

SOUTH SUBURBAN SANITARY
DISTRICT Klamath
County, Oregon
Ordinance No. 27

AN ORDINANCE PRESCRIBING THE METHODS AND PROCEDURES FOR MAKING PUBLIC IMPROVEMENTS IN THE SOUTH SUBURBAN SANITARY DISTRICT, FOR LEVYING AND COLLECTING SPECIAL ASSESSMENTS, THEREFOR, AND FOR THE CREATION AND ENFORCEMENT OF ASSESSMENT LIENS.

The South Suburban Sanitary District does ordain as follows:

SECTION 1: DEFINITIONS: As used in this ordinance, unless the content requires otherwise: a. "District" shall mean the South Suburban Sanitary District, Klamath County, Oregon; b. "Board" shall mean the Board of Directors of the South Suburban Sanitary District; c. "Improvement" shall mean the connection to existing sewer facilities or construction of new sewer facilities to serve benefited property; d. "Manager" shall mean the manager of the South Suburban Sanitary District; e. "Owner" shall mean the owner of the record title to real property, or, if there is a contract of sale of the property, the contract purchaser of the real property of record as shown on the last available complete assessment roll in the office of the Klamath County Assessor or from contracts filed with the County Assessor and reasonably available for inspection; and f. "Remonstrance" shall mean a written objection to a specified project and financing plan signed by the owner of property subject to a proposed assessment.

SECTION 2: INITIATION OF PROCEEDINGS AND REPORTS FROM MANAGER: Whenever the Board shall deem it necessary and proper for the protection of the public health, safety and welfare for an area of the District, upon its own motion, or upon the petition of the owners of more than one half of the property to benefit specially from the improvement, to make any trunk, main or lateral sewer improvement or any related facility to be paid for in whole or in part by special assessment according to benefits, then the Board shall, by motion, direct Manager to have prepared an engineering survey and written financial report for such project and file the same in the office of the District. Unless the Board shall direct otherwise, such report shall contain the following matters:

- a. A map or plat showing the general nature, location and extent of the proposed improvement and the land to be assessed for the payment of any part of the cost thereof;
- b. plans, specifications and estimates of the work to be done; provided, however, that where the proposed project is to be

carried out in cooperation with any other governmental agency, the manager may adopt the plan, specification and estimate of such agency; c. An

ORDINANCE NO. 27 -1estimate of the probable cost of the improvement, including any financing, legal, indirect, administrative and engineering costs attributable thereto; d. An estimate of the assessable unit cost of the improvement to the specially benefited property; e. A recommendation as to the method of assessment to be used to arrive at a fair apportionment of the whole or any portion of the cost of the improvement to the property specially benefited; f. The description and assessed value of each lot, parcel or land, or portion thereof, to be specially benefited by the improvement with the names and mailing addresses of the owners thereof; and g. A statement that after review it is found that assessments against the property benefited by the project does not exceed double the assessed valuation of such property.

SECTION 3: METHOD OF ASSESSMENT AND ALTERNATIVE METHODS OF FINANCING: The Board in adopting a method of assessment of the cost of the improvement may: a. Use any just and reasonable method of determining the extent of any improvement district consistent with the benefits derived; and b. Use any method of apportioning the sum to be assessed as is just and reasonable between the properties determined to be specially benefited.

Nothing contained in this Ordinance shall preclude the Board from using any other available means of financing improvements, including federal, state or county grants-in-aid, sewer charges or connection fees, revenue bonds, general obligation bonds or any other legal means of finance. In the event that such other means of financing improvements are used, the Board, may in its discretion, levy special assessments according to the benefits derived to cover any remaining part of the costs of the improvement.

SECTION 4: BOARD'S ACTION ON MANAGER'S REPORT: After the Manager's report shall have been prepared, the Board may thereafter by motion approve the report, modify the report and approve it as modified, require the Manager to supply additional or different information for such improvements and after the report is approved, order it filed in the office of the District, or it may abandon the improvement.

