

CITY of ALBUQUERQUE

TWENTIETH COUNCIL

COUNCIL BILL NO. R-12-81 ENACTMENT NO. _____

SPONSORED BY: Dan Lewis, by request

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RESOLUTION

RELATING TO ALBUQUERQUE, NEW MEXICO SPECIAL ASSESSMENT DISTRICT NO. 228; CONFIRMING, AND APPROVING THE REVISED ASSESSMENT ROLL FOR SUCH DISTRICT; AND MAKING AN APPROPRIATION.

WHEREAS, the City Council (the "Council") of the City of Albuquerque (the "City"), in the County of Bernalillo and the State of New Mexico, has heretofore, pursuant to the requisite preliminary proceedings, provided for and provisionally ordered the grading, graveling, paving, sidewalks, curbing, guttering, draining, and otherwise improving of certain streets and parts thereof (the "Street Improvements"); and the constructing, installing, improving and otherwise acquiring of certain sanitary sewer lines (the "Sanitary Sewer Improvements"); water lines (the "Water Improvements"); storm drainage improvements (the "Storm Drainage Improvements"), and dry utility service lines (the "Dry Utility Improvements"), all within the City and designated "Albuquerque, New Mexico, Special Assessment District No. 228" (the "District") (collectively, the "Improvements"), all pursuant to and in conformity with Sections 3-33-1 through 3-33-43, NMSA, 1978, as amended and supplemented; and

WHEREAS, by Council Bill No. R-11-306, Enactment No. 2011-135, passed and adopted the 19th day of December, 2011, the Council finally passed on all protests and objections questioning the propriety and advisability of constructing the Improvements, the estimated cost of the improvements, the manner of payment for the improvements and the estimated maximum benefit to each individual tract or parcel of the land within the District, created the District, determined to proceed with the Improvements and directed the City Clerk of the City (the "City Clerk") to

1 advertise for bids as required by law for doing the work of constructing the
2 Improvements; and

3 WHEREAS, the City Clerk did advertise for construction bids as directed in
4 accordance with State Statutes and the City Purchasing Ordinance; and

5 WHEREAS, pursuant to notice duly given, the City on the 14th day of
6 February, 2012, received bids for doing the work of constructing the Improvements
7 and, on the 10th day of April, 2012 the Department of Municipal Development
8 successor to Public Works Department, in accordance with City Ordinances,
9 provided a conditional award of the contract for doing such work and the furnishing
10 of all necessary materials to the lowest responsible bidder, Albuquerque
11 Underground, Inc. of Albuquerque, New Mexico; and

12 WHEREAS, Wilson & Company, Inc., (the “Consulting Engineer”) and the
13 Public Works Department determined that the total cost to the City of the
14 Improvements, including advertising, appraising, engineering, legal, printing, and
15 other proper incidental costs to be \$27,098,174.71, and determined that all of such
16 costs shall be paid by the benefited tracts and parcels of land within the District;
17 and

18 WHEREAS, by Council Bill No. R-11-185, Enactment No. R-2011-021, funds in
19 the amount of \$28,000,000 were appropriated for the District which are more than
20 the final total cost of \$27,098,174.71; and

21 WHEREAS, the Council, and the Consulting Engineer, professional engineers
22 duly licensed under the laws of the State of New Mexico, prepared an assessment
23 roll and caused it to be filed in the office of the City Clerk on or before the 2nd day
24 of April, 2012, and amended the assessment roll and caused the amended
25 assessment roll to be filed in the Office of the City Clerk on the 1st day of August,
26 2012, (the “Assessment Roll”) which Assessment Roll contains, among other
27 things, the names of the last-known owners of each tract or parcel of land to be
28 assessed, or, if not known, a statement that the name is unknown, a description of
29 each tract or parcel of land to be assessed, and the amount of the assessment
30 against each such tract or parcel of land; and

31 WHEREAS, the Council has determined, and does hereby determine, that all
32 property in the City which is specially benefited by the Improvements acquired in

1 the District, and only the property which is so specially benefited, is included in the
2 Assessment Roll; and

