

RESOLUTION NO. 21-2023

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF MONTEZUMA COUNTY, COLORADO, CREATING A LOCAL IMPROVEMENT DISTRICT WITHIN THE COUNTY, TO BE DESIGNATED AS MONTEZUMA COUNTY LOCAL IMPROVEMENT DISTRICT NO. 2023-1 (UPPER ROAD 42), AUTHORIZING AN ELECTION BY THE OWNERS OF THE PROPERTY TO BE ASSESSED FOR IMPROVEMENTS IN SAID DISTRICT AND ADDITIONAL PROCEDURES FOR DEVELOPING FINAL PLANS AND FUNDING FOR THE DISTRICT.

WHEREAS, pursuant to Title 30, Article 20, Part 6, Colorado Revised Statutes (the "Act"), Montezuma County, Colorado (the "County"), acting by and through the Board of County Commissioners (the "Board"), is authorized to create local improvement districts, construct certain local improvements, and fund such improvements by assessing the cost thereof against the property in the local improvement district which is benefited thereby; and

WHEREAS, the Board has determined that it is necessary to create a local improvement district and to construct, install, complete, and acquire certain local improvements therein, all as hereinafter described; and

WHEREAS, pursuant to the authority granted by § 30-20-603(2), C.R.S. and subject to the final cost and assessment determinations, the Board has held a hearing concerning its intention to proceed with the creation of a local improvement district following publication and mailing of notice as required by statute; and

WHEREAS, the Board has determined that, in addition to the requirements of the Act, pursuant to Article X, Section 20 of the Colorado Constitution, the imposition of assessments in the district, the issuance of special assessment bonds or other financial obligations payable from such assessments, and other matters in connection therewith, shall be subject to electoral approval in the manner required or permitted by law at the time of such election; and

WHEREAS, final plans, specification, estimates of cost, maps and schedules ("Final Plans") will be prepared by Goff Engineering; and

WHEREAS, a grant is available through the State of Colorado to pay for the final engineering costs once the local improvement district is formed; and

WHEREAS, the Board has determined that the creation of the district is necessary and appropriate in order to proceed with holding an election, obtaining grants, and preparing Final Plans so a hearing to establish final assessment amounts can be held; and

WHEREAS, the Board shall consider all protests and objections that may be made in connection with the proposed improvements before ordering the construction thereof.

BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MONTEZUMA COUNTY, COLORADO:

Section 1. Notice and Hearing. On September 26, 2023, at 9:10 AM a hearing was held by the Board concerning its intent to create a local improvement district pursuant to the authority granted by §§ 30-20-601, et seq., C.R.S. The hearing was held after notice by publication as shown on Exhibit A and notice by mailing as shown on Exhibit B (the “Notices”). Interested parties were able to provide testimony and comment on the creation of the local improvement district described in the Notices.

Section 2. Creation of the District. In accordance with § 30-20-603(2), C.R.S., the Board does hereby create a local improvement district (the “District”) within the County, to be known as “Montezuma County Local Improvement District No. 2023-1 (Upper Road 42)”, for the construction, installation, completion, and acquisition of the improvements more particularly described in Resolution No. 17-2023 adopted August 22, 2023 (the “Project”). The final boundaries of the District shall include the property on Exhibit C, subject to any changes in boundaries made pursuant to § 30-20-603(2.5), C.R.S.

Section 3. Election. The Board orders that the issue of authorizing indebtedness in an amount not to exceed the preliminary cost estimates of \$1,728,511 to be repaid solely from special assessments on property located within the District shall be submitted to the owners of property within the District at an election on November 7, 2023. Laura Rieck, President of the Upper Road 42 Water Association, Inc. is appointed as the Designated Election Official. All the costs of the election shall be paid by the Upper Road 42 Water Association, Inc (the “Association”).

Section 4. District Administrator. Laura Rieck is hereby designated as District Administrator, with the assistance of the Association, its engineers, attorneys and other consultants, for the purpose of (i) pursuing grants, loans and other funding for the Project; (ii) coordinating the development of Final Plans with Goff Engineering; (iii) developing an operating agreement between the District and Mancos Rural Water Co. for connection and future operation of the improvements; and (iv) preparing final assessments for the Project to be considered at an assessment hearing by the Board before assessment are ordered; and (v) such other additional duties as may be necessary for the successful development of the Project. All expenses of the District Administrator, engineers, attorneys and other consultants shall be paid by the Association or by grant funding awarded to the District.

Section 5. Repealer; Severability. All resolutions, or parts thereof, in conflict with the provisions hereof, are hereby repealed to the extent of such inconsistency. Should any one or more sections or provisions of this Resolution be judicially determined invalid or unenforceable, such determination shall not affect, impair, or invalidate the remaining provisions hereof, the intention being that the various provisions hereof are severable.

Section 6. Recordation. This Resolution, immediately upon its passage, shall be recorded in the Book of Resolutions of the County kept for that purpose and shall be authenticated by the signatures of the Chairman of the Board of County Commissioners and the County Clerk and Recorder or a deputy thereof.

[signature page follows]



ADOPTED AND APPROVED this 26th day of September 2023.

Jim Caudill

Chairman, Board of County Commissioners

ATTESTED:

Maureen Fuller

County Clerk and Recorder
or a deputy thereof

Commissioner Koppenhaver then moved that said Resolution be passed and adopted. Commissioner Lindsay seconded the motion.

The question being upon the passage and adoption of said Resolution, the roll was called with the following result:

Those voting AYE: Candelaria, Jim
Lindsay, Kent
Koppenhaver, Gerald

Those voting NAY: _____

Those absent: _____

The presiding officer thereupon declared that a majority of the Commissioners elected having voted in favor thereof, the motion was carried, and the Resolution duly passed and adopted.