

## RESOLUTION NO. 24-120

### **RESOLUTION OF THE MENDOCINO COUNTY BOARD OF SUPERVISORS CONFIRMING THE PROCEEDINGS AND ASSESSMENTS FOR THE SPECIAL BENEFIT ASSESSMENT FOR THE OPERATION AND MAINTENANCE FOR THE "WILLITS CREEK AND FIRCO EMERGENCY ACCESS ROUTES", ORDERING THE OPERATION AND MAINTENANCE OF IMPROVEMENTS, AND DESIGNATING VARIOUS COUNTY OFFICERS TO PROVIDE NOTICE OF AND TO COLLECT, RECEIVE, AND DEPOSIT ASSESSMENTS TO A SPECIAL FUND**

WHEREAS, this Board of Supervisors has heretofore adopted Resolution No. 24-068 (the "Resolution of Intention") declaring its intention to order the operation and maintenance of certain improvements described in the Resolution of Intention (the "Improvements") funded through the levying of a special benefit assessment (the "Assessment") under the provisions of the Benefit Assessment Act of 1982 (Title 5, Division 3, Part 1, Chapter 6.4 of the California Government Code, the "Act of 1982"); and

WHEREAS, this Board of Supervisors has heretofore approved a report prepared by Bartle Wells Associates (the "Assessment Engineer") under and pursuant to the Act of 1982 and, in particular, Section 54716 of the California Government Code, and Article XIID of the California Constitution (the "Engineer's Report"); and

WHEREAS, this Board of Supervisors fixed July 23, 2024, at the hour of 9:00 a.m. at the regular meeting place of the Board of Supervisors, 501 Low Gap Road, Ukiah, California, 95482, as the time and place of hearing protests and objections to the Improvements proposed in the Engineer's Report to be made and the proposed assessments in the Engineer's Report; and

WHEREAS, notice of the time, place, and purpose of the public hearing (the "Notice") on the passage of the Resolution of Intention and the filing of the Engineer's Report has been duly given in accordance with and containing the information required by the Resolution, the Act of 1982, Section 53753(c) of the California Government Code, and Article XIID, Section 4 of the California Constitution ("Article XIID"); and

WHEREAS, assessment ballots were mailed to owners of each of the parcels to be assessed in accordance with the requirements of Section 53753(c) of the California Government Code and Article XIID in order to allow such owners to oppose or support the proposed Assessment; and

WHEREAS, a final Act of 1982 Engineer's Report dated July 5, 2024, (the "Final Report") has been prepared setting forth the Improvements and the final amount of the assessments to be levied, and the Final Report has been filed with the Board of Supervisors and has been available for review by the property owners subject to the proposed Assessment; and

WHEREAS, on July 23, 2024, at the time and place stated in the Notice, a hearing was duly held by this Board of Supervisors, and, during the course of said hearing, the Final Report was duly presented and considered, all written protests and objections received, if any, were duly presented, read, heard, and considered, and all persons appearing at the hearing and desiring to be heard in the matter of the Final Report and the Assessment as proposed were heard, and a full, fair, and complete hearing was conducted; and

WHEREAS, this Board of Supervisors has received all ballots filed with the County Assessor's office prior to the conclusion of the public hearing, and an independent unbiased party has counted all ballots for and against the levy of the Assessment as provided in Article XIID and has determined that there is not a majority protest against the proposed Assessments; and

WHEREAS, this Board of Supervisors has considered the assessments proposed in the Final

Report and the evidence presented at the public hearing and now desires to confirm the assessments in the Final Report; and

WHEREAS, the confirmation of the assessments described herein are categorically exempt from the requirements of the California Environmental Quality Act as set for in California Code of Regulations Section 15378(b)(4) and (5); and

NOW THEREFORE, BE IT RESOLVED AND ORDERED by the Board of Supervisors, County of Mendocino, State of California, that it finds, determines, and hereby declares that:

