

CITY of ALBUQUERQUE

TWENTY-FIRST COUNCIL

COUNCIL BILL NO. R-15-188

ENACTMENT NO. R-2017-021

SPONSORED BY: Ken Sanchez

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RESOLUTION

2 DECLARING THE INTENT OF THE CITY COUNCIL OF THE CITY OF
3 ALBUQUERQUE, NEW MEXICO TO CONSIDER FOR ADOPTION A RESOLUTION
4 APPROVING THE FORMATION OF THE LOWER PETROGLYPHS TAX INCREMENT
5 DEVELOPMENT DISTRICT; APPROVING, SUBJECT TO FURTHER PROCEEDINGS
6 OF THE CITY COUNCIL, A TAX INCREMENT DEVELOPMENT PLAN FOR THE
7 DISTRICT, THE PURPOSES OF THE DISTRICT, IDENTIFICATION OF GROSS
8 RECEIPTS TAX INCREMENT AND PROPERTY TAX INCREMENT FINANCING
9 MECHANISMS, AND BONDS SECURED BY GROSS RECEIPTS TAX INCREMENT
10 REVENUE AND PROPERTY TAX INCREMENT REVENUE; AUTHORIZING AND
11 DIRECTING THE POSTING, MAILING AND PUBLICATION, IN A NEWSPAPER OF
12 GENERAL CIRCULATION WITHIN THE COUNTY, OF A NOTICE OF PUBLIC
13 MEETING AND HEARING TO BE HELD ON MAY 1, 2017 TO CONSIDER FOR
14 ADOPTION THE RESOLUTION APPROVING THE FORMATION OF THE DISTRICT.

15 WHEREAS, the Legislature of the State has enacted the Tax Increment for
16 Development Act, NMSA 1978, §§ 5-15-1 to -28 (2006, as amended) (the "Act"),
17 pursuant to which the governing body of a municipality may adopt a resolution
18 authorizing the formation of a tax increment development district following a
19 public hearing and based upon certain findings required pursuant to NMSA 1978,
20 § 5-15-7 (2006); and

21 WHEREAS, the City Council of the City of Albuquerque has enacted
22 Sections 4-10-1 to 8 ROA 1994, (the "City Policy Guidelines") establishing policy
23 guidelines and application procedures for tax increment development districts in
24 the City; and

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1 WHEREAS, pursuant to NMSA 1978, § 5-15-4 (2009), upon filing with the
2 City Clerk an approved tax increment development plan and upon receipt of a
3 petition bearing the signatures of the owners of at least fifty percent (50%) of the
4 real property located within a proposed tax increment development area, the City
5 Council may adopt a resolution declaring its intent to form a tax increment
6 development district; and

7 WHEREAS, pursuant to NMSA 1978, § 5-15-6 (2009), upon adoption of a
8 resolution indicating an intent to form a tax increment development district, the
9 governing body of a municipality shall set a date no sooner than 30 days and no
10 later than 60 days after the adoption of the resolution for a public hearing
11 regarding the formation of the district; and

12 WHEREAS, Western Albuquerque Land Holdings LLC, a Delaware limited
13 liability company has, pursuant to the Act and the City Policy Guidelines,
14 submitted to the City of Albuquerque (the "City") a petition for formation (the
15 "Petition") of the Lower Petroglyphs Tax Increment Development District (the
16 "District"), together with documents submitted to the City in support of the
17 Petition (the "Application"); and

18 WHEREAS, the Petition and Application request the formation by the City
19 of the District in order to finance public infrastructure that directly or indirectly
20 benefits or otherwise facilitates development within the approximately 336 acres
21 of land known collectively as the Town Center and the Town Center Village; and

22 WHEREAS, the Application includes, among other things, (i) a proposed
23 tax increment development plan for the District (the "Tax Increment Development
24 Plan"), including all information required pursuant to NMSA 1978, § 5-15-5 (2006)
25 and Section 5(F) of the City Policy Guidelines, which Tax Increment Development
26 Plan has been filed with the City Clerk, and (ii) a study of the feasibility, the
27 financing and the estimated costs of improvements, services and benefits to
28 result from the formation of the proposed District, and all other applicable
29 information required by NMSA 1978, § 5-15-4 (2009) and Sections 5(E)&(G) and
30 7(D)&(E) of the City Policy Guidelines (the "Financial Feasibility Study"); and

31 WHEREAS, the Petition contains the signatures of the owners of one
32 hundred percent (100%) of the real property to be included in the District and

1 states that those owners waive the right to an election for formation of the
2 District; and

3 WHEREAS, the Application contains evidence that there is no resident
4 qualified elector or any other person located on the real property to be included
5 in the District; and

6 WHEREAS, the City Council intends to consider for adoption a resolution
7 ordering the formation of the District as provided by NMSA 1978, § 5-15-4 (2009)
8 and NMSA 1978, § 5-15-7 (2006) and Section 6(H) of the City Policy Guidelines.

