

RESOLUTION NO. 09-85

EAST LANE COUNTY ROAD IMPROVEMENT DISTRICT

Resolution of the Board of Directors of East Lane County Road Improvement District of Navajo County, Arizona, declaring its Intention to improve the streets within the public rights of way or easements granted for that purpose, said streets to be paved; all as shown on the plans; designating such improvement as East Lane County Road Improvement District; determining that improvement bonds will be issued to finance the costs and expenses thereof and declaring the work or improvement to be of more than local or ordinary public benefit and that the costs of said work or improvement will be assessed upon East Lane County Road Improvement District; and providing that the proposed work or improvement will be performed under the provisions of 11-701 through 11-760.02 inclusive, Arizona Revised Statutes, and all amendments thereto.

WHEREAS, a Petition requesting that streets be improved within East Lane County Road Improvement District has been filed pursuant to A.R.S. Sec. 11-714, which Petition authorizes expenditures of up to seventy-five thousand (\$75,000.00) Dollars; and

WHEREAS, pursuant to A.R.S. Sec. 11-712 Witcher & Associates has been appointed as the District Engineer to perform all engineering and surveying tasks in order to accomplish the proposed improvement; and

WHEREAS, pursuant to A.R.S. Sec. 11-713 the Engineer has filed with the Clerk Plans and Specifications and estimates of the costs and expenses of the proposed improvement project; and

WHEREAS, the Board has examined the plans, specifications, and estimates, and has preliminarily approved and adopted the same;

NOW, THEREFORE IT IS RESOLVED, DETERMINED AND ORDERED AS FOLLOWS:

Section 1 Definitions. In this Resolution, the following terms shall have the following meanings:

"Work" shall mean the paving of all streets to be improved within the boundaries of the District and other incidental work related thereto, together with all appurtenances and adjuncts necessary, all as shown on the Plans and Specifications.

"District" shall mean all lots, parcels and tracts of land lying within the exterior boundaries of the entire composite and consolidated territory as described in the petition for formation of the District, a copy of said description being attached hereto as Exhibits A and B. For a more particular description, reference is hereby made to the District Map and Description, which map is on file with the Superintendent of Streets, the Clerk and the District Engineer.

"Plans and Specifications" shall mean the plans and the specifications and contract documents for the District filed with the Clerk prior to the adoption of this Resolution.

"Estimate" shall mean the estimate of costs and expenses of East Lane County Road Improvement District filed with the Clerk prior to adoption of this Resolution, showing the estimated cost of the proposed work to be \$75,000.00.

"County" shall mean Navajo County, Arizona.

"Clerk" shall mean the Clerk of the Board of Supervisors of Navajo County, Arizona, ex officio Clerk of the Board of Directors of the District.

"District Engineer" shall mean Witcher and Associates.

"Governing Body" or "Board" shall mean the Board of Directors of this District.

"Superintendent of Streets" shall mean Jim Bruce, the County Engineer of Navajo County, Arizona, and any successor to such person.

"Incidental Expenses" shall mean compensation paid to the District Engineer, costs of printing, advertising, posting, the amount paid the District Engineer to take charge and superintend the work of constructing the improvements, the expenses of making the assessment, appraiser's fees, all legal and financial fees, expenses and costs incurred in drafting the proceedings and the sale of bonds and all interest to be paid on the bonds for the period of construction and six months beyond.

"District Map" shall mean the map showing the Assessment District in the form attached to this Resolution.

Section 2 Declaration of Intention to Order Improvements. The public interest and

convenience require and it is the intention of this Board to order the Work to be performed. All of said work and improvements are to be constructed at the places and in the particular locations, of the forms, sizes, dimensions and materials and at the lines, grades and elevations as shown and delineated on the Plans and Specifications therefore, prepared by the District Engineer and filed with the Clerk, and preliminarily adopted and approved. No assessment for any lot shall exceed its proportion of the Estimate. For purposes of this Resolution and of all resolutions and notices pertaining to this Resolution the improvement of the Streets as herein described is hereby designated East Lane County Road Improvement District.

Section 3 Determination of Need. In the opinion of the Governing Body, the Work is of more than local or ordinary public benefit, and the Governing Body hereby orders that all amounts due or to become due with respect to the Work shall be chargeable upon the respective lots, pieces and parcels of land within the District subject to assessment, in accordance with the benefits to be received by each such lot or parcel.

