

**CITY of ALBUQUERQUE
TWENTIETH COUNCIL**

COUNCIL BILL NO. R-13-218

ENACTMENT NO. B-2013-089

SPONSORED BY: Dan Lewis, by request

RESOLUTION

1
2 **MAKING FINDINGS IN CONNECTION WITH THE BOULDERS PUBLIC**
3 **IMPROVEMENT DISTRICT'S RESOLUTION AUTHORIZING THE ISSUANCE AND**
4 **SALE OF SPECIAL LEVY REVENUE BONDS; RATIFYING AND APPROVING THE**
5 **ISSUANCE AND SALE OF THE BOULDERS PUBLIC IMPROVEMENT DISTRICT**
6 **SPECIAL LEVY REVENUE BONDS, SERIES 2013, AS SUBSTANTIALLY**
7 **CONSISTENT WITH THE REQUIREMENTS OF CITY ORDINANCE ENACTMENT**
8 **NO. 0-2003-12 AND CITY COUNCIL RESOLUTION NO. R-2012-47, ENACTMENT**
9 **NO. R 2012-35.**

10 Capitalized terms in the following preambles shall have the meanings assigned in
11 City Council Resolution No. R-2012-47, Enactment No. R 2012-35 (the "Formation
12 Resolution") except as otherwise defined in this Resolution, or unless the context clearly
13 requires otherwise.

14 WHEREAS, pursuant to the Act and Ordinance Enactment No. O-2003-12
15 (the "PID Ordinance"), the Council enacted the Formation Resolution, in which the
16 Council approved the formation of the Boulders Public Improvement District for the
17 purpose of financing public infrastructure improvements; and

18 WHEREAS, pursuant to the Formation Resolution, the Council approved
19 the Development Agreement between the Petitioner, the City and the Boulders Public
20 Improvement District, by which the Petitioner will finance the Infrastructure
21 Improvements to serve approximately 68 acres of land, located wholly within the
22 corporate boundaries of the City, consisting of three hundred fifty-one (351) single-
23 family dwelling units, which is an authorized purpose and appropriate use of a public
24 improvement district as set forth in the Act and the PID Ordinance; and

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1 WHEREAS, the Formation Resolution authorizes the District to issue
2 District Bonds in an estimated maximum aggregate principal amount of \$3,902,000,
3 which shall be payable by the District Special Levies upon the Land, for the purpose of
4 financing the PID Funded Infrastructure Improvements, subject to certain requirements
5 set forth in the Formation Resolution and the Development Agreement; and

6 WHEREAS, pursuant to the Petition, the PID Funded Infrastructure
7 Improvements will be financed by the District's issuance of two series of District Bonds
8 as provided in the Act; and

9 WHEREAS, pursuant to the Development Agreement, all PID Funded
10 Infrastructure Improvements to be acquired by the District will be designed and
11 constructed according to all applicable City standards, will be suitable for dedication to
12 the City upon completion, and will be acquired by the District and then, as applicable,
13 reconveyed to, owned and operated by the City or the ABCWUA, as applicable; and

14 WHEREAS, at the time of adoption of the Formation Resolution and the
15 appointment of the Governing Body of the District, there were no qualified resident
16 electors residing in the District; and

17 WHEREAS, the Governing Body of the District has adopted Resolution
18 No. 2013-02 approving the imposition of a District Special Levy pursuant to a Notice of
19 Imposition of Special Levy (the "Notice"), which Notice includes procedures for the
20 collection, acceleration and foreclosure of delinquent special levies on the Land; and

21 WHEREAS, the Governing Body of the District has adopted Resolution
22 No. 2013-03 authorizing the issuance of the first series of District Bonds (the "Series
23 2013 Bonds"), subject to the ratification and approval of the Series 2013 Bonds by the
24 Council; and

25 WHEREAS, the District has caused to be placed on file with the City
26 copies of Resolution No. 2013-03 along with the transaction documents authorized by
27 that resolution; and

28 WHEREAS, the City Council has considered Resolution No. 2013-03 in
29 connection with the requirements for the District's issuance of the Series 2013 Bonds
30 set forth in the PID Ordinance and the Formation Resolution.