SECTION 5: IMPROVEMENT ORDINANCE: After the Board shall have approved the Manager's report as submitted or modified, the Board shall, by ordinance, declare its

intention to make such improvement, the method of financing the improvement, the amount of the cost, if any, to be assessed against benefited properties, designate the improvement as to which an assessment is contemplated, describe the boundaries of the area to be assessed (local improvement district), set a time and place for hearing objections or remonstrance's against said improvements and provide for notice

ORDINANCE NO. 27 -2of the improvement and assessments to be given not less than 25 days before such hearing by mailing said notice to the owners of the property to be assessed for the cost of said improvement, or any part thereof, and by publication of said notice in a newspaper published in or of general circulation in the District not less than 21 or more than 30 days before said hearing. The Board may provide in said ordinance that construction work may be done in whole or in part by the District, by a contract, or by any other governmental agency or by any combination thereof.

SECTION 6: NOTICE OF HEARING ON IMPROVEMENT: The notice provided for in Section 5 of this Ordinance shall contain the following matters:

a. That the report of the Manager on the improvement is on file in the office of the District and is subject to public examination; b. A narrative description of the proposed construction and the location of the site of the proposed construction with reasonable certainty; c. That the Board will hold a public hearing on the proposed improvement at a specified time and place which will not be earlier than 21 days following the publication of the notice, at which objections and remonstrance's to such improvement would be heard by the Board, and that, if prior to such hearing, there shall be presented to the Manager valid written remonstrance's by owners of property against which more than two thirds of the assessed cost is proposed to be levied, then the improvement shall be abandoned for at least six months and the notice shall define remonstrance in accordance with this ordinance; d. A description of the property to be specially benefited by the improvement, either specifically or by reference to the document number of a recorded instrument recorded in the deed records or official records of Klamath County, Oregon, specifically describing said boundaries, and the engineer's estimate of the unit cost of the improvement to the property to be specially benefited, and the total cost of the improvement to be paid for by special assessment to the benefited properties; and e. If the Board intends to levy an assessment based upon the engineer's estimate of the cost of the improvement, the notice shall contain a statement that the costs proposed are estimates and will be the amount assessed against benefited properties subject to supplementary assessments or rebated assessments upon a determination of the actual total costs of

the improvement. If the Board intends to delay assessment until the total actual cost of the improvement is determined, the notice shall contain a statement that the cost proposed is an estimate and not an assessment.

SECTION 7: PUBLIC HEARING: At the time and place of the hearing upon the improvements, all objectors or remonstrators shall have the right to be heard. If two thirds or more of the Owners of the properties directly benefited, which is liable for any of the cost of the improvement, file written remonstrance's objecting to the proposed improvement, the Board shall sustain the remonstrance's, and no further proceedings in the matter of the proposed improvement shall be had for a period of six months. If two thirds of the Owners of the property directly benefited by the proposed improvement do not file written remonstrance's against the improvement, the Board may proceed with the making of the improvement.

SECTION 8: PRE-CONSTRUCTION ASSESSMENT: If remonstrance's are not filed by Owners of land in the area directly benefited by the improvement and against which more than two thirds of the cost of the improvement is to be assessed, the Board may, in its discretion, direct the Manager to prepare, or cause to be prepared, a proposed assessment of the respective parcels of property within the assessment district based upon the engineer's estimate of the cost of the improvement and file it in the District's office. Notice of such proposed assessment shall be mailed or personally delivered to the Owner of each parcel proposed to be assessed, which notice shall state the amount of the assessment proposed on that property and shall fix a date, not less than ten days from the date of said notice, by which time objections to said proposed assessment shall be filed with the Manager of the District. Any such objections shall state the grounds therefor. The Board shall consider such objections, and may adopt, correct, modify or revise the proposed assessment and shall determine the amount of assessment to be levied against each parcel of property within the District according to the special and peculiar benefits occurring thereto from the improvement, and shall by order spread the assessment.

a. Within ten days after the order of assessment has been adopted, the Manager of the District shall mail or personally deliver a notice of assessment to the Owner of each parcel of property assessed. The notice of assessment shall recite the date of the assessment order and shall give notice that upon the failure of the Owner or the property assessed to make application to pay the assessment in installments within 10 working days from the date of the mailing of the notice, or upon the failure of the Owner to pay the assessment in full within 30 days of the date of the assessment order, that

interest on the amount of the assessment shall commence to run from the date of the bancroft bond issue sold to provide financing for the improvement at a rate not exceeding that

ORDINANCE NO. 27 - 4 authorized by law, and that the property assessed will be subject to foreclosure. Said notice shall further set forth a description of the property assessed, the name of the Owner of the property and the amount of each assessment. All assessments shall be paid to the District, and receipt therefor shall be issued.