Section 4 Exclusion of Certain Property. There is exempted from the assessment all publicly owned streets and lands, and they shall be omitted from the assessment, and the costs of the proposed improvements shall be assessed on the lots and parcels of land subject to assessment lying within the District, without regard to the omitted streets and lands.

Section 5 Determination and Notice of Necessity to Issue Bonds. The Board finds that the public convenience requires that Bonds shall be issued to represent the costs and expenses of the Work to be assessed upon the lands within the District and determines that Bonds shall be issued in the name of the District payable, however, solely and only out of a special fund collectable from special assessments levied and assessed upon the lots, pieces and parcels of land within the District subject to assessment therefore, in not to exceed 20 annual principal installments from the assessments of \$25.00 or over remaining unpaid as of the date of the delivery date of the bonds.

Pursuant to A.R.S. 11-745, the annual assessment installment for payments of the principal and interest on the bonds shall be collectable in the manner and by the officers provided by law for the collection and enforcement of general taxes levied by the District.

The first principal installment of the assessment shall be due on the first November occurring no earlier than 180 days after the expected date of completion of the Work and shall be payable to bond holders on the first day of January next after the collection of the first installment of the assessments can be made. The Bonds shall mature on the first day of January in amounts to be set by the Governing Body prior to their issuance.

Said Bonds shall bear interest at the rate of not to exceed 15 percent per annum, payable on the first day of January and July of each year. Said bonds and the interest thereon shall be payable as provided in A.R.S. Sec. 11-734, and the assessment installments and interest will be collected as provided in A.R.S. Sec. 11-745.

Section 6. Bond Anticipation Notes. The Board reserves the right to issue bond anticipation notes pursuant to Sec. 11-760, A.R.S. The Board also reserves the right to retain any Bonds which may be issued and to sell the same for cash to pay the contractor the amounts due it in cash.

Section 7 Statutory Authority. The Work and all proceedings pertaining thereto shall be performed under the provisions of Sections 11-701 through 11-760.02, inclusive, Arizona Revised Statutes, and all amendments thereto.

Section 8 Protests and Objections to the Extent of the District. Owners of property within the District may file with the Clerk of the Board of Supervisors, Navajo County Governmental Complex, South Highway 77, Holbrook, Arizona 86025 and ex officio Clerk of this Board, written protests against the improvements or the extent of the District to be assessed to pay the expenses of the improvements, within fifteen (15) days after the last publication of this resolution, or within fifteen (15) days after the completion of the posting of the notices of proposed improvement, whichever date is

later. Notice is hereby given that all protests made will be heard by the Board at the time fixed herein, and protesting owners shall appear at said time and show cause why their protests should not be overruled. Tuesday, the 12th day of February, 1985, at the hour of 10:30 o'clock a M., Supervisors Chambers, Holbrook, Arizona is fixed as the time and place when and where the Board will consider all protests against the improvements, the grades at which the work will be done and the estimated costs of the improvements.

Owners and all other persons directly interested in the assessment, who have any objection to the extent of the District or the improvement, or to any of the previous proceedings connected therewith, may, prior to the time fixed above in this resolution, file a written notice briefly specifying the grounds of their objections.

All protests made as herein provided shall be in writing, shall clearly state the grounds of protests, shall describe the property as to which the protest relates, shall state its frontage in feet and decimals thereof, shall be signed by the owner and shall have attached an affidavit of an owner that each signature was affixed in his presence and is the signer's genuine signature.

Section 9 Delegation of Authority. The District Engineer is hereby authorized to fill in any blanks and to make any minor corrections necessary to complete the Plans and Specifications and the Contract Documents. All of said work will be done under the direction of the District Engineer, such being a suitable person appointed therefore by the Superintendent of Streets and this Board, and shall see that the contract is fulfilled.