31 BE IT RESOLVED BY THE COUNCIL, THE GOVERNING BODY OF THE CITY OF

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1 ALBUQUERQUE:

2 Section 1. Findings. The City hereby declares that it has considered
3 District Resolution No. 2013-03 and all other relevant information and finds as follows:

4 A. District Resolution No. 2013-03 authorizes the issuance of the
5 Series 2013 Bonds in an aggregate amount not to exceed \$2,000,000, at a maximum
6 annual interest rate not to exceed ten (10) percent per annum, which rate and other
7 details of the Series 2013 Bonds will be specifically determined by the District and
8 approved in a sale resolution to be adopted by the District (the "Sale Resolution").

9 B. The Series 2013 Bonds will be issued for the purpose of financing
10 the acquisition of certain PID Funded Infrastructure Improvements, which purpose is
11 authorized by the PID Ordinance, the Formation Resolution, the Development
12 Agreement, and District Resolution No. 2013-03.

13 C. District Resolution No. 2013-03 provides that the Series 2013
14 Bonds will be the obligations solely of the District, and will not be backed by the faith,
15 credit, general funds or resources of the City in any manner. Owners of the Series 2013
16 Bonds will have no right to require that the City or the District impose ad valorem
17 property taxes to pay District Bonds, including , but not limited to, the Series 2013
18 Bonds.

19 D. The City's Debt Committee has reviewed and approved District
20 Resolution No. 2013-03.

21 E. District Resolution No. 2013-03 provides for the following
22 parameters:

23 (i) the maximum principal amount of the Series 2013 Bonds
24 shall not exceed \$2,000,000;

25 (ii) the Series 2013 Bonds shall be sold pursuant to a limited
26 public offering;

27 (iii) the maximum annual interest rate on the Series 2013 Bonds
28 shall not exceed 10% per annum;

29 (iv) the Series 2013 Bonds shall be dated as of the date of
30 delivery of the Series 2013 Bonds;

31 (v) the Series 2013 Bonds shall be issued only as fully

1 registered bonds in minimum denominations of at least \$25,000, subject to a book-
2 entry-only system of registration;

3 (vi) the Series 2013 Bonds shall be numbered consecutively
4 from one upwards or as otherwise requested by the Underwriter;

5 (vii) the Series 2013 Bonds may mature in serial or term
6 maturities with the last such maturity no later than 30 years from their date of initial
7 delivery or issuance;

8 (viii) the Series 2013 Bonds may be subject to prior redemption
9 upon the terms and conditions set forth in an indenture of trust;

10 (ix) the District shall establish, on the date of issuance of the
11 Series 2013 Bonds, a debt service reserve fund in an amount equal to the least of (a)
12 the maximum annual debt service requirements on all outstanding Series 2013 Bonds;
13 (b) 125% of the average annual debt service requirements on the Series 2013 Bonds;
14 or (c) 10% of the aggregate principal amount of the Series 2013 Bonds;

15 (x) the district shall designate a trustee pursuant to an indenture
16 of trust, under which the trustee may exercise the rights and remedies of the District for
17 the protection of bondholders, including the collection of District Special Levies, the
18 foreclosure of delinquent District Special Levies, and the appointment of a receiver or
19 other agent to protect and enforce the rights of any holder of the Series 2013 Bonds in
20 the event of a default in the payment of debt service on the Series 2013 Bonds, which
21 default cannot be cured by drawing on the debt service reserve fund established for the
22 Series 2013 Bonds or drawing on available funds deposited in the bond fund
23 established for the Series 2013 Bonds, which appointment may be made irrespective of
24 whether foreclosure remedies are exercised; and

25 (xi) The Board shall adopt and approve the Sale Resolution.

26 F. District Resolution No. 2013-03 is in compliance with the provisions
27 of Section 5 of the Formation Resolution, including all diversity of ownership
28 requirements and limitations.

