

District Copy

ORDINANCE NO. 98-1

AN ORDINANCE OF THE BOARD OF DIRECTORS OF BAYVIEW WATER AND SEWER DISTRICT, OF KOOTENAI COUNTY IDAHO; CREATING LOCAL IMPROVEMENT DISTRICT NO. 2; DESCRIBING AND SETTING FORTH THE BOUNDARIES OF SAID LOCAL IMPROVEMENT 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 LOCAL IMPROVEMENT DISTRICT BENEFITED THEREBY AND THE METHOD OF ASSESSMENT; PROVIDING FOR THE ISSUANCE OF LOCAL IMPROVEMENT DISTRICT BONDS AND WARRANTS; AND PROVIDING FOR OTHER MATTERS PROPERLY RELATING THERETO

**BAYVIEW WATER AND SEWER DISTRICT
Kootenai County, Idaho**

LOCAL IMPROVEMENT DISTRICT NO. 2

BE IT ORDAINED BY THE BOARD OF DIRECTORS OF BAYVIEW WATER AND SEWER DISTRICT, of Kootenai County, Idaho, as follows:

WHEREAS, Bayview Water and Sewer District (the "District"), of Kootenai County, Idaho, is a water and sewer district operating and existing under and pursuant to the 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 the acquisition, construction and installation of improvements to the District's water system, including pump stations and lateral lines; mains and hydrants; a transmission main and related improvements necessary for the operation of a water system, together with engineering, legal, accounting, costs of bond issuance, and other costs incidental thereto as authorized by law, 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 benefited by said improvements; and

WHEREAS, the Board of Directors (the "Board") of the District has heretofore by Resolution No. 98-1, adopted on June 16, 1998, initiated the creation of a local improvement district for the acquisition, construction and installation of improvements to said District and has determined that it is in the best interests of the residents of the District to form said local improvement district for the above purposes; and

WHEREAS, after proper publication and mailing of notice to the property owners of intention to create the proposed local improvement district, a public hearing was held by the Board on July 21, 1998, which hearing the residents and owners of property within said proposed local improvement district had the opportunity to appear to protest, both in writing and verbally, or support the formation of the local improvement district; and

WHEREAS, the Board has determined that it was in the best interests of the District to form Local Improvement District No. 2 and wishes to reaffirm that decision by adoption of this Ordinance;

NOW, THEREFORE, IT IS HEREBY FOUND, DETERMINED, AND ORDERED as follows:

The Board hereby finds and declares:

A. That Local Improvement District No. 2 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 Local Improvement District No. 2 will be paid;

C. That the value of the property subject to assessment within Local Improvement District No. 2 (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 Kootenai or Bonner County) exceeds the sum of the estimated costs to be assessed against the property included in Local Improvement District No. 2; and

D. That the Board has heard, considered, and passed upon all protests which were filed in writing in advance of the hearing, as more fully set forth in the proceedings of said hearing.

Section 1: There is hereby created and established a local improvement district within the District, to be designated Local Improvement District No. 2 ("LID No. 2"), 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 2: The improvements to be made within LID No. 2 are as follows:

A. The acquisition, construction and installation of water system improvements in the area now generally served by the Pend Oreille Pines Water System, Cape Horn Water Users, Cape Horn Estates Water System, and West Cape Area, including, where necessary, the following:

(1) The installation of a transmission line or lines and pumping station or stations where necessary;

(2) The installation or replacement of storage tanks; repair and replacement of valves; repair and replacement of valves; installation of meters, installation of valves and water lines and mains; and other appurtenances necessary for the operation of a water system;

(3) The installation of improvements, including mains and hydrants, for fire protection; and

(4) The purchase and acquisition of other necessary equipment and materials;

B. The acquisition of right-of-way and relocation of utilities, if necessary;

together with engineering, legal, accounting, costs of bond issuance, costs of financial advice and other costs incidental thereto. All work will be performed and all materials supplied after the advertisement for bids therefor by giving notice calling for sealed bids for the construction of work.

Section 3: The aforementioned improvements shall be made and the costs and expenses thereof shall be assessed against the lots and parcels within LID No. 2 in proportion to the benefits derived to each lot or parcel. Benefits derived for the collection and transmission system shall be determined by dividing the total assessable cost of the collection and transmission system and facilities by the number of recorded lots and parcels. Each recorded lot or parcel will be assessed the same amount, except that for commercial lots or lots with multiple units or users, an equivalent residential user formula will be applied.

Section 4: Said improvements are original improvements.

Section 5: The total estimated cost of said improvements is \$1,017,244.50, all of which shall be paid from a levy of assessments on the property benefited.