Section 10 Retained Right to Reduce or Alter Scope of Work. If, because of pending or threatened litigation concerning any one or more parcels subject to assessment, the District and the winning bidder receive a written opinion of Bond Counsel stating that bonds cannot be issued against such parcel or parcels, the District may then cause the construction contract to be modified to exclude from the applicable contract some or all of the work which will benefit the parcel or parcels in question. The filing of

a certificate and request that no bonds be issued against any parcel pursuant to Section 11-734, Arizona Revised Statutes, may be deemed to be threatened litigation. To the extent that plans, detailed drawings and specifications show that any of the improvements described therein may be done according to any of several alternative Plans and Specifications, or methods, classes or kinds of construction or classes or kinds of material, the Board reserves the right to hereafter determine according to which the work shall be done.

Section 11 Miscellaneous. The Work shall be done and all proceedings therefore shall be taken, the Superintendent of Streets shall cause to be posted Notices of Proposed Improvement at not more than 300 feet apart along the lines of the proposed improvements and along all streets within the District, which notice shall be headed "Notice of Proposed Improvement," such heading to be in letters at least 1 inch in height; the Clerk shall certify to the passage of this Resolution of Intention, and shall cause the same in its entirety to be published for two consecutive publications in the White Mountain Independent.

Said Notice of Proposed Improvement shall state the fact of passage of this resolution and briefly describe the proposed improvements, that the proceedings are had pursuant to Chapter 5, Title 11, Arizona Revised Statutes, Article 1, and state the time and place of hearing all protests. On or before the first date of publication of the Resolution of Intention the Clerk shall cause copies of said notice to be mailed to the owners of real property within the assessment district, as their names and addresses appear on the last equalized county tax roll or as known to the Clerk.

All of the locations where streets will be improved are either open to public use or have been dedicated thereto by a plat of record or otherwise, or separate easements, leases or permits have been obtained therefore, or shall be acquired and shall be deemed to be public and subject to improvement and maintenance by the Board.

The descriptions of the public improvements and the terms describing the proposed

work used in this Resolution are general in nature. All items of work and improvements do not necessarily extend for the full length of the description thereof or may extend beyond said description. The plans and detailed drawings for the work and improvements shall be controlling as to the correct and detailed description thereof.

There is excepted from the work herein described any of such work already done to line and grade and marked excepted or shown not to be done on the plans, profiles and specifications.

The grades and elevations shown in the Plans and Specifications are hereby adopted and established as the official grade for said work. All such grades and elevations are in feet and decimals thereof with reference to the datum plane established by the United States Geological Survey.

Notice is hereby given of the fact that in many cases said work and improvements will bring the finished work to a grade different from that formerly existing and that to said extent said grades are hereby changed and that said work will be done to said changed grades.

To the extent that work, rights, or improvements indicated in the Plans and Specifications, to be made as provided herein, are shown to be connected to the facilities, works or systems of, or are to be owned, managed, controlled, maintained or operated by, any public agency other than this entity, or any public utility or other person, it is the intention of this Board to enter into an agreement or agreements with the public agency, public utility or other person, or each, which agreement or agreements shall provide for same, and may provide for the installation of all or a portion thereof by said agency, utility or person, for the serving of the properties in the area benefiting from said work, rights, or improvements by said agency, utility or person in accordance with its rates, rules and regulations, and that any amounts payable by such agency, utility or person for such work, rights, improvements or acquisitions be contributed to this project and credited proportionately upon the assessments and returned to those who shall have paid

in cash or credited on assessments which will be to bond or are still then subject to the bond lien.

The District Engineer shall make diagrams of the property contained within the District; the diagrams shall show each separate lot, numbered consecutively, the area in square feet of each lot, and the location of the lot in relation to the work proposed to be done. This Resolution shall be filed with the Clerk and made a part of the records of the Governing Body.

ADOPTED THIS 8th day of January, 1985.

BOARD OF DIRECTORS
EAST LANE COUNTY ROAD
IMPROVEMENT DISTRICT


Chairman

ATTEST:


Clerk

APPROVED AS TO FORM:

County Attorney

I hereby certify that I have read the description set out under the definition "District" and approve the same. I further certify that I have read the description set out under the definition "Work" and approve the same.

District Engineer

I hereby certify that the above and foregoing Resolution No. _____ was fully passed by the Board of Directors of Navajo County, Holbrook, Arizona, at a regular meeting held on _____, 1985, and that a quorum was present thereat and that the vote thereon was _____ ayes and _____ nays. _____ were no vote and _____ were absent.

