

**PUBLIC IMPROVEMENT DISTRICT 2007-1  
IN THE VILLAGE OF ANGEL FIRE, NEW MEXICO**

**RESOLUTION NO. 2013-01**

**WHEREAS**, on February 14, 2008, pursuant to Sections 5-11-1 through 5-11-27, NMSA 1978 as amended (the "Public Improvement District Act") and Village of Angel Fire, New Mexico (the "Village") Resolution No. 2007-34, the Village adopted Resolution No. 2008-07 (the "Formation Resolution") creating the Village of Angel Fire Public Improvement District No. 2007-1 (the "AFPID"); and

**WHEREAS**, the Formation Resolution authorized the Board of Directors of the District (the "Board"), among other things, to: (i) finance and construct certain public infrastructure improvements ("Improvements") upon real property in the District ("Real Property"); (ii) impose a District special levy upon the Real Property within the AFPID (the "Special Levy") to finance the Improvements; and (iii) issue bonds in an aggregate principal amount not to exceed \$24,978,5250 to finance the Improvements; and

**WHEREAS**, the Formation Resolution also approved revisions to the General Plan and the Rate and Method of Apportionment of Special Levy ("Rate and Method") subject to an election required under the Public Improvement District Act; and

**WHEREAS**, the AFPID was subsequently approved by an election of AFPID Real Property owners held on April 21, 2008; and

**WHEREAS**, a Notice of Imposition of Special Levy was recorded in the real property records of Colfax County, New Mexico on June 4, 2008; and

**WHEREAS**, by letter dated October 16, 2009, the AFPID informed certain Real Property owners that the Village and the AFPID had reserved infrastructure issues for additional review and consideration by the AFPID; and

**WHEREAS**, such additional review was delayed pending the outcome of litigation brought by various litigant lot owner ("Litigant Lot Owners"). All pending litigation has now been resolved in favor of the AFPID and against such Litigant Lot Owners. Given the Courts' decisions in favor of the AFPID and the conclusion of the litigation, the AFPID resumed the administrative hearing process designed to resolve any outstanding infrastructure issues; and

**WHEREAS**, on October 16, 2012, the Board held an administrative hearing to consider the objection of Don Asher to the AFPID assessment on Lot 1007 of Country Club 1 & 2 Amended/Reamended (Group 1B/2A); and

**WHEREAS**, on December 11, 2012, after considering Mr. Asher's objection, the Board found:

- a. Mr. Asher first communicated his objection to the AFPID assessment to Penny Davey, the former AFPID administrator, on November 11, 2008.
- b. On October 16, 2009, the AFPID notified Mr. Asher that his assessment was subject to additional review to ascertain the status of infrastructure issues identified by him, however, such review was delayed pending the resolution of outstanding litigation. The AFPID further indicated that "should a [review] result in the adjustment of any assessment, that adjustment will be retroactive through 2008 and will include interest at the same rate imposed upon the AFPID."
- c. Lot 1007's pre-existing electric and telephone infrastructure in Via del Rey meet applicable standards of Kit Carson Electric Co-op and Qwest (CenturyLink) and do not require any improvements or increase in size.
- d. Lot 1007 is provided additional fire and emergency vehicle access from Sugar Creek Place given the new AFPID constructed road and water improvements and Mr. Asher has the ability to construct driveway access to Sugar Creek Place.
- e. Mr. Asher does not dispute the AFPID assessment for sewer improvements; and

**WHEREAS**, accordingly, the Board decided that the Lot 1007, Country Club 1 & 2 Amended/Reamended (Group 1B/2A) assessment should be adjusted to exclude assessments resulting from AFPID constructed electric and telephone improvements retroactive to 2008, including interest at the same rate imposed upon the AFPID. The Board directed the AFPID administrator to ascertain the appropriate adjustment and prepare a Board resolution accordingly. A copy of the decision is attached hereto and incorporated herein by reference; and

**WHEREAS**, the AFPID administrator, with the assistance of David Taussig & Associates ("DTA"), calculated the amended maximum annual special levy and credit due Mr. Asher on Lot 1007 as indicated by the table below; and.



**ANNUAL SPECIAL LEVY CREDIT  
GROUP 1B/2A**

Annual Special Levy Fiscal Year	Credit			
	Original	Amended	Special Levy Credit	Interest
2008-09	\$4,714.00	\$4,300.00	\$414.00	\$8.58
2009-10	\$4,714.00	\$4,300.00	\$414.00	\$18.64
2010-11	\$4,808.28	\$4,386.00	\$422.28	\$29.10
2011-12	\$4,808.28	\$4,386.00	\$422.28	\$39.85
2012-13	\$5,002.53	\$4,563.19	\$439.34	\$51.20
		Total	\$2,111.90	\$147.37

**WHEREAS**, the administrator and DTA determined that because Lot 1007 should not have been assigned a share of the indicated electric and telephone improvements, the Maximum Annual Special Levy for this lot should be amended from \$5,002.53 to \$4,563.19 (effective fiscal year 2012-13).

**NOW THEREFORE**, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE ANGEL FIRE PUBLIC IMPROVEMENT DISTRICT:

1. The AFPID Maximum Annual Special Levy applicable to Lot 1007 of Country Club 1 & 2 Amended/Reamended (Group 1B/2A) should be amended from \$5,002.53 to \$4,563.19, effective fiscal year 2012-13. This amended and reduced Maximum Annual Special Levy does not preclude the AFPID from adjusting the maximum amount of the special levy in accordance with Section 5-11-20 (F) NMSA 1978.

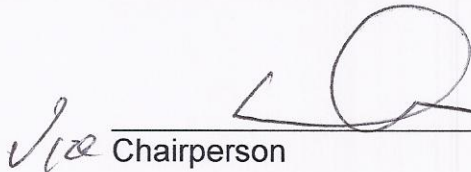
2. Mr. Asher should be credited \$2,111.90 which is the difference between the original and amended Annual Special Levy for years 2008 through 2013 as indicated in the DTA table above.

3. Additionally, Mr. Asher should be credited \$147.37 for interest accruing on the levy credits from 2008 through 2013.

4. Mr. Asher's 2013-2014 assessment for Lot 1007 of Country Club 1 & 2 Amended/Reamended (Group 1B/2A) should be reduced by a one-time credit in the amount of \$2,259.27 (levy credit including interest).


5. Pursuant to Rule 1-074 NMRA 2002, any appeal from the decision of the Board must be filed with the Eight Judicial District Court in Raton, New Mexico, within 30 days after the date of this resolution.

PASSED AND APPROVED BY THE BOARD OF DIRECTORS OF THE ANGEL FIRE PUBLIC IMPROVEMENT DISTRICT No. 2007-1 THIS 9<sup>th</sup> DAY OF JANUARY, 2013.

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Chairperson

ATTEST:

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District Administrator

  
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