b. After issuance of an order making an assessment by the Board, a copy of the Order making the assessment, certified and acknowledged by the Manager of the District, shall be filed and recorded with the County Clerk of Klamath County, Oregon. Upon being filed, the assessment shall constitute a lien against the land assessed. All assessment liens of the District shall be superior and prior to all of the liens or encumbrances on the property insofar as the laws of the State of Oregon permit. Interest shall be charged from the date of the bancroft bond issue sold to finance the improvement at a rate not to exceed that authorized by law until paid on all amounts not paid within 30 days from the date of the issuance of the order of assessment; and after the expiration of 30 days from the date of issuance of an order of assessment, the District may proceed to foreclose or enforce collection of the assessment lien in the manner provided by the general laws of the State of Oregon; provided, however, that the District, may at its option, enter a bid for the property being offered at a foreclosure sale, which bid shall be prior to all bids except those made by persons who shall be entitled under the laws of the State of Oregon to redeem such property.

c. In the case of pre-construction assessments, if it is found upon completion of the project and determining the cost thereof, that the amount of the assessment is insufficient to defray the expenses of the improvement, the Board may, by motion, declare such deficit and prepare a proposed supplemental assessment. The Board shall set a time for hearing of objections to such supplemental assessment, and shall direct the Manager of the District to publish one notice thereof in a newspaper of general circulation in the District and to give notice to the property owners by mail. After such hearing, the Board shall make a just and

equitable assessment by order, which shall be certified and acknowledged by the Manager and a copy thereof shall be filed and recorded with the County Clerk of Klamath County, Oregon, and notice of the supplemental assessment shall be mailed to the Owner of the property and the collection of the assessments shall be made as herein provided. d. In the case of a pre-construction assessment, if it is found upon completion of the project and determining the cost thereof, that the assessments previously levied upon any property is more than sufficient to pay the cost of such improvement, then the Board must ascertain and declare the same by order, and when so declared, a copy of the order, certified and acknowledged by the Manager of the District, shall be filed and recorded with the Klamath County Clerk as a credit upon the appropriate assessment, and notice shall be given to the Owner of the property by mail. In the event that any assessment has been paid, the person who paid the same, or his legal representative, shall be entitled to the repayment of such rebate credit, or the portion thereof which exceeds the amount unpaid on the original assessment.

SECTION 9: CALL FOR BIDS: If remonstrance's are not filed by the Owners of the land against which more than two thirds of the cost of the improvement is to be assessed as provided in Section 7 of this Ordinance, following the sale of bancroft bonds to finance the improvement (in the case of pre-construction assessments) or, following the public hearing (in case of post construction assessments) the Board, may in its discretion, direct the Manager to prepare contract documents and advertise for bids for construction of all, or any part, of the improvement project on the basis of the Board-approved Manager's report. In the event that any part of the work of the improvement is to be done under contract bid, then the Board shall determine the time and manner of advertisement for bids, and the contract shall be let to the lowest responsible bidder; provided, however, that the Board shall have the right to reject all bids when they are deemed unreasonable or unsatisfactory. The District shall require the bonding of all contractors for the faithful performance of any contract and the payment of all obligations incurred thereunder let under its authority, and the provisions thereof in case of default shall be enforced by action in the name of the District. If the Board finds, upon opening the bids for the work of such improvement, that the lowest responsible bid is substantially in excess of the engineer's estimate, it may, in its discretion, provide for the holding of a special hearing of objections to the proceeding with the improvement on the basis of such bid, and may direct the Manager to publish one notice thereof in a newspaper of general circulation in the District and give written notice to each property owner within the area directly benefited by the project.

SECTION 10: ABANDONMENT OF PROCEEDINGS: The Board

shall have full power and authority to abandon and rescind proceedings for improvements made under this Ordinance at any time prior to

ORDINANCE NO. 27 -6the final completion of such improvement; and if liens have been assessed upon any property under such procedure, they shall be cancelled, and any payments made on such assessments shall be refunded to the person paying the same, his assigns or legal representatives.