Clerk

DR2/ResIntEL

EXHIBIT A

**LEGAL DESCRIPTION
EAST LANE COUNTY ROAD IMPROVEMENT DISTRICT**

Lots 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 20, 25, 26, 27, 28, 29, 30, 31, 32, 33, 40, 41, 42 in the Pinteop Country Club Unit Four as recorded in Map Book 10 page 3, all situated in Section 1, Township 8 North, Range 23 East of the Gila and Salt River Base Meridian.

PINETOP COUNTRY CLUB UNIT

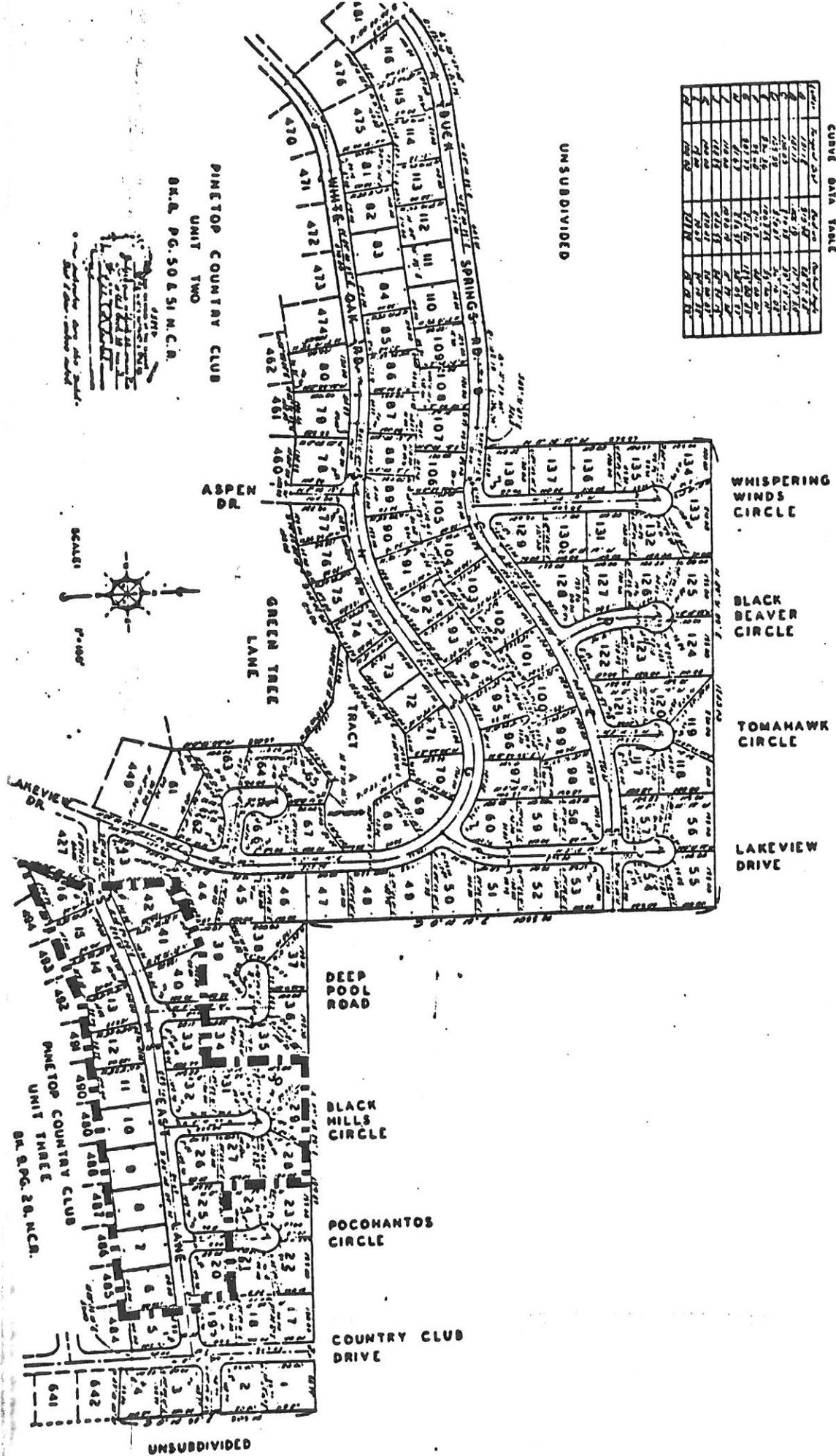
A SUBDIVISION OF A PORTION OF SECTION 1,
T-8-N., R-23-E., G.S.R.B.M.,
NAVAJO COUNTY, ARIZONA