It is expected that none of such costs and expenses will be paid from the general funds of the District. Said costs shall be paid from special assessments against the abutting, adjoining, contiguous, and adjacent lots and lands benefited and included in LID No. 2, 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 not to exceed twenty (20) equal annual installments of principal and interest as nearly as practicable, if not otherwise paid as provided by law. The District reserves the right to have said assessments paid in such lesser number of annual installments as it may subsequently determine by Ordinance.

Section 6: Costs and expenses assessed 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, 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: JUB Engineers, 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 assessments hereinabove provided for, the District may 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. 2 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 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. 2, and each and all of the provisions thereof in regard to all of said matters concerning the creation of LID No. 2 and the doing of the improvement and payment thereof, are hereby expressly incorporated as a part of this Ordinance.

Section 11: This Ordinance shall take effect and be in full force from and after its passage, approval, and publication of a summary thereof in compliance with Section 50-901A, Idaho Code, one time in the official newspaper of the District.

DATED this 21st day of July, 1998.

BAYVIEW WATER AND SEWER
DISTRICT, of Kootenai County, Idaho

C. E. Waller

Chairman

ATTEST:

Debra Beck

Secretary

(SEAL)

I, the undersigned, Secretary of the Board of Directors of Bayview Water and Sewer District, of Kootenai 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 Directors of said District, duly and regularly held at the regular meeting place thereof held on July 21, 1998, of which meeting all members of said Board had due notice and at which a majority thereof were present; and that at said meeting said Ordinance was adopted by the following vote:

AYES, and in favor thereof, Directors:

Musley Hansen

*Patrick A. Low Robert Jenkins
C. E. Waller M. H. Hester*

NOES, Directors:

none

ABSENT, Directors:

none

ABSTAIN, Directors:

none

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 July 21, 1998.

Debra Bork

Secretary

(SEAL)

**SUMMARY OF
ORDINANCE NO. 98-1**

AN ORDINANCE OF THE BOARD OF DIRECTORS OF BAYVIEW WATER AND SEWER DISTRICT, OF KOOTENAI COUNTY IDAHO; CREATING LOCAL IMPROVEMENT DISTRICT NO. 2; DESCRIBING AND SETTING FORTH THE BOUNDARIES OF SAID LOCAL IMPROVEMENT 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 LOCAL IMPROVEMENT DISTRICT BENEFITED THEREBY AND THE METHOD OF ASSESSMENT; PROVIDING FOR THE ISSUANCE OF LOCAL IMPROVEMENT DISTRICT BONDS AND WARRANTS; AND PROVIDING FOR OTHER MATTERS PROPERLY RELATING THERETO

**BAYVIEW WATER AND SEWER DISTRICT
Kootenai County, Idaho**

LOCAL IMPROVEMENT DISTRICT NO. 2

A summary of the principal provisions of Ordinance No. 98-1 of Bayview Water and Sewer District, Kootenai County, Idaho, adopted on July 21, 1998, is as follows:

The Board of Directors of the District finds and declares that the formation of Local Improvement District No. 2 ("LID No. 2") will be in the best interests of the property affected, that there is reasonable probability that the obligations of LID No. 2 will be paid, that the value of property subject to assessment within LID No. 2 exceeds the sum of the estimated costs to be assessed against the property, and that the Board has heard, considered, and passed upon all protests which were filed in writing or heard during public testimony and has considered the same.

Section 1: Creates Bayview Water and Sewer District Local Improvement District No. 2 and defines the boundaries of LID No. 2 as those reflected on the map attached to this summary, which is Exhibit "A" to the Ordinance.

Section 2: Describes the improvements to be made within LID No. 2 as follows:

A. The acquisition, construction and installation of water system improvements in the area now generally served by the Pend Oreille Pines Water System, Cape Horn Water Users, Cape Horn Estates Water System, and West Cape Area, including, where necessary, the following:

(1) The installation of a transmission line or lines and pumping station or stations where necessary;

(2) The installation or replacement of storage tanks; repair and replacement of valves; repair and replacement of valves; installation of meters, installation of valves and water lines and mains; and other appurtenances necessary for the operation of a water system;

(3) The installation of improvements, including mains and hydrants, for fire protection; and

(4) The purchase and acquisition of other necessary equipment and materials;

B. The acquisition of right-of-way and relocation of utilities, if necessary;

together with engineering, legal, accounting, costs of bond issuance, costs of interim financing, costs of financial advice, and other costs incidental thereto. All work will be performed and all materials supplied after the advertisement for bids therefore by giving notice calling for sealed bids for the construction of work.

Section 3: States that all of the costs of the improvements will be paid from special assessments against property located in LID No. 2 calculated by the benefits derived method of assessment.

Section 4: Provides that said improvements are original improvements.

Section 5: Describes the total estimated cost of the improvements as approximately \$1,017,244.50, all of which shall be paid from a levy of assessments on the property benefited. None of the costs will be paid from the general funds of the District. Said costs shall be paid from special assessments against the abutting, adjoining, contiguous, and adjacent lots and lands benefited and included in LID No. 2, each lot and parcel of land being separately assessed for the cost thereof. Assessments may be paid in not to exceed twenty (20) equal annual installments of principal and interest, if not otherwise paid as provided by law or in a lesser number of payments if determined by the District.

