

**PUBLIC IMPROVEMENT DISTRICT NO. 2007-01
ANGEL FIRE, NEW MEXICO
RESOLUTION NO. 2018-9**

WHEREAS, *Angel Fire Public Improvement District v. Angel Fire Resort, LLC*, No. D-809-CV-2016-00056 (N.M. 8th Judicial Dist. Ct. Colfax Cty.) (Litigation), is currently pending before the Eighth Judicial District Court in Raton, New Mexico; and

WHEREAS, the Litigation concerns the Angel Fire Public Improvement District's (AFPID) alleged obligation to pay dues or assessments to the Angel Fire Resort (Resort), which assessments are also referred to as "membership dues"; and

WHEREAS, the AFPID has contended that the Anti-Donation Clause of the New Mexico Constitution, N.M. Const. art. IX, § 14, prohibits the AFPID from paying the membership dues, and that the Resort's restrictive covenants do not constitute a "valid written contract" under NMSA 1978, § 37-1-23(A) (1976); and

WHEREAS, the Resort disputes the AFPID's contentions and filed a counterclaim in the Litigation for the unpaid membership dues on six lots the AFPID acquired by foreclosure beginning in 2010; and

WHEREAS, on January 18, 2018, the AFPID and the Resort participated in a mediation before the Honorable James A. Hall in an effort to resolve: (1) their dispute about the six lots, and (2) issues regarding additional lots whose owners have not been paying either the membership dues or the AFPID annual assessments that it is authorized to collect for the purpose of developing infrastructure in the Village of Angel Fire; and

WHEREAS, the AFPID and the Resort have reached an agreement that resolves the Litigation. A copy of this agreement (Settlement Agreement) is attached hereto for consideration by the AFPID Board; and


WHEREAS, such Settlement Agreement, among other things, memorializes the AFPID's and Resort's agreement that the AFPID shall not be responsible for the payment of any Resort membership dues on the six AFPID owned lots for the duration of the AFPID's ownership of such six lots.

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

1. The Settlement Agreement attached hereto is approved and adopted by this Board.

2. The AFPID Administrator and legal counsel are directed to take any action necessary to file the Settlement Agreement and this Resolution with the Court in furtherance of a prompt dismissal of the Litigation.

Done in open meeting this 8th day of February, 2018.


Chairperson Pro Tem

ATTEST:


District Administrator

SETTLEMENT AGREEMENT

The parties to this agreement, Angel Fire Public Improvement District ("the District") and Angel Fire Resort Operations, LLC ("the Resort"), are also parties to a lawsuit entitled Angel Fire Public Improvement District v. Angel Fire Resort, LLC, No. D-809-CV-2016-00056 (N.M. 8th Judicial Dist. Ct. Colfax Cty.) ("the Lawsuit"), which is currently pending before the district court. The lawsuit concerns the District's liability for the annual assessments in Angel Fire (hereinafter referred to as "membership dues"). The District contends that the Anti-Donation Clause of the New Mexico Constitution, N.M. Const. art. IX, § 14, prohibits the District from paying the membership dues, and that the restrictive covenants do not embody a "valid written contract" under NMSA 1978, § 37-1-23(A) (1976). The Resort contests these contentions and has filed a counterclaim for the unpaid membership dues on six lots ("the 6 lots") that the District has acquired by foreclosure beginning in 2010. On January 18, 2018, the parties participated in a mediation before the Honorable James A. Hall in an effort to resolve their dispute about the six lots and about many additional lots whose owners have not been paying either the membership dues or the annual assessments that the District is authorized to collect for the purpose of developing certain infrastructure in the Village of Angel Fire (hereinafter referred to as "District assessments"). The parties have reached the following agreement:

The 6 Lots

The District will continue to own the 6 lots until it succeeds in selling them to a private party. The Resort will pay membership dues that have accrued and will continue to accrue during the District's ownership of the 6 lots, and the Resort agrees to write a check for the full amount of the past dues owed on each lot when the lot is eventually sold. The District has paid

all property taxes associated with the lots since acquiring them. Upon the sale of each lot, the District is entitled to reimbursement of its foreclosure costs and property-tax payments out of the sale proceeds. The remaining proceeds, if any, will be split evenly between the parties.

Other Lots (Currently Owned by Neither Party) on Which Membership Dues and District Assessments Are or Become Delinquent

The parties will confer about these lots as the lots come to the attention of either party. The Resort will have the first right to foreclose on each such lot, or to obtain a deed in lieu of foreclosure on the lot. If the Resort declines to foreclose on the lot or otherwise acquire it, the District will then have the right to do so.

In the event of foreclosure or acceptance of a deed in lieu of foreclosure by either party, the District will absorb delinquent District assessments, and the Resort will pay delinquent membership dues. During the lot's ownership by either party, the District will continue to absorb assessments. During a lot's ownership by the District, membership dues will continue to accrue, but the Resort agrees to write a check for the dues when the lot is sold, and the District will not be required to pay them on an ongoing basis. Accordingly, all such lots will be sold free and clear of all past indebtedness for District assessments or membership dues.

Both parties agree to use best efforts to promptly sell such lots to private owners. Upon the sale of a lot, the foreclosing party will be entitled to reimbursement of the costs of foreclosure and lawful taxes, if any, out of the sale proceeds. The remaining proceeds, if any, will be split evenly between the parties.

The Lawsuit

The District will promptly dismiss its complaint. The Resort will promptly dismiss its counterclaim. The parties will cooperate in this process. Each party will be responsible for its own costs and attorneys' fees.

Accepted and Agreed to, Pending and Subject to Final Approval by the District Board:



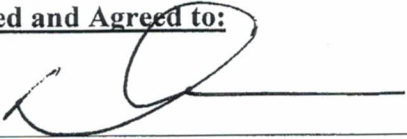
Alan G. Young
Chairman, Angel Fire Public Improvement District Board

Approved:



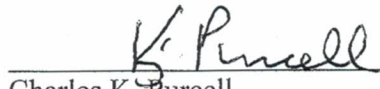
Nann M. Winter
Attorney for Angel Fire Public Improvement District

Accepted and Agreed to:



Daniel E. Rakes, on behalf of Angel Fire Resort Operations, LLC

Approved:



Charles K. Purcell
Attorney for Angel Fire Resort Operations, LLC