SECTION 11: POST-CONSTRUCTION ASSESSMENT: If the Board has undertaken construction of the improvement prior to assessment, after the work is done and the cost thereof has been actually determined, the Board shall determine whether the property benefited shall bear all or a portion of the costs. The Manager or other person designated by the Board shall prepare the proposed assessment to the respective parcels of property within the assessment district, and shall file it in the office of the District. Notice of such proposed assessment shall be mailed or personally delivered to the Owner of each parcel proposed to be assessed, which notice shall state the amount of the assessment proposed on that property, and shall fix a date, not less than ten days from the date of said notice, by which time objections to said proposed assessment shall be filed with the Manager of the District. Any such objections shall state the grounds, therefore. The Board shall consider such objections and may adopt, correct, modify or revise the proposed assessments, and shall determine the amount of assessments to be levied against each parcel of property within the District according to the special and peculiar benefits accruing thereto from the improvement, and shall by order spread the assessment.

a. Within ten days after the order of assessment has been adopted, the Manager of the District shall mail or personally deliver a notice of assessment to the Owner of each parcel of property assessed. The notice of assessment shall recite the date of assessment order, and shall state that, upon the failure of the Owner of the property assessed to make application to pay the assessment in installments within 10 working days from the date of the mailing of the notice, or upon the failure of the Owner to pay the assessment in full within 30 days from the date of the assessment order, then interest shall commence to run on the assessment at a rate not to exceed that authorized by law, and that the property assessed will be subject to foreclosure. Said notice shall further set forth a description of the property assessed, the name of the Owner of the property and the amount of each assessment. All assessments shall be paid to the District and receipt therefor shall be issued.

b. After issuance of an order making an

assessment by the Board, a copy of the order making the assessment, certified and acknowledged by the Manager of the District, shall be filed and recorded with the County Clerk of Klamath County Oregon. Upon being filed, the assessment shall constitute a lien against the land as assessed. All assessment liens of the District shall be superior and prior to all the liens or encumbrances on the property insofar as the laws of the State of Oregon permit. Interest shall be charged at a rate not to exceed that authorized by law until paid on all amounts

not paid within 30 days from the date of the issuance of the order of assessment; and after expiration of 30 days from the date of the issuance of the order of assessment, unless an installment plan has been approved, the District may proceed to foreclose or enforce collection of the assessment lien in the manner provided by the general law of the State of Oregon; provided, however, that the District may, at its option, enter a bid for the property being offered at a foreclosure sale, by persons *who* shall be entitled under the laws of the State of Oregon to redeem such property.

SECTION 12: ERRORS IN ASSESSMENT CALCULATIONS:

Claimed errors in the calculation of assessments shall be called to the attention of the Manager of the District, who shall determine whether there has been an error in fact. If the Manager of the District shall find there has been an error in fact, he shall recommend to the Board an amendment to the order of assessment to correct such error, and upon enactment of such amendment, the Manager of the District shall make the necessary correction in the District's records. The Manager of the District shall certify the correction and record the same in the office of the Klamath County Clerk and shall send a corrected notice of assessment by mail to the Owner of the property assessed.

SECTION 13: REASSESSMENT: Whenever any assessment, deficit or reassessment for any improvement which has been made by the District has been, or shall be set aside, annulled, declared or rendered void, or its enforcement restrained by any court of the state, or any federal court having jurisdiction thereof, or when the Board shall be in doubt as to the validity of such assessment, deficit assessment or reassessment, or any part thereof, then the Board may make a reassessment as provided in ORS 23.405 to 223.485.

SECTION 14: SATISFACTION AND DISCHARGE OF LIENS:

Within 30 days of final payment, the Manager shall order

filed with the Clerk of Klamath County the satisfaction and discharge of the liens against lands on *which* assessments have been paid in full.

SECTION 15: CURITY PROVISIONS: No improvement assessments shall be rendered invalid by reason of a failure of the Manager's report to contain all of the information required by Section 2 of this Ordinance, or by reason of a failure to have all of the information required to be in the improvement ordinance, the assessment order, the notices required to be published and mailed nor

ORDINANCE NO. 27 -8by the failure to list the name of, or mail notice to, the Owner of any property as required by this ordinance, or by reason of any other error, mistake, delay, omission, irregularity or other act, **jurisdictional or otherwise, in any of the proceedings or steps** herein specified, unless it appears that the assessment is unfair or unjust in its effect upon the person complaining; and the Board shall have the power and authority to remedy and correct all such matters by suitable action and proceedings.

Dated this 18th



Bill

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Deeds

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By *Joyce M. Lewis*

