

ORDINANCE NO. 293

AN ORDINANCE APPROVING THE WHOLE COST OF THE IMPROVEMENT MADE IN THE SILVER STREET SPECIAL IMPROVEMENT DISTRICT IN THE TOWN OF RICO, COLORADO; APPROVING AND CONFIRMING THE APPORTIONMENT OF SAID COST TO EACH LOT IN SAID DISTRICT; ASSESSING A SHARE OF SAID COST AGAINST EACH LOT IN THE DISTRICT; AND PRESCRIBING THE MANNER FOR THE COLLECTION AND PAYMENT OF SAID ASSESSMENTS.

WHEREAS, by ordinance adopted January 11, 1994 and resolution adopted March 16, 1993, the Board of Trustees of the Town of Rico has created the Silver Street Special Improvement District within the Town of Rico, Colorado for the purpose of constructing and installing water mains, fire hydrants, street grading, lighting and other utility and aesthetic improvements; and

WHEREAS, the owners of more than 51% of the property in the district created by said ordinance and resolution requested by petition the improvements set out herein; and

WHEREAS, the whole cost of such improvements has been determined; and

WHEREAS, an assessment roll has been prepared and a statement showing the total cost of the improvements has been duly filed with the Board of Trustees and due notice was given that the Board of Trustees would meet to hear and consider objections to the assessment roll, and that the owners of property named in said assessment roll might on or before the date of the hearing, file with the Town Clerk, in writing, his or her objections to the assessments; and

WHEREAS, the Board of Trustees has heard no objections to the assessment roll; and

WHEREAS, from the statement made and filed with the Board of Trustees, it appears that the whole cost of said improvements is the amount \$36,928.75, which will be assessed entirely against the real property specially benefitted and included within the District; and

WHEREAS, from said statement it also appears that the Board of Trustees has apportioned a share of the whole cost to each lot in the District, in accordance with the Benefits to be derived by said property and in the proportions and amounts severally set forth in the assessment roll approved by the Board of Trustees; and

WHEREAS, the Board of Trustees has determined to assess the cost of the improvements against those lots and tracts of land

and in the amounts as are more particularly set forth in the assessment roll certified to the Board of Trustees:

BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF RICO, COLORADO:

Section 1. Confirmation of Assessment Roll. That the whole cost and apportionment of the same, as set forth in the assessment roll, is hereby approved and confirmed. Said apportionment is hereby declared to be in accordance with the special benefits which the property in the District will receive by reason of the construction of said improvements. A share of said cost is hereby assessed to and upon each lot or tract of land within the District in the proportions and amounts set forth in the assessment roll, as filed in the office of the Town Clerk, and which is made a part hereof and incorporated herein by specific reference.

Section 2. Payment of Assessments. That the assessments shall be due and payable at the office of the Town Clerk within thirty days after the publication of this Ordinance, without demand; provided that all such assessments may be paid, at the election of the property owner, in installments, with interest as hereinafter provided. Failure to pay the whole assessment within said period of thirty days shall be conclusively considered and held an election on the part of all persons interested, whether under disability or otherwise, to pay in said installments.

An allowance of 5% shall be made on all payments of assessments made during such dirty day period of time, but not thereafter.

Such election shall be conclusively held and considered as a waiver of any right to question the power or jurisdiction of the Town to construct the improvements, the quality of the work, the regularly or sufficiency of the proceedings, the validity or the correctness of the assessments, or the validity of the lien thereof.

In the event of such election to pay in installments, the assessments shall be payable at the office of the County Treasurer of Dolores County, Colorado, ten (10) equal annual installments of principal, the first of which installments of principals shall be due and payable on or before the 15th day of October, 1994. The remainder of said installments shall be due any payable successively on or before the 15th day of October, in each year thereafter until paid in full, with interest on the unpaid principal amount at the rate of 10 percent (10%) per annum, commencing as of paying installments of assessments. The tenth and last installment of assessments will be due and payable on October 15, 2004.

