDENTFYING THE OWNERS OF EACH PROPERTY ASSESSED; PROVIDING FOR THE RECORDING OF THE NOTICE OF ASSESSMENT LIEN; PROVIDING FOR THE DATE THE ASSESSMENTS ARE DUE; PROVIDING FOR THE PAYMENT OF UNPAID ASSESSMENTS IN INSTALLMENTS; PROVIDING FOR AN INTEREST RATE ON THE PRINCIPAL BALANCE OF UNPAID ASSESSMENTS; PROVIDING A DATE OF THE PAYMENT OF INSTALLMENTS; PROVIDING FOR A PENALTY FOR UNPAID INSTALLMENTS; PROVIDING FOR NOTICE TO PROPERTY OWNERS OF ASSESSMENTS AND PAYMENT DATES AND OPTIONS; PROVIDING FOR A FINAL DETERMINATION OF THE REGULARITY, VALIDITY AND CORRECTNESS OF THE ASSESSMENT ROLL; PROVIDING FOR THE RADIFICATION AND APPROVAL AND CONFIRMATION OF ALL PROCEEDINGS; PROVIDING FOR REPEAL OF ANY ORDINANCE OR RESOLUTION IN CONFLICT; AND PROVIDING FOR SEVERABLITY OF PROVISIONS OF THIS ORDINANCE HELD INVALID; AND PROVIDING AN EFFECTIVE DATE.

NOW THEREFORE BE IT ORDAINED by the Board of Commissioners of the Canyon Highway District No. 4, Canyon County, Idaho:

SECTION 1. FINDINGS

1.1 WHEREAS, In accordance with provisions of Idaho Code §§ 40-1322 and 50-1712, the Engineer of this Highway District filed a duly certified report, showing in detail the total cost and expenses of the improvements and the dollar amounts of the same payable from assessments and other sources, and certified to the Commissioners of the Canyon Highway District No. 4, Canyon County, Idaho, a form Assessment Roll for Local

Improvement District No. 08-01, which was reviewed and accepted by the Commissioners.

1.2 On 2nd day of July, 2009, at a regular meeting the Commissioners established the time and place it would hear objections to said Assessment Roll, the assessments contained herein, and the regularity of the proceedings taken in making said Assessments;

1.3 The Commissioners of the Canyon Highway District No. 4, having caused said Assessment Roll to be filed in the Office of the District Director of the Canyon Highway District No. 4, Canyon County, Idaho, and the District Director having given notice, published and mailed to the property owners within "Local Improvement District No. 08-01 for the Canyon Highway District No. 4, Canyon County, Idaho," in accordance with the provisions of § 50-1713, Idaho Code, setting forth the time and place the Commissioners of the Canyon Highway District No. 4, Canyon County, Idaho, would hear and consider objections to said Assessment Roll and the time and place property owners could file objections to said Assessment Roll; and

1.4 The Commissioners of the Canyon Highway District No. 4, Canyon County, Idaho, did hold the scheduled hearing on the 6th day of August, 2009, at the hour of 10:00 a.m. and the Commissioners of the Canyon Highway District No. 4, after having heard all objections to said Assessment Roll, and after having considered the Canyon Highway District No. 4's Engineer's Report, did adopt said Assessment Roll as indicated thereon.

1.5 The Commissioners of the Canyon Highway District No. 4, desire to pass and approve a Ordinance levying said Assessments to confirm said Assessment Roll and to make certain findings in connection with "Local Improvement District No. 08-01 for the Canyon Highway District No. 4, Canyon County, Idaho," all in accordance with § 50-1715, Idaho Code.

Section 2. The official name of Local Improvement District No. 08-01

"Local Improvement District No. 08-01 for the Canyon Highway District No. 4, Canyon County, Idaho," herein mentioned in the premises of this Ordinance was duly named and shall thereafter be known as "Local Improvement District No. 08-01 for the Canyon Highway District No. 4, Canyon County, Idaho," the organization of said Local Improvement District having been initiated by a Ordinance No. 2 adopted July 10th, 2008 by an affirmative vote of a majority of the Commissioners of the Canyon Highway District No. 4, Canyon County, Idaho.