1. That the recitals hereinabove are adopted as true and correct; and
2. The public hearing referred to in the recitals hereof has been duly held in accordance with the requirements of Article XIIID, the Act of 1982, and California Government Code Section 53753, and each and every step in the proceedings prior to and including the hearing has been duly and regularly taken. This Board of Supervisors is satisfied with the correctness of the Final Report, including the assessment and diagram, the proceedings, and all matters related thereto. This Board of Supervisors hereby adopts and incorporates herein each of the findings, determinations, and conclusions in the Final Report as a part of the basis for its approval of the Assessments in the amounts set forth in the Final Report; and
3. The properties to be assessed as shown in the Final Report will be specially benefited by the Improvements over and above the benefits conferred on the public at large and includes all of the parcels that will receive a special benefit. The proportionate special benefit derived by each identified parcel subject to the Assessment has been determined in relationship to the entirety of the capital cost of the Improvements. No assessment is being imposed on any parcel that exceeds the reasonable cost of the proportional special benefit conferred on that parcel. No assessments are being imposed for general benefits conferred on any parcel and there are no publicly owned parcels that are benefited by the Improvements that have not been assessed in the Final Report. This Board of Supervisors hereby finds that the total amount of the principal amount of the special assessments proposed to be levied in these proceedings do not exceed the estimated annual costs of completing the Improvements; and
4. This Board of Supervisors overrules and denies any and all protests, objections, and appeals made in regard to these proceedings. This Board of Supervisors further finds and determines that based on the ballots received and tabulated as described herein, there is not a majority protest against the assessments for the Improvements. In tabulating the ballots, in accordance with the requirements of Article XIIID, the ballots were weighted to the proportional financial obligation of the affected property; and
5. This Board of Supervisors orders the proposed Improvements to be acquired, maintained, operated, and constructed in accordance with the Final Report and these proceedings; and
6. The amounts of the Improvements shown in the Final Report are confirmed and are fixed in said amounts. This Board of Supervisors hereby finds and determines that the confirmation of the Improvements pursuant to this resolution are actions that are categorically exempt from the California Environmental Quality Act as set forth in California Code of Regulation Section 15378(b)(4) and (5) and directs the Clerk of the Board of Supervisors to pose a Notice of Exemption with respect to such actions; and
7. The assessment diagram and assessment roll are to be placed on file in the office of the Director of the Department of Transportation of Mendocino County (the "Director") and the Clerk of the Board of Supervisors. The Director and the Clerk of the Board of Supervisors are authorized and directed to execute the assessment diagram and the Clerk of the Board

of Supervisors shall cause the assessment diagram to be recorded in the office of the County Assessor-Recorder-County Clerk as required by Section 3114(d) of the California Streets and Highways Code; and the Clerk of the Board of Supervisors shall record, or cause to be recorded, a Notice of Assessment as required by Section 3114(f) of the California Streets and Highway Code; and

8. The Auditor-Controller/Treasurer/Tax Collector is authorized and directed to establish in the County Treasury a new Fund for the Special Benefit Assessment for the operations and maintenance of the "Willits Creek and FIRCO Emergency Access Routes" into which the annual installments of the Assessments will be deposited. The Auditor-Controller/Treasurer/Tax Collector is further authorized and directed to levy and collect the Assessment annually as a non-teeter assessment in such amounts as are required to pay the annual installments of the principal as set forth in the Final Report on the annual tax roll in such fiscal years and in such amount as approved by this Board of Supervisors from time to time; and

9. This Resolution shall take effect immediately upon its adoption.

The foregoing Resolution introduced by Supervisor Haschak, seconded by Supervisor Gjerde, and carried this 23<sup>rd</sup> day of July, 2024, by the following vote:

AYES: Supervisors McGourty, Mulheren, Haschak, Gjerde and Williams  
NOES: None  
ABSENT: None

WHEREUPON, the Chair declared said Resolution adopted and SO ORDERED.

ATTEST: DARCIE ANTLE  
Clerk of the Board

  
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Deputy

  
MAUREEN MULHEREN, Chair  
Mendocino County Board of Supervisors

I hereby certify that according to the provisions of Government Code Section 25103, delivery of this document has been made.

APPROVED AS TO FORM:  
CHARLOTTE E. SCOTT  
County Counsel

BY: DARCIE ANTLE  
Clerk of the Board

  
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Deputy

  
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Deputy