

EIGHTEENTH COUNCIL

COUNCIL BILL NO. _____ ENACTMENT NO. _____

SPONSORED BY:

ORDINANCE

APPROVING THE FORMATION OF THE ALBUQUERQUE RENEWABLE ENERGY FINANCING DISTRICT PURSUANT TO THE NEW MEXICO RENEWABLE ENERGY DISTRICT ACT, LAWS 2009, CHAPTER 180; ORDERING THE FORMATION OF THE DISTRICT; IDENTIFYING THE METHOD BY WHICH PROPERTY OWNERS MAY EXECUTE AGREEMENTS TO HAVE THEIR PROPERTY INCLUDED IN THE DISTRICT; PROVIDING FOR GOVERNANCE OF THE DISTRICT; DIRECTING THE ADOPTION OF CERTAIN RESOLUTIONS BY THE DISTRICT BOARD TO IDENTIFY THE PROPERTY TO BE INCLUDED IN THE DISTRICT AND THE MANNER BY WHICH SPECIAL ASSESSMENTS SHALL BE IMPOSED ON PROPERTY IN THE DISTRICT; ESTABLISHING CERTAIN PARAMETERS RELATING TO THE ISSUANCE OF DISTRICT BONDS; PROVIDING THAT BONDS AND OTHER OBLIGATIONS OF THE DISTRICT WILL NOT BE OBLIGATIONS OF THE CITY OF ALBUQUERQUE; REPEALING ALL ACTIONS INCONSISTENT WITH THIS ORDINANCE.

Capitalized terms in the following preambles shall have the meanings assigned in Section 1 of this Ordinance, unless the context clearly requires otherwise.

WHEREAS, the Renewable Energy Financing District Act (the "Act") provides in part that the governing body of a municipality may adopt an ordinance for the formation of a renewable energy financing district for the purpose of encouraging, accommodating and financing renewable energy improvements; and, upon determination that a district should be formed based on the interests, convenience or necessity of owners of property in the proposed district and the citizens of the municipality or county in which the proposed district would be located, the governing body of the municipality shall

1 adopt an ordinance ordering that the renewable energy financing district be formed and
2 identifying the method by which property owners can execute agreements to have their
3 property included in the district; and

4 WHEREAS, the Act authorizes municipalities to enter into agreements to
5 establish the obligations of the owners of real property included in the District and the
6 City concerning the improvements and other matters relating to the use of the
7 improvements within the District; and

8 WHEREAS, the Council adopted Council Bill No. _____, Enactment No.
9 _____ on _____, 2009 (the "Intent Resolution").

10 WHEREAS, the Council has held a public hearing to consider formation of the
11 District; and

12 WHEREAS, the Renewable Energy Improvements are to be permanently
13 installed in accordance with applicable State and City building and technical codes and
14 standards including, all City permitting requirements, and any other further standards
15 and criteria of the District Board; and

16 WHEREAS, the Renewable Energy Improvements installed on each parcel of
17 real property will be financed by the Renewable Energy Improvement Assessment
18 imposed on that parcel of real property and each parcel of real property will be included
19 in the District; and

20 WHEREAS, the Council shall cause a copy of this Ordinance ordering formation
21 of the District to be delivered to the County Assessor, the County Treasurer, the
22 Taxation and Revenue Department of the State and the Local Government Division of
23 the Department of Finance and Administration as required by the Act.

24 BE IT ORDAINED BY THE COUNCIL, THE GOVERNING BODY OF THE CITY OF
25 ALBUQUERQUE:

26 Section 1. Defined Terms. As used in this Ordinance, the following terms
27 shall have the meanings specified, unless the context clearly requires otherwise (such
28 meanings to be equally applicable to both the singular and the plural forms of the terms
29 defined):

30 "Act" means the Renewable Energy Financing District Act, Chapter 180, Laws of
31 New Mexico 2009.

1 "Assessment Resolution" means a resolution of the District Board that includes
2 real property in the District and imposes a Renewable Energy Improvement
3 Assessment, which Assessment Resolution may include multiple parcels with separate
4 ownership interests.

5 "Council" means the City Council of the City of Albuquerque.

6 "City" means the City of Albuquerque, New Mexico.

7 "District" means the City of Albuquerque Renewable Energy Financing District.

8 "District Board" means the governing body of the District.

9 "District Boundary Map" means the map attached as Exhibit "A" to the
10 Ordinance.

11 "Intent Resolution" means City Council Bill No. _____, Enactment No. _____
12 adopted on _____, 2009.