Section 3. Creation of Local Improvement District ratified and confirmed

On the 10th day of July, 2008, the Commissioners of the Canyon Highway District No. 4, Canyon County, Idaho, held a Notice of Intention to Create the Local Improvement District hearing, the notices of said hearing (both publication and mailing to property owners) were given by the District Secretary in accordance with Idaho Code §§ 50-1708 and 50-1709 is herein ratified and confirmed that the Commissioners heard all protests against the proposed improvements and the creation of said Local Improvement District, and the Commissioners of the Canyon Highway District No. 4 having found it in the best interests of both the property

affected and the Canyon Highway District No. 4 to create the Local Improvement District, and finding that there was reasonable probability that the obligations of the Local Improvement District would be paid.

Section 4. Value of assessed property exceeds assessments

The actual value of the real property subject to assessment herein, having been provided from the official records of the Assessor's Office of Canyon County, as set forth in Section 1.3 of Ordinance No. 2 passed by the Commissioners on the 10th day of July, 2008, has been determined to exceed the cost of improvements assessed herein, together with all other outstanding and unpaid Local Improvement District assessments, excluding interest and penalties against said property.

Section 5. Property to be assessed and improvements made:

The property to be assessed and the improvements made within said Local Improvement District 08-01 as provided by Ordinance No. 2 are defined as follows:

5.1 BOUNDARIES: That the boundaries of the improvement district were established by Canyon Highway District No. 4 Ordinance 2 as described in Exhibit "A" and which description is hereby incorporated by reference, which boundaries are inclusive of all of the parcels identified as Canyon County Assessor's Parcel Numbers R2080901000, R2080901100, R2081000000, R2081100000, R2081101000, R2080201000, R3800701000, R3800700000, R3800600000, R3800601000, R3801200000, R38011010AO, and R3801100000.

5.2 IMPROVEMENTS: The street improvements on Tracy Street in the County of Canyon, and within the Canyon Highway District No. 4 were constructed at the following location:

Tracy Street from Galloway Road south to the Fred Lane public right-of-way on a portion of the Tracy Street right-of-way, a 30' wide parcel underlying the 10.2-1.3 C-East Irrigation Lateral, and right-of-way to be donated. The road would be located on or between Canyon County Parcel #s R38012, R38011010A, & R38011 on the east and Parcel #s R20811, R20810, R20809011 & R20809010 on the west.

Tracy Street improvements included construction of a road to local road standards, piping of the 10.2-1.3 C-East Irrigation Lateral, and relocation of the existing private irrigation delivery pipe as necessary. The general character of the improvements completed is as was described in Section 3.2 of Ordinance 2 as follows:

Construction of the road met the requirements of Canyon Highway District No.4, less asphalt paving, including, excavation, embankment, grading, sub-base, and base.

The improvements include the cost of materials to pipe the 10.2-1.3 C-East Irrigation Lateral, with equipment and labor for installation provided by Black Canyon Irrigation

District at no cost to the property owners' assessment or Highway District as provided for in the letter dated March 11, 2008 from Black Canyon Irrigation District to Canyon Highway District No.4. Materials for piping the irrigation lateral included 10" diameter and 12" diameter PVC pipe, manholes, rings and covers, and Yakima box.

The existing private irrigation delivery pipe serving Canyon County Assessor's Parcel numbers R20809011, R20810, R20811010, and R20811 was relocated along Parcel #R20809010 to the extent necessary to accommodate the relocation and piping of the 10.2-1.3 C-East Irrigation Lateral at the expense of the user's of said irrigation line and the cost was not included in this local improvement district costs for assessment purposes.

Section 6. Manner of Assessment

The aforementioned improvements were made and the costs and expenses thereof are being assessed against the abutting, adjoining, and adjacent lots and lands and benefited parcels as provided in Section 4 of Ordinance No. 2 in the following manner:

Construction costs for street and related improvements are assessed using the per lot/parcel method, with consideration given to those parcels having frontage on an existing public highway right-of-way, the proportional to the benefits derived to such lots/parcels by said improvements as a percentage of the total cost of improvements as set forth in the following table:

Canyon County Assessor's Parcel #	*Percent of Total Cost of Improvements* [1]
R2080901000	2.09%
R2080901100	8.78%
R2081000000	8.78%
R2081100000	8.78%
R2081101000	8.78%
R2080201000	8.78%
R3800701000	8.78%
R3800700000	8.78%
R3800600000	8.78%
R3800601000	8.78%
R3801200000	8.78%
R38011010A0	8.78%
R3801100000	1.28%

[1] The above stated percentages are rounded to the second decimal. In order to equal 100% an additional .05% will be proportionally applied to the above percentages.

