

TOWN OF BUENA VISTA, COLORADO

ORDINANCE NO. 03

(SERIES OF 2021)

**AN ORDINANCE OF THE TOWN OF BUENA VISTA, COLORADO,
ESTABLISHING PROCEDURES FOR THE ASSESSMENT OF THE
COSTS OF THE BLOCK 21 ALLEY IMPROVEMENTS UPON THE
BENEFITTED LANDOWNERS**

WHEREAS, pursuant to C.R.S. § 31-15-702(1)(b)(II), the Board of Trustees of the Town has the power to grade, gravel and otherwise improve streets and alleys and to assess the costs of such improvements upon the lands adjacent to or abutting upon the improved street or alley;

WHEREAS, pursuant to C.R.S. § 31-15-704, such assessments made against the owners of adjacent or abutting property are due and payable to the Town within thirty (30) days of assessment and, if not paid, the Town Clerk may certify the assessment to the County Treasurer for collection as a tax against the property;

WHEREAS, based on Sec. 16.05.5.1.2 of the Buena Vista Municipal Code ("Code"), the unimproved alley between Court and Beldan Streets in Block 21 of the Town of Buena Vista Original Plat (the "Alley") must be improved to meet the standards in Sec. 16.05.5.2.7 of the Code;

WHEREAS, according to a competitive bidding process, the Town has estimated the cost to improve the Alley up to the required standards will be approximately \$89,743.00;

WHEREAS, the Town is prepared to pay these costs upfront but, as permitted by law, intends to seek reimbursement for the costs of the Alley improvements from property owners abutting and specially benefited by the Alley;

WHEREAS, the Town desires to establish procedures to determine how to allocate the costs of the Alley improvements among the specially benefited property owners in a reasonable and equitable manner; and

WHEREAS, the Board of Trustees wishes to adopt procedures that will ensure that each property owner, as well as interested members of the public, have a chance to be heard on these issues.

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF BUENA VISTA, COLORADO:

Section 1. Method of Assessment.

a. The costs of the improvements shall be calculated and assessed according to each benefitted property's linear feet of frontage to the Alley, subject to the procedures herein.

Section 2. Notice – Bidding and Awarding.

a. The Town retains the discretion, in accordance with its Purchasing Policy, to award work on the improvements. Currently, projects for which the cost is \$25,000 and less are awarded and approved by the Town Administrator. Projects in excess of \$25,000 are awarded and approved by the Board of Trustees.

b. If the cost of a component or group of components is \$25,000 or less, upon completion of the required steps pursuant to the Purchasing Policy, but before awarding the work, the Town Administrator shall cause notice of the potential award to be posted on the Town's website and at Town Hall, and mailed, via first class mail, to the last known address of each fee owner of the property abutting the Alley. The notice shall be provided at least fourteen (14) days in advance to the final decision on the award by the Town Administrator and shall state the date of the final decision by the Town Administrator, that written comments may be submitted prior to that date, and where information regarding solicitations may be located and reviewed. Notice to the last known address of each fee owner of property abutting the Alley shall include the estimated allocation of cost per property owner, calculated according to each property's linear feet of frontage to the Alley and using the estimated cost of that component or group of components of the overall improvements. Such written comments shall be considered by the Town Administrator. There shall not be deemed any right of appeal to the Board of Trustees of the Town Administrator's decision under this section.

c. If the cost of a component or group of components is in excess of \$25,000, the Town Board of Trustees shall hold a public hearing after public notice as follows: 1) notice of the date, time and place of the hearing shall be posted for 14 days prior to the hearing on the Town's website and at Town Hall and 2) notice of the date, time and place of the hearing shall be mailed, via first class mail, to the last known address of each fee owner of property abutting the Alley, at least fourteen (14) days prior to the hearing. Notice to the last known address of each fee owner of property abutting the Alley shall include the estimated allocation of cost per property owner, calculated according to each property's linear feet of frontage to the Alley and using the estimated cost of that corresponding component or group of components of the overall improvements.

d. At least fourteen (14) days prior to the hearing, the Town shall make available to any person upon written request a copy of the responsive bids and/or solicitations, as applicable.

e. The Town shall accept written comments from any person at any time prior to or during the public hearing. Such written comments shall be considered by the Board of Trustees as if presented at the public hearing, and shall be made a part of the record of the public hearing.

e. At the hearing, Town staff shall present their determination of which properties will be benefited by the Alley improvements and the estimated costs based upon the method of assessment above. Each fee owner of property abutting the Alley shall then have an opportunity to testify and present any evidence relevant to the issue. Finally, interested members of the public will have an opportunity to be heard. The Board of Trustees may ask questions of any person testifying, and may call any additional witnesses it deems relevant to its decision.

f. The Board of Trustees may continue the hearing to ensure that all interested parties are heard on the issue, but no new public notice need be provided if the hearing is continued.

g. Following the public hearing the Board of Trustees shall determine by motion whether to proceed with the Alley improvements and award the project in accordance with Town's Purchasing Policy.

Section 3. Final Assessment.

a. Within thirty (30) days of substantial completion of the Alley improvements, the Town shall cause to be prepared a statement of costs showing the actual entire cost of the Alley improvements and the amounts assessed to each abutting parcel.

b. Immediately after completion of the statement of costs, the Board of Trustees shall schedule a public hearing on the statement of costs and shall consider adoption of a separate ordinance imposing the actual cost of the Alley improvements, as shown in the statement of costs, according to each property's linear feet of frontage to the Alley approved by the Board of Trustees pursuant to Section 2 of this Ordinance. The notice and procedures for the second public hearing shall be the same as those outlined in Section 2 hereof.

c. At least fourteen (14) days prior to the second hearing, the Town shall make available to any person upon written request a copy of the statement of costs and related documentation.

d. The notice to the last known address of each fee owner of property abutting the Alley shall include the actual proposed allocation of cost per property owner, calculated according to each property's linear feet of frontage to the Alley and using the actual cost of the Alley improvements as set forth in the statement of costs.

e. Immediately following the second public hearing, the Board of Trustees shall consider adoption of an assessment ordinance to impose the actual assessment amount on each benefitted property. The assessed amount shall be due and payable in equal monthly installments over the five-year period immediately following the effective date of assessment ordinance. If any installment is delinquent, the Town may certify the delinquent amount, the entire assessment, or any portion thereof to the County Treasurer for collection as a tax against the property.

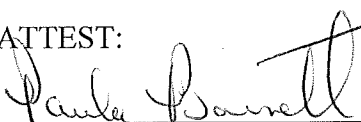
INTRODUCED, READ, ADOPTED AND ORDERED PUBLISHED this 9th day of February, 2021.

THIS ORDINANCE SHALL BECOME EFFECTIVE THIRTY DAYS FROM PUBLICATION.

TOWN OF BUENA VISTA, COLORADO

By: _____
Duff Lacy, Mayor

ATTEST:



Paula Barnett, Town Clerk