Section 6: Describes the costs and expenses to be included in the price of the Project.

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

Section 8: Appoints JUB Engineers, Inc., of Coeur d'Alene, Idaho, as engineer for the project to prepare the necessary plans and specifications for the improvements.

Section 9: Authorizes the issuance of warrants, if necessary, for the immediate payment of costs and expenses of the Project and provides for the issuance of bonds.

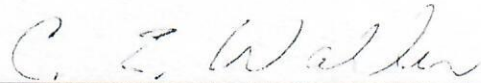
Section 10: Incorporates all matters and things done in regard to the creation of LID No. 2 as part of Ordinance No. 98-1.

Section 11: States that Ordinance No. 98-1 shall take effect after its passage, approval, and publication of this summary.

A full text of Ordinance No. 98-1 is available at the office of the District Secretary and will be provided to any citizen upon personal request during normal business hours.

DATED this 21st day of July, 1998.

BAYVIEW WATER AND SEWER DISTRICT
Kootenai County, Idaho



Chairman

ATTEST:



District Secretary

(S E A L)

CERTIFICATION OF BOND COUNSEL

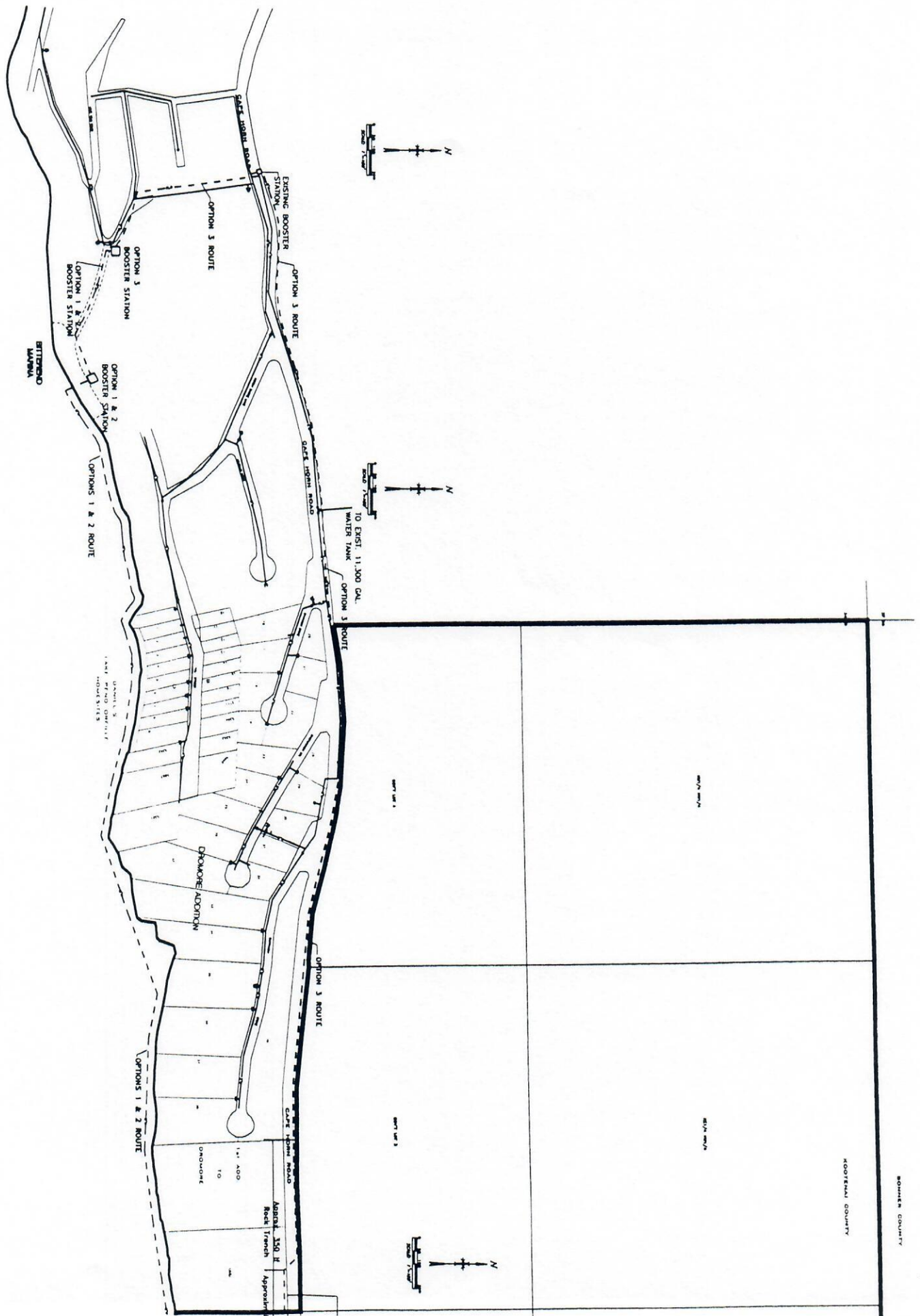
I, the undersigned Bond Counsel for Bayview Water and Sewer District, of Kootenai County, Idaho, hereby certify that I have read the attached Summary of Ordinance No. 98-1 of said District and that the same is true and complete and provides adequate notice to the public of the contents of said Ordinance.