Section 3. Penalty for Default or Non-Payment. Failure to pay any installment, whether of principal or interest, when due, shall cause the whole of the unpaid principal to become due and payable immediately. The whole amount of the unpaid principal and accrued interest shall thereafter draw interest at the rate of one percent (1%) per month or fraction of a month, until the date of tax sale, as provided by law. At any time prior to the date of the tax sale, the owner may pay the amount of all unpaid installments with interest at one percent (1%) per month, or fraction of a month, and all penalties accrued, and shall thereupon be restored to the right thereafter to pay in installments in the same manner as if default had not been suffered. The owner of any property not in default as to any installment or payment may, at any time, pay the whole of the unpaid principal with accrued interest to the date of the next assessment installment payment date.

Section 4. Assessment Lien. All assessments levied against the real property in the District, together with all interest thereon and penalties for default in payment thereof, and all costs in collecting the same, shall constitute, from the date of the final publication of this Ordinance, a perpetual lien in the several amounts assessed against each lot or tract of land. Such lien shall have priority over all other liens except general tax liens, and shall be enforced in accordance with the laws of the State of Colorado.

Section 5. Notice of Payment of Assessments. The Town Clerk shall cause notice of assessments due to be published one time, on the same day as the final publication of this Ordinance. Such notice shall set forth the place of payment and the time for the thirty day period to close, and shall be in substantially the following form:

NOTICE OF ASSESSMENTS DUE FOR IMPROVEMENTS CONSTRUCTED IN SILVER STREET SPECIAL IMPROVEMENTS DISTRICT IN RICO, COLORADO

PUBLIC NOTICE IS HEREBY GIVEN that all assessments or any portion of the assessment levied against property within Silver Street Special Improvement District, in the Town, may be paid at any time on or before March 14, 1994 which is not less than thirty (30) days after publication of the assessment ordinance, without penalty, interest, or costs. An allowance of 5% shall be made on all payments of assessments made during such thirty day period of time, but not thereafter.

All assessments or parts thereof not paid on or before the expiration of said thirty day period will bear interest at a rate

not to exceed 10% per annum.

The assessments may be paid in ten (10) equal annual installments, with interest on unpaid installments, the first installment being due and payable on October 15, 1994 and subsequent installments shall be due and payable on October 15th each year thereafter until said assessments are paid in full.

If the amount of the assessment is paid in full any time after the end of the thirty day period, interest on the such amount to the next installment payment date of assessments will be added. All payments made within the thirty (30) day period of time should be made to the Town Clerk, in Rico, Colorado.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the seal of the Town of Rico, as of the 8th day of February, 1994.

/s/ _____
Town Clerk

Section 6. Any action brought under part 5 of Article 25 of Title 31, Colorado Revised Statutes, as amended, shall be commenced within thirty days after effective date of this Ordinance or else shall be thereafter perpetually barred.

Section 7. The officers of the Town are hereby authorized and directed to take all action necessary or appropriate to effectuate the provisions of this Ordinance.

Section 8. All actions heretofore taken by the Town or by the officers thereof not inconsistent herewith directed toward the creation of the District, the construction and installation of the Improvements, the authorization and execution of a loan agreement and promissory note, and the levy of assessments for payment thereof are; hereby ratified, approved and confirmed.

Section 9. All acts, orders, resolutions, ordinances or parts thereof, taken by the Town and in conflict with this Ordinance, are hereby repealed, except that this repealer shall not be construed so as to revive any act, order, resolution, ordinance or part thereof heretofore repealed.

Section 10. Severability. That if any one or more sections or parts of this Ordinance shall be adjudged unenforceable or invalid, such judgement shall not affect, impair, or invalidate the remaining provisions of this Ordinance, it being the

intention that the various provisions hereof are severable.

Section 11. Recording and Authentication. Immediately upon its passage, this Ordinance shall be recorded in the Town Book of Ordinances kept for that purpose, authenticated by the signature of the Town Mayor and Clerk, and shall be published as required by law.

INTRODUCED, READ BY TITLE, AND REFERRED TO PUBLIC HEARING WITHOUT AMENDMENT BY THE BOARD OF TRUSTEES OF THE TOWN OF RICO, this 11th day of January, 1994.

ADOPTED AND APPROVED this 8th day of February, 1994.

Becky Small
Mayor Pro-Tem
Town of Rico

ATTESTED:
Linda Yellowman
Rico Town Clerk