

SANTA FE COUNTY
Resolution No. 2015 - 62

SFC CLERK RECORDING 04/30/2015

**A RESOLUTION ADOPTING POLICIES AND PROCEDURES TO
ALLOW PROPERTY OWNERS IN SUBDIVIDED AREAS TO
PETITION THE COUNTY TO CREATE ROAD MAINTENANCE
ASSESSMENT DISTRICTS UNDER NMSA 1978, SECTIONS 67-4-20
THROUGH 67-4-24 (2001)**

WHEREAS, the Santa Fe Board of County Commissioners (“BCC”) has adopted policies and procedures by resolution to facilitate the creation of improvement districts available under New Mexico law that allow property owners to finance all or part of the cost of constructing, operating, and maintaining public infrastructure and other public improvements that benefit their properties; and

WHEREAS, the Public Improvement District Act, NMSA 1978, Sections 5-11-1 through 5-11-27 (2001, as amended through 2013), allows property owners in Santa Fe County (“County”) to apply to the BCC to create public improvement districts (“PIDs”), and the BCC adopted Resolution No. 2006-40 to establish policies and procedures to set out minimum requirements, assure that applications provide adequate information, and to govern the PID application process; and

WHEREAS, the County Improvement District Act, NMSA 1978, Sections 4-55A-1 through 4-55A-43 (2003), allows property owners in the County to petition the BCC to create county improvement districts (“CIDs”), and the BCC adopted Resolution No. 2013-86 to establish policies and procedures to set out minimum requirements, assure that petitions provide adequate information, and to govern the CID petition process; and

WHEREAS, under the PID Act, CID Act, and related County resolutions property owners may petition the County to establish improvement districts within which property owners are equitably assessed by the County for all or part of the cost of public improvements within the districts; and

WHEREAS, by Resolution No. 2012-151, the BCC adopted “A POLICY ESTABLISHING PROCEDURES FOR THE ORDERLY AND UNIFORM ADMINISTRATION OF THE SANTA FE COUNTY PROCESS FOR ROAD ACCEPTANCE, DESIGNATION OR RE-DESIGNATION, AND FOR THE VACATION OF COUNTY-MAINTAINED ROADS” (“Road Acceptance Policy”); and

WHEREAS, as recognized in the Road Acceptance Policy, NMSA 1978, Sections 67-4-20 through -24 (2001) authorize counties to create road maintenance

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districts as an additional means by which benefited property owners may be equitably assessed to help pay the cost of maintaining the roads abutting their properties; and

WHEREAS, Section 67-4-20(C) broadly defines "street" to include "both improved and unimproved streets, roads, thoroughfares, curbs, divider strips and median strips or any combination of the foregoing"; and

WHEREAS, Section 67-4-20(A) provides that "[a]ny board of county commissioners may adopt a resolution determining that any streets totally within a subdivided area approved by the county commission, outside the corporate limits of any municipality, and which the board determines to have such a prospective population density as to require extraordinary street maintenance shall be maintained in part at the expense of the owner of any property which abuts upon the streets"; and

WHEREAS, Sections 67-4-20(A)(1) through (A)(4) authorize boards of county commissioners to assess certain charges against the properties abutting streets in subdivided areas to cover up to one half of the cost of performing extraordinary maintenance; and

WHEREAS, Section 67-4-20(B) provides that the "assessment for the expense of maintaining the streets shall be billed and collected by the county treasurer at the same time as the property taxes"; and


WHEREAS, Section 67-4-20 does not define "extraordinary maintenance" or establish procedures by which property owners may petition the BCC to create a road maintenance district; and

WHEREAS, the BCC desires to establish policies and procedures to allow property owners in County-approved subdivided areas to petition BCC to establish road maintenance districts under Section 67-4-20;

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Santa Fe County that the Policies and Procedures for Petitioning the BCC to Establish Road Maintenance Assessment Districts, attached to this Resolution as Exhibit "A," are hereby approved and adopted.

PASSED, APPROVED, and ADOPTED this 28 DAY OF April, 2015.

BOARD OF COUNTY COMMISSIONERS



Robert A. Anaya, Chair

ATTEST:

Geraldine Salazar

Geraldine Salazar, Santa Fe County Clerk

4-28-2015

APPROVED AS TO FORM:

RZR

Greg Shaffer, Santa Fe County Attorney



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EXHIBIT A
POLICIES AND PROCEDURES FOR ESTABLISHMENT OF ROAD
MAINTENANCE ASSESSMENT DISTRICTS BY PETITIONING THE BCC

1. Definitions.

- a. "BCC" is the Santa Fe County Board of County Commissioners.
- b. "Director" means the Public Works Department Director or designee.
- c. "District" means a Road Maintenance Assessment District established under NMSA Section 67-4-20 (2001) and these Policies and Procedures, as the same may be amended from time to time.
- d. "Extraordinary maintenance" means any road maintenance activity that must be undertaken on a greater frequency or at a greater intensity than normal because of the population density within a proposed or existing District, including but not limited to motor grading, pothole repair, pavement preservation treatments, vegetation control, snow removal, fencing, signage, drainage maintenance, or pavement markings.
- e. "Streets" mean both improved and unimproved public streets, roads, thoroughfares or bridges, including all curbs, divider strips and median strips, storm drains, drainage ditches, or any combination of the foregoing within the County right-of-way.
- f. "Subdivided Area" means any single subdivision or group of subdivisions approved by the BCC outside the corporate limits of a municipality.