The costs and expenses assessed as herein provided include the construction costs for the improvements and interest on interim financing from the general fund of the District. The assessments as provided in Section 10 herein include modifications of the Percent of Total Costs of Improvement as set forth in this Section in consideration of real property donation made by the owners of Parcels Nos. R38011010A0 and R3801100000 the value of which has

been taken into consideration in the final assessments of said parcels as adjusted by the Board of Commissioners.

Section 7. Costs

The material and construction costs for Tracy Street "Local Improvement District No. 08-01 for the Canyon Highway District No. 4, Canyon County, Idaho," are as set forth below are $54,488.84, of which $49,134.02 is to be paid from a levy of assessments and the remaining $5,354.82 will be paid from the general fund of Canyon Highway District No.4 as set forth in Section 4.3, Ordinance No.2. The District Direct Costs set forth below are $2,812.02 and the District's administrative costs associated with engineering, inspection, legal publication, interim financing, and other non-construction costs are not set forth below and are to be borne by Canyon Highway District No.4 in accordance with Section 4.2, Ordinance No.2. The Non Project District Expenses set forth below are for plant mix paving are to be borne by the Canyon Highway District No.4's general fund in accordance with the District's Highway Standards and Development Procedures.

L.I.D. Material and Construction Expenses

Item	*Vendor*	*Invoice #*	*Amount*
10" & 12" PVC Irrigation Pipe	Agri-Lines	49275	$ 11,180.40
Catch Basins, Covers, Delivery	Oldcastle	240062655	1,709.00
Catch Basins	Oldcastle	240062796	872.00
Catch Basins, Tops, Covers	Oldcastle	240062777	2,472.00
PVC Pipe Elbows & Supplies	Agri-Lines	2785	110.52
O-Ring Lube (PVC Pipe)	Agri-Lines	2803	41.40
Telephone Relocation	Qwest	H834305/ABARTAP	4,335.84
Grading, Drainage & Base	C. Wright Construction	12427	31,106.00
Irrigations Boxes, Gates, Misc	Black Canyon Irrigation District	W0100	2,661.68
		Sub-Total	**$ 54,488.84**

District Direct Expenses

Item	*Vendor*	*Invoice #*	*Amount*
Material Testing	Strata	B090168-IN	$ 942.50
Material Testing	Strata	B090206-IN	482.30
Material Testing	Strata	B090192-IN	838.90
Telephone Repair	Black Canyon Irrigation District	W0100	548.32
		Sub-Total	**$2,812.02**

Non Project District Expenses

Item	*Vendor*	*Invoice #*	*Amount*
Paving	C. Wright Construction	12428	$ 35,585.00
Material Testing	Strata	B090233-IN	1,243.95
		Sub-Total	$ 36,828.95
		TOTAL	**$ 94,129.81**

Section 8. Local Improvement District No. 08-01 for the Canyon Highway District No. 4, Canyon County, Idaho Assessment

The total cost and expenses of the improvements authorized and order by Ordinance No. 2 creating "Local Improvement District No. 08-01 for the Canyon Highway District No. 4, Canyon County, Idaho," are in the amount of $57,300.86 of which an assessment of $49,134.02

is being levied against the abutting, adjoining and adjacent lots and land benefiting from the improvements and remaining cost and expense up to the sum of $8,166.84 is being borne by the Highway District. Canyon Highway District No. 4 will pay $49,134.02 from the General Fund, which amount shall be repaid entirely from the proceeds of the assessments hereinafter levied and the District shall establish a fund for the payment of warrants and a fund for payment of interest on the warrants from the proceeds of the assessments to the following Canyon County Assessor parcel numbers: R2080901000, R2080901100, R2081000000, R2081100000, R2081101000, R2080201000, R3800701000, R3800700000, R3800600000, R3800601000, R3801200000, R38011010A0, and R3801100000.

