

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

RESOLUTION NO. 2018-06

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, 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, on May 9, 2013, the Board held an administrative hearing to consider the objection of Frank Felts to the AFPID assessment on Lots 147 and 148 of Country Club Unit 1B Amended (Group 1B/2); and

WHEREAS, on May 29, 2013, after considering Mr. Felts' objection, the Board decided, among other things that the levy on Lot 147, Country Club Unit 1B Amended should be adjusted and that Mr. Felts' request for an adjustment of the electric and telephone portion of the AFPID levy for Lot 148 should be denied; and

WHEREAS, Mr. Felts appealed the Board's Decision to the State District Court. On June 28, 2017, that Court issued its ORDER AFFIRMING THE DECISION OF THE AFPID BOARD IN PART AND REMANDING IN PART ("Order") directing, among other things that the case be remanded:

for a specific ruling regarding the Board's decision regarding the determination of the appropriate interest rate regarding the credits for Lots 147 and 148. If there was evidence in the record to support the determination, the AFPID Board shall indicate what evidence was relied on for making the determination of pre-judgment interest. If not, the parties shall have a hearing before the AFPID Board solely on the issue of the appropriate pre-judgment interest rate, unless a rate is agree upon by the parties. If a hearing is necessary, the AFPID must conduct the

hearing within sixty (60) days from the entry of this order and issue its findings within ten (10) days of the hearing; and

WHEREAS, on July 25, 2017, legal counsel for the AFPID informed legal counsel for Mr. Felts that the AFPID would conduct a hearing on August 17, 2017 on the issue of the appropriate pre-judgment interest rate; and

WHEREAS, on August 14, 2017, Mr. Felts' legal counsel was supplied with the attached affidavit of Donna Segura, Vice President of David Taussig & Associates which affidavit indicates that the interest rate applied to Mr. Felts' credits was calculated using the average coupon rates for the AFPID's loans, 5.275626% and 5.294623%. A copy of the Affidavit is attached hereto as Attachment A;

WHEREAS, on August 17, 2017, the Board considered the affidavit of Ms. Segura and heard argument from Mr. Felts' legal counsel, Ms. Julia Armstrong. After considering the same and after discussion, the Board directed AFPID staff and David Taussig & Associates to recalculate interest on the credits due through July 1, 2013; and

WHEREAS, David Taussig & Associates have performed the requested calculation as evinced by the attached worksheet, attached to this Resolution as Attachment B. Attachment B demonstrates that interest calculated through July 1, 2013 on the credits due results in \$799.74 of interest, as opposed to the previously produced year-end calculation of \$132.51;

WHEREAS, the Attachment B calculation was forwarded to Mr. Felts via Ms. Armstrong on September 18, 2017 along with notice of this Resolution. Neither Mr. Felts nor Ms. Armstrong appeared at the Board meeting on September 21, 2017.

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

1. After the Board hearing on August 17, 2017 and in accordance with the State District Court's June 28, 2017 Order, the Board:
 - (a) accepts the attached affidavit of Donna Segura, Vice President of David Taussig & Associates which affidavit indicates that the interest rate applied to Mr. Felts' credits was calculated using the average coupon rates for the AFPID's loans, i.e. 5.275626% and 5.294623%; and

(b) accepts the arguments of legal counsel for Mr. Felts which argument suggested that interest on any assessment credits should have been calculated through to the date of the credit (as opposed to each year end), i.e. July 1, 2013; and

(c) agrees that Attachment B properly calculates the interest due Mr. Felts through July 1, 2013 in the sum of \$799.74.

2. In full and final satisfaction of the Felts' appeal and in accordance with the June 28, 2017 State District Court Order, the Board directs staff to issue a check to Mr. Felts in the sum of \$667.23 (\$799.74 less interest already paid of \$132.51).

PASSED AND APPROVED BY THE BOARD OF DIRECTORS OF THE ANGEL FIRE PUBLIC IMPROVEMENT DISTRICT No. 2007-1 THIS 21st DAY OF September, 2017.

Dana A. Beyer pro tem
Chairperson *pro tem*

ATTEST:

S. Sollars
District Administrator

ATTACHMENT B

Loan 1

Fiscal Year	Annual Special Levy Reduction	Interest Calculation Date	Property Tax Due Dates		Number of Days (Between Property Tax Due Date and Interest Calculation Date)		Average Coupon Rate	Interest on Overpayment		Total
			Installment 1	Installment 2	Installment 1	Installment 2		Installment 1	Installment 2	
FY 2008-2009	\$47.78	7/1/2013	12/10/2008	4/10/2009	1641	1521	5.257626%	\$5.73	\$5.31	\$11.03
FY 2009-2010	\$50.51	7/1/2013	12/10/2009	4/10/2010	1281	1161	5.257626%	\$4.73	\$4.28	\$9.01
FY 2010-2011	\$50.17	7/1/2013	12/10/2010	4/10/2011	921	801	5.257626%	\$3.37	\$2.93	\$6.31
FY 2011-2012	\$47.83	7/1/2013	12/10/2011	4/10/2012	561	441	5.257626%	\$1.96	\$1.54	\$3.50
FY 2012-2013	\$53.82	7/1/2013	12/10/2012	4/10/2013	201	81	5.257626%	\$0.79	\$0.32	\$1.11

Loan 2

Fiscal Year	Annual Special Levy Reduction	Interest Calculation Date	Property Tax Due Dates		Number of Days (Between Property Tax Due Date and Interest Calculation Date)		Average Coupon Rate	Interest on Overpayment		Total
			Installment 1	Installment 2	Installment 1	Installment 2		Installment 1	Installment 2	
FY 2008-2009	\$1,205.22	7/1/2013	12/10/2008	4/10/2009	1641	1521	5.294613%	\$145.44	\$134.80	\$280.24
FY 2009-2010	\$1,202.49	7/1/2013	12/10/2009	4/10/2010	1281	1161	5.294613%	\$113.28	\$102.66	\$215.94
FY 2010-2011	\$1,227.89	7/1/2013	12/10/2010	4/10/2011	921	801	5.294613%	\$83.16	\$72.33	\$155.49
FY 2011-2012	\$1,230.23	7/1/2013	12/10/2011	4/10/2012	561	441	5.294613%	\$50.75	\$39.90	\$90.65
FY 2012-2013	\$1,275.87	7/1/2013	12/10/2012	4/10/2013	201	81	5.294613%	\$18.86	\$7.60	\$26.46