Dated this 21st day of July, 1998.

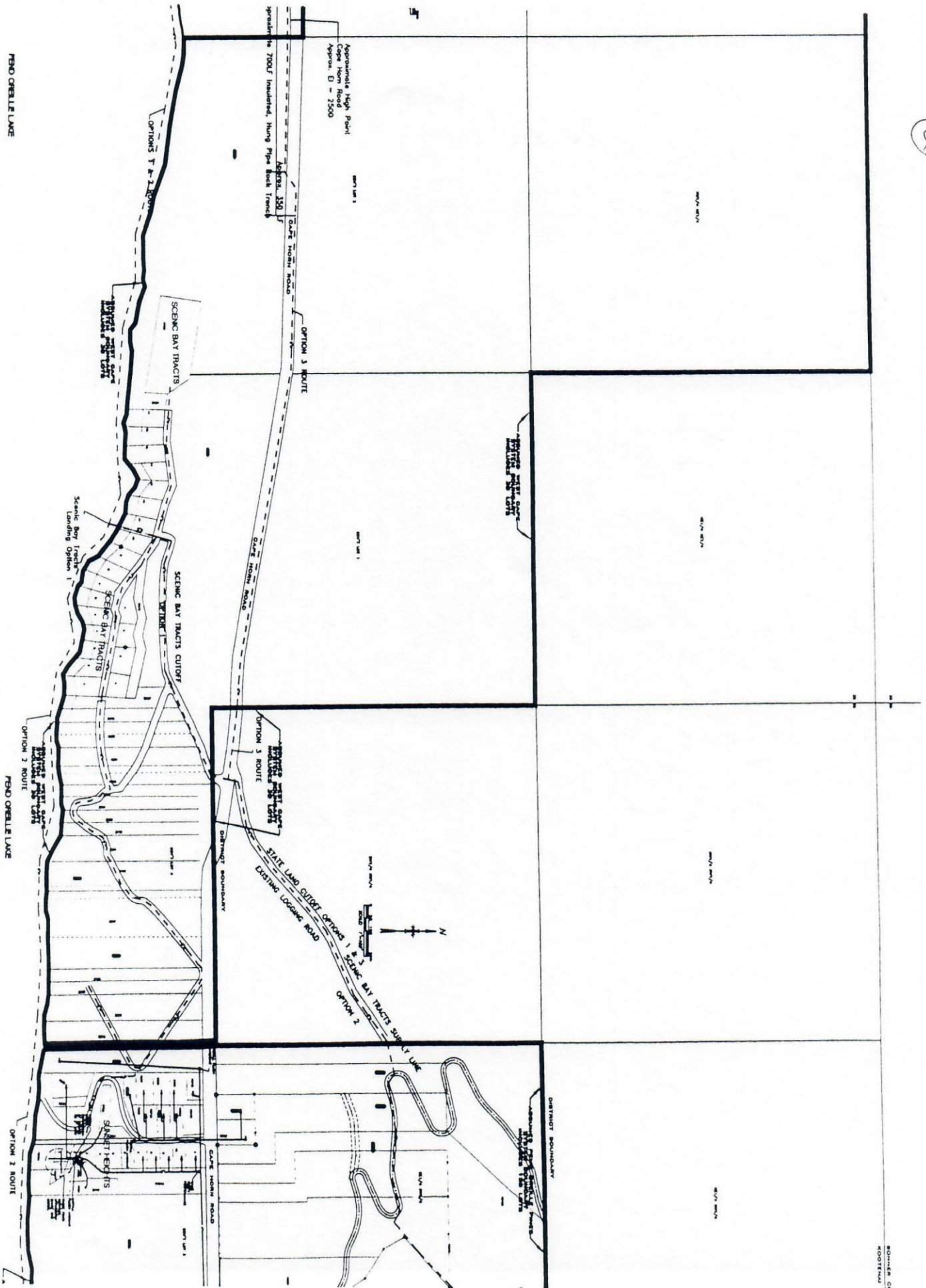
PRESTON GATES & ELLIS LLP

Michael C. Ormsby, Bond Counsel

①



2



(3)