Section 9. Assessment in Proportion to Benefit

It is, therefore, expressly found and determined after public hearing as aforesaid that each lot, tract or parcel of real property hereinafter assessed in said "Local Improvement District No. 08-01 for the Canyon Highway District No. 4, Canyon County, Idaho," is assessed in the proportion that each such lot, tract or parcel is severally benefited by the above described improvements made in the Local Improvement District and that no such lot, tract or parcel of real property is assessed in a greater amount than it will be actually benefited by the improvements authorized and ordered by Ordinance No. 2 creating "Local Improvement District No. 08-01 for the Canyon Highway District No. 4, Canyon County, Idaho,".

Section 10. Confirmation of Assessment Roll

The Commissioners of the Canyon Highway District No. 4, Canyon County, Idaho, hereby confirm the Assessment Roll certified and filed with the Canyon Highway District No. 4 District Secretary for the "Local Improvement District No. 08-01 for the Canyon Highway District No. 4, Canyon County, Idaho," for the Canyon Highway District No. 4, Canyon County, Idaho, and hereby order the levy of the assessments shown in said Roll and thereby levy against each lot, tract and parcel of real property shown in said roll the amount of assessments listed therein to wit:

Parcel #	*Owner*	*Address*	*L.I.D. Assessment*
R2080901000	Lars & Bonnie Colberg	12587 Galloway Road, Middleton, ID 83644	$ 1,254.52
R2080901100	Mikel & Hollv Wagoner	25929 Tracv Street, Middleton, ID 83644	$ 4,392.20
R2081000000	Dale & Virginia Caldwell	25891 Tracy Street, Middleton, ID 83644	$ 4,392.20
R2081100000	Arthur Pinhero III	25803 Tracy Street, Middleton, ID 83644	$ 4,392.20
R2081101000	Branden Matalon & Tracy Hoyle	10395 McKinley St., Nampa, ID 83687	$ 4,392.20
R2080201000	Gilbert & Chervl Lopez	P.O. Box 395, Middleton, ID 83644	$ 4,392.20
R3800701000	Gilbert & Cheryl Lopez	P.O. Box 395, Middleton, ID 83644	$ 4,392.20
R3800700000	Gilbert & Chervl Lopez	P.O. Box 395, Middleton, ID 83644	$ 4,392.20
R3800600000	James Tyler	25742 Tracy Street, Middleton, ID 83644	$ 4,392.20
R3800601000	Jimmy & Lynda Miller	25750 Tracy Street, Middleton, ID 83644	$ 4,392.20
R3801200000	Larrv & Bet Wiederich	25772 Tracy Street, Middleton, ID 83644	$ 4,392.20
R38011010A0	John Romey	25864 Tracy Street, Middleton, ID 83644	$ 3,697.76
R3801100000	Jerry & Karen Platz	25990 Tracy Street, Middleton, ID 83644	$ 259.74
		TOTALS	$ 49,134.02

Section 11. Recording of Notice of Assessment Lien

The District Secretary of the Canyon Highway District No. 4 shall immediately file with the Canyon County Recorder a notice of assessment lien, which shall contain the date of this Ordinance No. 3 and a description of the boundaries of the "Local Improvement District No. 08-01 for the Canyon Highway District No. 4, Canyon County, Idaho".