13 "Ordinance" means this ordinance adopted by the City in connection with its
14 approval of the formation of the District.

15 "Renewable Energy Improvement Assessment" means a special assessment
16 imposed as authorized by the Act and this Ordinance.

17 "Renewable Energy Improvements" means the renewable energy improvements,
18 as provided in the Act, as the Act may be from time to time amended, to be financed
19 with the proceeds of the Renewable Energy Improvement Assessment imposed on
20 each parcel of real property included in the District.

21 "State" means the State of New Mexico.

22 Section 2. Findings. The City hereby declares that it has considered all
23 relevant information and data, and hereby makes the following findings:

24 (A) The owners of the real property to be included in the District shall
25 own 100% of the real property to be included in the District.

26 (B) The Renewable Energy Improvements will be constructed to City
27 specifications, and will be subject to inspection, approval and acceptance by the City.

28 (C) The District will serve the interests, convenience and necessity of
29 the owners of real property included in the District, future owners of parcels located
30 within the District and the citizens of the City.

1 (D). The cost of permanently installing the Renewable Energy
2 Improvements will be allocated to the owners of real property included in the District via
3 a Renewable Energy Improvement Assessment, and will not be passed on to the
4 citizens of the City or the City itself.

5 (E) The financing of the Renewable Energy Improvements is feasible
6 and will not impose an undue burden on the future owners of real property located
7 within the District.

8 (F) The financing of the Renewable Energy Improvements will enable
9 the District to construct those improvements in a cost-effective manner.

10 (G) As planned, the Renewable Energy Improvements promote the
11 City's goals and policies relating to the incorporation of renewable energy and energy
12 efficient technologies.

13 (I) The Council has determined that proceeding with the formation of
14 the District is consistent with the Intent Resolution and promotes the interests,
15 convenience or necessity of the owners of real property to be included in the District;
16 and

17 (J) The Council has determined that the creation and administration of
18 the District to facilitate the development of Renewable Energy Improvements on real
19 property in the District will serve a valid public purpose and is in the public interest; and

20 (K) The Council has determined that it is in the best interests of the City
21 and its citizens to form the District for the purpose of encouraging, accommodating and
22 financing Renewable Energy Improvements.

23 Section 3. Order of Formation of District.

24 (A) The formation of the District is hereby approved.

25 (B) The District shall encompass the boundaries of the City. Specific
26 parcels shall be added to the District pursuant to Assessment Resolutions.

27 (C) The District is hereby ordered approved and formed to carry out the
28 purposes set forth in, and according to the provisions of, this Ordinance and the Intent
29 Resolution.

30 (D) The purpose of the District shall be to encourage, accommodate
31 and finance the Renewable Energy Improvements pursuant to the Act.

1 (E) The District shall be self-supporting.

2 (F) The District shall comply with existing City policies for
3 development, growth management and conservation.

4 (G) The officers, agents and employees of the City are hereby
5 authorized and empowered to take all actions necessary and to execute and deliver all
6 documents relating to or requested by the District to carry out and comply with the
7 provisions of this Ordinance and the Intent Resolution.

8 Section 4. Agreement to Include Real Property within the District.

9 (A) The District shall include only real property for which a record
10 owner(s) has agreed to the inclusion of the real property within the District.

11 (B) The City shall establish guidelines and standards for Renewable
12 Energy Improvements to be made to real property to be included in the District, and
13 shall establish guidelines and procedures for owners of real property to enter into an
14 agreement with the District Board to include real property in the District. The guidelines,
15 standards and procedures established by the City shall be ratified by the District after its
16 formation.

17 (C) In order for real property to be considered for inclusion in the
18 District, the recorded owner(s) of the real property shall complete application(s) for each
19 parcel of real property to be considered for inclusion in the District.

20 (D) Following determination by the District that the application process
21 is complete and the real property is approved for inclusion in the District, the recorded
22 owner(s) of the real property to be included in the District shall sign an agreement with
23 the District Board agreeing to i) inclusion of the real property in the District; ii) the
24 imposition of the Renewable Energy Improvement Assessment in amounts necessary to
25 pay the costs of permanently installing the approved renewable energy improvements
26 and the costs of financing such improvements including the related administrative fees
27 to the District; iii) recording of the lien of the special assessment upon the real property
28 to be included in the District; and iv) waiver of any claims against the District arising
29 from inclusion of real property within the District. The costs of the Renewable Energy
30 Improvements will be amortized over a period of time as determined by the District, or
31 its Financial Advisor.