2. Applicability.

To be eligible for inclusion within a District, the Streets to be maintained must be:

- a. On the approved County Road List or expressly accepted for maintenance by the County under the road acceptance procedures adopted by Resolution No. 2012-151 or other applicable authority; and
- b. Totally within a Subdivided Area.

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3. Petition.

- a. Residents who seek the creation of a District shall submit a petition with owner signatures representing 66 2/3% of the linear feet of streets to be maintained within the proposed district in favor. Petitioners must own land that directly abuts the Street or Streets within the proposed District. Petitions shall be submitted to the Director.
- b. Accompanying the petition must be:
 - 1) A description of the extraordinary maintenance activities desired.
 - 2) Plats and other documents demonstrating that the petitioners meet the land ownership requirements, that the proposed District is located entirely within a Subdivided Area, and that the Streets within the District meet the requirements of Section 2.
- c. The BCC shall have complete discretion in whether to establish a District. To assist the BCC in determining whether to establish a district, the Director shall evaluate the petition to ensure that the legal and policy requirements are met. The evaluation criteria shall include:
 - 1) Whether the petition is complete and the petitioners and streets to be maintained meet the requirements of these policies and procedures.
 - 2) Applicability and suitability of desired maintenance activity.
 - 3) Ability of County to perform desired maintenance activity.
 - 4) Impacts to private property.
 - 5) Status of applicable road easements.
- d. The costs and interests of the County in creating a District.
- e. The purpose of these policies and procedures is to create a procedure to allow property owners to petition the BCC to establish Districts under Section 67-4-20. However, nothing in these policies and procedures shall be interpreted as requiring such a petition or otherwise limiting BCC's authority to establish Districts under Section 67-4-20 as the BCC in its sole discretion deems appropriate and in the best interests of the County.

4. Public Hearing.

- a. Upon evaluation and acceptance of the petition by the Director, a hearing at a regularly scheduled meeting of the BCC shall be held at which the BCC

considers a resolution directing the Director to prepare an Assessment Report, either in-house or by a consultant, to include the following:

- 1) Assessment District boundary map.
 - 2) List of all streets to be maintained in the district, including beginning and ending termini.
 - 3) Copies of plats showing public easements or rights-of-way for the streets.
 - 4) Description of extraordinary road maintenance services required including both scope and frequency.
 - 5) The prior fiscal year average cost per lineal foot of road maintenance.
 - 6) Estimated annual additional maintenance costs for performing extraordinary maintenance, if any.
 - 7) Determination of whether the population density will necessitate the performance of extraordinary maintenance.
 - 8) Report of prior fiscal year road maintenance costs for services for roads under consideration.
 - 9) The proposed method of assessment per lineal foot, which under Section 67-4-20(A) shall have an "equitable basis" and not exceed "one-half of the average cost per lineal foot of county road maintenance for the prior fiscal year nor be less than one dollar (\$1.00) for each assessment billing."
 - 10) Assessment roll.
- b. Upon completion of the Assessment Report, the BCC shall conduct a second public hearing, notice of which shall be advertised in a newspaper of general circulation within the County for two consecutive weeks, the first such advertisement being at least ten days prior to the date of hearing, at which it considers for adoption a second resolution that contains the following:
- 1) Acceptance of the Assessment Report.
 - 2) Creation of the District.
 - 3) The estimated expense of maintaining the streets, including a survey if needed.

- 4) A provision requiring formal dedication of streets and rights-of-way to and acceptance by the County if necessary.
- 5) The equitable method of assessing each tract within the District per lineal front-foot in accordance with Section 67-4-20(A).

5. Assessment.

If the BCC adopts a resolution creating a District:

- a. The Public Works Department shall document the actual costs for material, labor and administration for the performance of any and all road maintenance services, including extraordinary maintenance, for each District.
- b. In accordance with NMSA 1978, Sections 67-4-20 through 67-4-24, the assessment for the expense of maintaining the streets shall be billed and collected by the County Treasurer at the same time as the property taxes and shall become delinquent thirty (30) days after the date of billing. Liens shall be placed on all delinquent assessments within the Road Maintenance Assessment District.
- c. The charge shall be assessed against each lineal foot of frontage of the abutting property.
- d. The charge shall not exceed one-half of the average cost per lineal foot of county road maintenance for the prior fiscal year nor be less than one dollar (\$1.00) for each assessment billing.

6. Record Maintenance

All roads included in a District shall be indicated on the annual County Road List, along with a description of any specific extraordinary maintenance activities to be performed.

7. Dissolution of Road Maintenance District

- a. A District or portion of a District shall automatically be dissolved upon annexation by a municipality.
- b. The BCC may by resolution dissolve a District at any time if the BCC determines that dissolution is in the best interests of the County.
- c. Any liens on properties within a District for delinquent assessments existing at the time a District is dissolved shall remain in effect and shall continue to encumber the properties until the lien is foreclosed or all delinquent assessments are paid in full.



COUNTY OF SANTA FE)
STATE OF NEW MEXICO) ss

BCC RESOLUTIONS
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I Hereby Certify That This Instrument Was Filed for
Record On The 30TH Day Of April, 2015 at 03:17:58 PM
And Was Duly Recorded as Instrument # 1763209
Of The Records Of Santa Fe County

Deputy *[Signature]* Witness My Hand And Seal Of Office
Geraldine Salazar
County Clerk, Santa Fe, NM