Section 12. Assessment Payment

Said Assessment Roll shall be filed with the District Treasurer, and the Assessments contained therein shall be immediately due and payable to said Treasurer thirty (30) days from the effective date of this Ordinance, and if the whole of said Assessments are not paid within said thirty (30) day period, such assessments shall become delinquent and shall be collected in the same manner and with the same penalties and interest added thereto as hereinafter provided for delinquent assessments, provided, however, that all such assessments, or any part thereof, may at the election of the owner, be paid in installments. Failure to pay the whole assessment within thirty (30) days from the date of the adoption of this Ordinance shall be conclusively presumed and considered and held to be an election on the part of all persons interested, whether under disability or otherwise, to pay said assessments in installments. In such case the unpaid assessments shall be payable to said District Treasurer in fifteen (15) substantially equal annual installments of principal and interest. The Commission finds that a reasonable rate of interest which would be paid upon security issued by this Commission for this Local Improvement District at this time would be (4.92833 %), and it is hereby therefore established that said rate of (4.92833 %) shall be established as a reasonable rate of interest upon the principal of the deferred installments. All installments are payable annually at the office of Canyon Highway District No. 4 Treasurer, with the first annual installment payment together with interest thereon being due and payable on the 30th day of September, 2010, and the remainder of said annual installments together with interest thereon being due and payable successively each year thereafter due and payable on or before the 30th day of September. Any installment not paid within twenty (20) days after the installment is due shall be considered delinquent, and a two percent (2%) penalty will be added thereto. In addition to any other methods of collection provided in Idaho Code, Title 50, the Commission may certify delinquent installments to the tax collector, and when so certified they shall be extended on the tax rolls and collected as are property taxes. In the event that any property owner should choose to pay their assessment if full after such time as it has been conclusively presumed that they will pay in installments, such payment in full shall include the full amount of the unpaid assessment plus penalties.

Section 13. Notice to Property Owners of Assessment and Terms

Upon passage of this Ordinance which includes the assessment roll, the District Treasurer shall mail a postcard or letter to each property owner addressed at their post office address, if known, or if unknown, to the post office where the improvement is being made, stating the total amount of the property owners' assessment, plus the substance of the terms of payments of the same as set out in this Ordinance confirming the Assessment Roll. An affidavit of the mailing of notice shall be filed before the date of delinquency in the Office of the

District's Treasurer in the file of the improvement district, as provided § 50-1716, Idaho Code. Subsequent notices of payment may list only current installments due.

Section 14. Final Determination of Regularity, Validity and Correctness of Assessment Roll

The confirmation of said Assessment Roll herein made is a final determination of the regularity, validity and correctness of said Assessment Roll, of each assessment contained herein and the amount levied on each lot, parcel and tract of real property subject to the appeal of any person who filed objections, to the said Assessment Roll at or prior to the hearing on the same, which appeal, as provided in § 50-1718, Idaho Code, may be made by filing a written notice of appeal with the Secretary of the Canyon Highway District No. 4, and with the Clerk of the District Court within thirty (30) days from the date of publication of this Ordinance. No suit to set aside any assessments so made, or to enjoin the making of the same, shall be brought, nor any defense to the validity thereof be allowed, except by appeal subsequent to this confirmation as herein provided.

Section 15. Proceedings Ratified, Approved and Confirmed

All proceedings heretofore had in connection with the creation of said Local Improvement District, the preparation and adoption of said Assessment Roll, the hearing held thereon, and the giving of the notice of said hearing of said Assessment Roll are hereby in all respects ratified, approved and confirmed.

Section 16. Repeal of Parts in Conflict

All ordinances, resolutions or parts thereof in conflict with this resolution are, to the extent of such conflict, hereby repealed.

Section 17. 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 such section, paragraph, clause or provision shall in no manner affect any remaining portions of this Ordinance.

Section 18: Date of Effect

This Ordinance shall take effect and be in full force upon its passage, approval, and publication.

PASSED BY THE BOARD OF COMMISSIONERS of Canyon Highway District No. 4 this 13 day of August, 2009.

Chairman, Darin J. Taylor

Commissioner, Jerome Scroggins

Commissioner, John J. McEvoy

ATTEST:

I certify that the above ordinance was duly adopted by the Board of Commissioners of the Canyon Highway District No. 4 on 9/13, 2009 by the following vote:

Ayes: 3
Noes: 0
Absent: 0

By _____
John J. McEvoy, Secretary

SECRETARY'S ROUTING AND ACTION LEDGER [Not part of Ordinance]

Sponsored by: Commissioner Jerome Scroggins
First Readings: August 13, 2009 [date]
Adopted after first reading by suspension of the Rule as allowed pursuant to Idaho Code 50-902:
YES ✓ NO _____
Second Reading: _____ [date]
Third Reading: _____ [date]
Passed by Commissioners and duly signed: August 13, 2009 [date]
Ordinance Published [or notice of published summary] _____ [date]
Copy provided to petitioners: _____ [date]
Original Ordinance filed in Ordinance Book: _____ [date]