29 G. As set forth in District Resolution No. 2013-03, the issuance and
30 sale of the Series 2013 Bonds satisfies in all respects the requirements provided in the
31 Formation Resolution, the PID Ordinance and the Act for the issuance of the Series

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1 2013 Bonds.

2 Section 2. Ratification and Approval of Issuance and Sale of Series
3 2013 Bonds Pursuant to District Resolution No. 2013-03. Based upon the findings set
4 forth in Section 1 of this Resolution, the issuance and sale of Series 2013 Bonds as set
5 forth in District Resolution No. 2013-03 are hereby approved.

6 Section 3. Repealer. All ordinances or resolutions, or parts thereof in
7 conflict with the provisions of this Resolution, are hereby repealed to the extent only of
8 such inconsistency. This repealer shall not be construed to revive any ordinance or
9 resolution, or part thereof, heretofore repealed.

10 Section 4. Severability. If any section, paragraph, clause or provision of
11 this Resolution shall for any reason be held to be invalid or unenforceable, the invalidity
12 or unenforceability of such section, paragraph, clause or provision shall in no manner
13 affect any remaining provisions of this Resolution.

14 Section 5. Publication of Notice of Adoption of Resolution. The Clerk is
15 hereby directed to publish a notice of this Resolution, in substantially the following form:

16
17 Notice is hereby given of the title and general summary of the subject matter contained
18 in a resolution duly adopted and approved by the City Council of the City of
19 Albuquerque, New Mexico relating to ratification and approval of the issuance and sale
20 of the Boulders Public Improvement District Special Levy Revenue Bonds, Series 2013.
21 Complete copies of the resolution are available for public inspection during the regular
22 business hours of the City Clerk, City of Albuquerque, New Mexico.

23

24 The title of the Resolution is as follows:

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RESOLUTION

27 **MAKING FINDINGS IN CONNECTION WITH THE BOULDERS PUBLIC**
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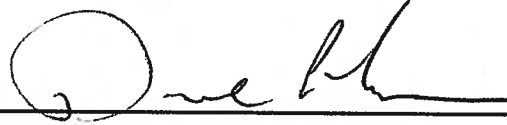
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2 **NO. 0-2003-12 AND CITY COUNCIL RESOLUTION NO. R-2012-47, ENACTMENT**
3 **NO. R 2012-35.**

4 A summary of the subject matter of the Resolution is contained in its title.

6 (End of Form of Summary of Resolution for Publication)

1 PASSED AND ADOPTED THIS 9th DAY OF October, 2013
2 BY A VOTE OF: 8 FOR 0 AGAINST.

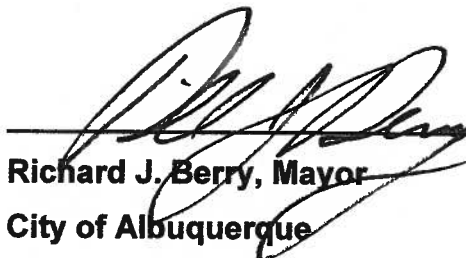
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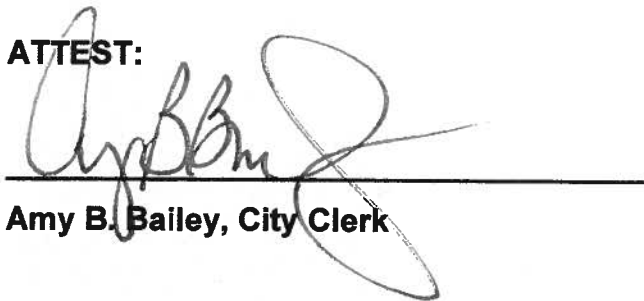
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8 Daniel P. Lewis, President
9 City Council

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13 APPROVED THIS 1st DAY OF November, 2013

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17 Bill No. R-13-218

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21 Richard J. Berry, Mayor
22 City of Albuquerque
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26 ATTEST:

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29 Amy B. Bailey, City Clerk
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