East Lane County Road Improvement
District

EXHIBIT B

CURVE DATA TABLE

Station	Curve No.	Radius	Chord	Angle	Area	Perimeter
1+00	1	100	100	180	15708	628
1+10	1	100	100	180	15708	628
1+20	1	100	100	180	15708	628
1+30	1	100	100	180	15708	628
1+40	1	100	100	180	15708	628
1+50	1	100	100	180	15708	628
1+60	1	100	100	180	15708	628
1+70	1	100	100	180	15708	628
1+80	1	100	100	180	15708	628
1+90	1	100	100	180	15708	628
2+00	2	150	150	180	23562	942
2+10	2	150	150	180	23562	942
2+20	2	150	150	180	23562	942
2+30	2	150	150	180	23562	942
2+40	2	150	150	180	23562	942
2+50	2	150	150	180	23562	942
2+60	2	150	150	180	23562	942
2+70	2	150	150	180	23562	942
2+80	2	150	150	180	23562	942
2+90	2	150	150	180	23562	942
3+00	3	200	200	180	31416	1256
3+10	3	200	200	180	31416	1256
3+20	3	200	200	180	31416	1256
3+30	3	200	200	180	31416	1256
3+40	3	200	200	180	31416	1256
3+50	3	200	200	180	31416	1256
3+60	3	200	200	180	31416	1256
3+70	3	200	200	180	31416	1256
3+80	3	200	200	180	31416	1256
3+90	3	200	200	180	31416	1256



UNSUBDIVIDED

PINETOP COUNTRY CLUB
UNIT THREE
O.R. PG. 28, N.C.R.

NOTICE OF PROPOSED IMPROVEMENT

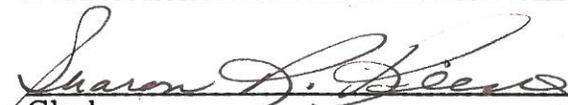
• NOTICE IS HEREBY GIVEN that on the 8th day of January, 1985, the Board of Directors of the East Lane County Road Improvement District adopted a Resolution of Intention to order the construction of certain improvements to all roads within the District for an amount not to exceed seventy five thousand dollars (\$75,000.00). Said proceedings are being had pursuant to Article 1, Chapter 5, Title 11, Arizona Revised Statutes. The Plans and Specifications, Diagram of the District, and the Total Estimated Cost have been preliminarily adopted and are on file with the Clerk of the District who is the Clerk of the Board of Supervisors, Navajo County, located in Holbrook, Arizona.

NOTICE IS FURTHER GIVEN that serial improvement bonds will be issued, to bear interest from their date at a rate not to exceed fifteen percent (15%) per annum, to be paid from a special fund collected in not to exceed twenty (20) annual installments from assessments of twenty-five dollars (\$25.00) or over remaining unpaid thirty (30) days after the date of recording the assessment or five (5) days after the decision of the board upon an objection.

NOTICE IS FURTHER GIVEN that pursuant to A.R.S. Section 11-717, on Tuesday the 12th day of February, 1985, at 10:30 a.m. at the Board of Supervisors Chambers, Navajo County Governmental Complex, Holbrook, Arizona, the Board of Directors will hold a hearing upon the sufficiency of any protest filed pertaining to the Resolution of Intention to order certain improvements adopted by said Board of Directors on the 8th day of January, 1985, upon the proposed Plans and Specifications or Total Estimated Cost, or any other matters which may lawfully come before the Board. All persons filing protests pursuant to A.R.S. Section 11-717, their agents or attorneys are required to appear and show cause why the protest should not be overruled. Upon completion of the determination of the sufficiency of said protest, the Board of Directors will consider adopting a Resolution Ordering the Improvements within the District.

EXECUTED this 8th day of January, 1985.

EAST LANE COUNTY
ROAD IMPROVEMENT DISTRICT


Clerk