1 (E) The District Board will approve the inclusion of each parcel of real
2 property in the District pursuant to an Assessment Resolution or Assessment
3 Resolutions.

4 (F) The District shall deliver a copy of each Assessment Resolution to
5 the County Assessor and the County Treasurer. A copy of each Assessment
6 Resolution and a description of the real property included within the District shall be
7 recorded with the County Clerk.

8 Section 5. Imposition of Renewable Energy Improvement Assessment;
9 Assessment Resolutions

10 (A) Following the approval of inclusion of real property in the District,
11 the District Board may impose a Renewable Energy Improvement Assessment on such
12 real property sufficient to pay for the Renewable Energy Improvements, costs of bond
13 issuance, if any, debt service, if any, and administrative costs of the District and the
14 City.

15 (B) Each owner of real property shall acknowledge and consent to the
16 Renewable Energy Improvement Assessments amount and amortization schedule as a
17 condition of inclusion of the real property in the District.

18 (C) Following acknowledgement and consent by the owner of the real
19 property to be included in the District and satisfaction of the other requirements of the
20 Act and this Ordinance, the Board shall adopt an Assessment Resolution. An
21 Assessment Resolution may include multiple parcels with separate ownership interests.

22 (D) District special assessments shall be collected at the same time
23 and in the same manner as property taxes are levied and collected; provided that the
24 District Board may, in its discretion, establish alternative collection procedures. Special
25 assessments may be prepaid pursuant to procedures established by the District Board
26 and identified in the Assessment Resolutions.

27 Section 6. Special Assessment Bonds.

28 (A) The District may issue one or more series of special assessment
29 bonds to provide funds for Renewable Energy Improvements by subsequent Ordinance
30 or Resolution. Bonds shall be payable from Renewable Energy Improvement
31 Assessments levied pursuant to the Assessment Resolutions adopted by the District

1 Board or other legally available sources of revenue. In the discretion of the District
2 Board, the District may issue bonds secured by the Renewable Energy Improvement
3 Assessments on multiple parcels within the District.

4 (B) District Bonds proposed to be issued by the District will be the
5 obligations solely of the District issuing the Bonds, and will not be backed by the faith,
6 credit, general funds or resources of the City in any manner, and will not impair any
7 outstanding obligations of the City.

8 (C) The Bond Ordinance or Resolution shall be approved by the City's
9 Debt Committee prior to its enactment by the District.

10 (D) Prior to the issuance of District Bonds, the Districts' Bond
11 Ordinance or Resolution shall be presented to the City Council for approval.

12 Section 7. District Governance.

13 (A) The District Board shall initially be composed of the five members:

14 _____, _____, _____, _____, _____

15 (B) The initial members of the District Board shall serve six-year terms.

16 (C) At the end of each appointed director's initial term, the governing
17 body of the City shall resume governance of the District as its board, or at its option,
18 shall hold an election of directors by majority vote of the property owners in the District
19 pursuant to the Act.

20 (D). The District Board shall hold a public meeting following the date of
21 adoption of this Ordinance. At that meeting, the District Board shall adopt an open
22 meetings policy and by-laws for the District.

23 Section 8. Amendments. This Ordinance may be amended or supplemented
24 by ordinance or resolution adopted by the Council in accordance with the laws of the
25 City and the State.

26 Section 9. Repealer. All ordinances or resolutions, or parts thereof in conflict
27 with the provisions of this Ordinance, are hereby repealed to the extent only of such
28 inconsistency. This repealer shall not be construed to revive any ordinance or
29 resolution, or part thereof, heretofore repealed.

30 Section 10. Severability. If any section, paragraph, clause or provision of this
31 Ordinance shall for any reason be held to be invalid or unenforceable, the invalidity or

unenforceability of such section, paragraph, clause or provision shall in no manner affect any remaining provisions of this Ordinance.

Section 11. Publication of Notice of Adoption of Ordinance. The City Clerk is hereby directed to publish a notice of this Ordinance, in substantially the following form:

(Form of Ordinance for Publication)

NOTICE OF ADOPTION OF ORDINANCE

The City Council of the City of Albuquerque, New Mexico, hereby gives notice of the adoption of its Ordinance Eighteenth Council Bill No. _____ on _____, 2009. Complete copies of the Ordinance are available for public inspection during the normal and regular business hours of the City Clerk, City of Albuquerque/Bernalillo County Government Center, One Civic Plaza, NW, Albuquerque, New Mexico.

The title of the Ordinance is as follows:

(End of Form of Summary of Ordinance for Publication)

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EXHIBIT "A"

District Boundary Map

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