3 WHEREAS, the Council gave the requisite legal notice that any owner of any
4 lot, tract, or parcel of land proposed to be assessed for the cost of the
5 Improvements could file with the City Clerk a specific protest or objection to the
6 Assessment Roll for the District and that the Council would hear and consider any
7 such protests or objections at the City of Albuquerque/Bernalillo County
8 Government Center, in the City, on Monday, the 18th day of June, 2012, at 5:00 p.m.;
9 and

10 WHEREAS, the written protests and objections filed with the City Clerk and
11 presented to the Council for consideration at the hearing on the 18th day of June,
12 2012 have been reviewed by the Consulting Engineer and the City and a
13 recommendation of disposition prepared that responds to the written protests and
14 objections; and

15 WHEREAS, the original financing plan for the District contemplated that the
16 New Mexico Finance Authority would make tax-exempt and taxable loans to the City
17 to pay the costs of the Improvements; and

18 WHEREAS, the New Mexico Finance Authority has informed the City that it
19 will not be able to timely provide loans for the District and alternative financing
20 methods must be pursued by the City.

21 BE IT RESOLVED BY THE COUNCIL, THE GOVERNING BODY OF THE CITY OF
22 ALBUQUERQUE:

23 Section 1. That Council Bill No. R-11-185, Enactment No. R-2011-021 which
24 made the appropriations for the Improvements is amended as restated below and
25 that the appropriations are hereby made and/or changed as indicated:

Purpose	Source	Appropriation
Department of Municipal Development		
SAD 228	Assessments	\$27,098,174.71
	Total Appropriation	\$27,098,174.71

31 The Water Utility Connection Fee, estimated to be \$2,700 per lot will be
32 prepaid by the SAD 228 property owner and included in the assessments. The
33 Paving and Trails Impact Fee, estimated to be \$4,430 per lot will be prepaid by the

1 SAD 228 property owner and included in the assessments.

2 Section 2. That the Council hereby validates and confirms the revised
3 Assessment Roll as filed in the records of the City Clerk on August 1st, 2012 (the
4 "Revised Assessment Roll"). The Revised Assessment Roll substitutes and
5 replaces the Original Assessment Roll filed with the City Clerk on April 2, 2012
6 and states the assessments to be levied on each tract or parcel of land included
7 in the District.

8 The total costs of \$ 27,098,174.71 are being assessed pursuant to the
9 Revised Assessment Roll.

10 All protests, both written and oral, made at the hearing on June 18, 2012
11 are hereby found to be not directly related to the methodology and amount of the
12 assessment to be made to the tract or parcel of land owned by the protester, and
13 are therefore deemed to be without merit and are hereby overruled and denied.

14 Section 3. That any owner of a tract or parcel of land listed on the
15 Assessment Roll who filed an objection pursuant to Section 3-33-22 NMSA 1978
16 protesting the Assessment levied on the tract or parcel of land shall have the right,
17 within thirty days from the adoption and approval of this Resolution, to appeal the
18 determination of the Council set forth in this Resolution pursuant to the provisions
19 of Section 39-3-1.1 NMSA 1978.

20 Section 4. That, given the need to pursue alternative financing methods,
21 the officers of the City are hereby authorized and instructed to seek financing
22 alternatives for the District from commercial banks, financial institutions and
23 underwriters.

24 Section 5. That all actions heretofore taken, not inconsistent with the
25 provisions of this Resolution, by the City and the officers thereof directed toward
26 performing all prerequisites to levying the assessments for the District and
27 confirming the Assessment Roll and the assessments herein be, and the same
28 hereby is, ratified, approved, and confirmed.

29 Section 6. All by-laws, orders, resolutions, and ordinances or parts
30 thereof inconsistent herewith are hereby repealed to the extent only of such
31 inconsistency; this repealer shall not be construed to revive any resolution, or
32 ordinance or part thereof heretofore repealed.

33 Section 7. If any section, paragraph, clause, or provision of this
34 Resolution shall for any reason be held to be invalid or unenforceable, the

1 invalidity or unenforceability of such section, paragraph, clause, or provision
2 shall not affect any of the remaining provisions of this Resolution.

3 Section 8. The officers of the City be, and they hereby are, authorized and
4 directed to take all action necessary or appropriate to effectuate the provisions of
5 this Resolution.

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