9 BE IT RESOLVED BY THE COUNCIL, THE GOVERNING BODY OF THE CITY OF
10 ALBUQUERQUE:

11 Section 1. The Petition and Application are hereby accepted for further
12 proceedings to be held at a public hearing as set forth in Section 6 of this
13 Resolution. The Tax Increment Development Plan is hereby approved for
14 purposes of NMSA 1978, § 5-15-4(A) (2009), subject to further proceedings of the
15 City Council.

16 Section 2. The area to be included within the District is described in the
17 map of the District included as part of the Tax Increment Development Plan.

18 Section 3. The purpose for which the District is to be formed is to finance
19 the costs of public improvements, as that term is defined in NMSA 1978, § 5-15-
20 3(R) (2006), in accordance with the Tax Increment Development Plan.

21 Section 4. The Tax Increment Development Plan has been filed with the
22 City Clerk and includes a map depicting the boundaries of the tax increment
23 development area of the District and real property proposed to be included in that
24 area.

25 Section 5. As proposed, the District may:

26 A. impose a tax levy in an amount not to exceed \$5.00 per \$1,000 of net
27 taxable value of taxable property within the District;

28 B. determine the amount, timing and form of financing mechanisms
29 necessary to implement the Tax Increment Development Plan, which may include
30 bonds, loans, advances and other indebtedness to be paid from the revenues
31 generated by up to seventy-five percent (75%) of the gross receipts tax
32 increments of each municipal and/or county local option gross receipts tax, state-
33 shared distribution pursuant to NMSA 1978, § 7-1-6.4 (2006), municipal hold

1 harmless distribution pursuant to NMSA 1978, § 7-1-6.46 (2013), county hold
2 harmless distribution pursuant to NMSA 1978, § 7-1-6.47 (2013), and/or state
3 gross receipts tax generated within the District, and/or up to seventy-five (75%) of
4 the property tax increment generated within the District; and

5 C. issue one or more series of revenue bonds secured by up to seventy-
6 five percent (75%) of the gross receipts tax increments of each municipal and/or
7 county local option gross receipts tax, state-shared distribution pursuant to
8 NMSA 1978, § 7-1-6.4 (2006), municipal hold harmless distribution pursuant to
9 NMSA 1978, § 7-1-6.46 (2013), the county hold harmless distribution pursuant to
0 NMSA 1978, § 7-1-6.47 (2013), and/or state gross receipts tax generated within the
1 District, and/or up to seventy-five (75%) of the property tax increment generated
2 within the District.

3 Section 6. A public hearing for the formation of the District pursuant to
4 the Act is required and shall be held on May 1, 2017 which date is more than 30
5 days and less than 60 days after the adoption of this Resolution.

6 Section 7. Pursuant to NMSA 1978, § 5-15-6 (2009), the City Clerk is
7 hereby authorized and directed to cause to be published, in the *Albuquerque*
8 *Journal*, a newspaper of general circulation within the City in which the proposed
9 District is located, a notice of the public hearing in substantially the following
0 form:

PUBLIC NOTICE

CITY OF ALBUQUERQUE, NEW MEXICO

NOTICE OF MEETING AND PUBLIC HEARING

24 The City Council of the City of Albuquerque, New Mexico hereby gives notice of
25 its meeting scheduled for Monday, May 1, 2017 at 5:00 p.m. in the City Council
26 Chambers, at One Civic Plaza N.W., Albuquerque, New Mexico, which is the
27 regular meeting place of the City Council. At such meeting the City Council will
28 hold a public hearing concerning the adoption of a resolution relating to the
29 formation of the Lower Petroglyphs Tax Increment Development District (the
30 "District") pursuant to the Tax Increment for Development Act, NMSA 1978, §§ 5-
31 15-1 to -28 (2006, as amended). The City Council may consider and take other
32 necessary action relating to the formation of the District and other business

1 which may come before the Council. The title of the proposed resolution is as
2 follows:

3 APPROVING THE PETITION OF WESTERN ALBUQUERQUE LAND HOLDINGS
4 LLC FOR FORMATION OF THE LOWER PETROGLYPHS TAX INCREMENT
5 DEVELOPMENT DISTRICT PURSUANT TO THE TAX INCREMENT FOR
6 DEVELOPMENT ACT, NMSA 1978, §§ 5-15-1 TO -28 (2006, AS AMENDED) AND
7 SECTIONS 4-10-1 TO 8 ROA 1994; MAKING FINDINGS IN CONNECTION WITH THE
8 PETITION AND SUPPORTING DOCUMENTATION REQUESTING APPROVAL OF
9 THE FORMATION OF THE DISTRICT; DETERMINING THE REAL PROPERTY TO
10 BE INCLUDED WITHIN THE DISTRICT AND THE PURPOSE FOR WHICH THE
11 DISTRICT IS BEING FORMED; APPROVING THE APPLICATION, PETITION,
12 FINANCIAL FEASIBILITY STUDY AND DEVELOPMENT AGREEMENT FOR
13 IMPLEMENTATION OF THE DISTRICT; RATIFYING THE TAX INCREMENT
14 DEVELOPMENT PLAN APPROVED FOR CONSIDERATION IN CONNECTION WITH
15 THE FORMATION OF THE DISTRICT; DEDICATING UP TO SEVENTY-FIVE
16 PERCENT (75%) OF THE GROSS RECEIPTS TAX INCREMENT REVENUE AND UP
17 TO SEVENTY-FIVE PERCENT (75%) OF THE PROPERTY TAX INCREMENT
18 REVENUE FOR THE FINANCING OF PUBLIC INFRASTRUCTURE FOR THE
19 DISTRICT AS PROVIDED IN THE DEVELOPMENT AGREEMENT; ESTABLISHING
20 PARAMETERS FOR THE ISSUANCE OF DISTRICT BONDS; PROVIDING FOR
21 GOVERNANCE OF THE DISTRICT THROUGH THE APPOINTMENT OF MEMBERS
22 OF THE GOVERNING BODY OF THE DISTRICT; PROVIDING THAT BONDS OF
23 THE DISTRICT AND OTHER OBLIGATIONS OF THE DISTRICT SHALL NOT BE
24 OBLIGATIONS OF THE CITY OF ALBUQUERQUE; RATIFYING CERTAIN ACTIONS
25 HERETOFORE TAKEN; REPEALING ALL ACTIONS INCONSISTENT WITH THIS
26 RESOLUTION.

27 A summary of the subject matter of the Resolution is contained in its title.
28 Complete copies of the proposed resolution are on file in the Office of the City
29 Clerk at 600 2nd NW, Albuquerque, New Mexico 87102 and are available for
30 inspection during regular office hours.

31 The formation of the District is proposed and will be considered by the City
32 Council at the above-referenced meeting, which will be open to the public.
33 Persons wishing to object or comment on the proposed resolution and the

1 matters within its scope may provide objections or comments in person at the
2 meeting or may provide objections or comments in writing, to the City Clerk at
3 the address stated above, and actually received by the City Clerk at least one
4 business day before the date of the meeting.

5 The attached map depicts the geographical boundaries of the area proposed for
6 inclusion in the District.

7 A tax increment development plan for District is on file with the City Clerk at the
8 address stated above and may be reviewed upon request.

9 A copy of the application requesting the formation of the District by the City is on
10 file in the office of the City Clerk at the address stated above and available for
11 inspection during regular office hours and is also available electronically on the
12 City's website at <http://www.cabq.gov/>.

13 This Notice constitutes compliance with NMSA 1978, § 5-15-6 (2009).

14 Section 8. The City Clerk shall cause notice of the public hearing, as set
15 forth in Section 7 above, to be published once each week for two consecutive
16 weeks in the *Albuquerque Journal*. The City Clerk shall obtain an affidavit from
17 the Albuquerque Journal after each publication is made and shall cause the
18 affidavits to be placed in the official records of the City.

19 Section 9. The notice of the public hearing shall also be posted by the
20 City in a prominent location on property located within the proposed District for
21 fourteen days prior to the hearing.

22 Section 10. No later than ten days prior to the public hearing, the City
23 Clerk shall provide written notice of the public hearing via registered or certified
24 United States mail, postage prepaid to:

25 A. all owners of real property within the proposed District;

26 B. all persons claiming an interest in the real property within the proposed
27 District who have filed a written request for a copy of the notice within the six
28 months preceding or at any time following the adoption of this Resolution; and

29 C. the secretary of taxation and revenue, the secretary of finance and
30 administration and the director of the legislative finance committee.

31 Section 11. If the City Clerk is informed of a transfer of ownership of real
32 property within the proposed District and obtains the name and address of the
33 current property owner, the City Clerk shall mail a copy of the notice of the public

1 hearing, inclusive of the summary of the resolution, as soon as practicable after
2 learning of the transfer.

3 **Section 12.** Within ten days following the date of adoption of this
4 Resolution, the City shall:

5 A. notify the secretary of taxation and revenue, the secretary of finance
6 and administration and the director of the legislative finance committee of the
7 governing body's action and such notice shall include a copy of this Resolution;
8 and

9 B. cause the Application and resolution materials, including fiscal and
10 economic studies, to be made available electronically to the public.

11 **Section 13.** The formation of the District may result in the use of gross
12 receipts tax increments and property tax increments to pay costs associated with
13 the construction of public improvements, as that term is defined in NMSA 1978, §
14 5-15-3(R) (2006).

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1 PASSED AND ADOPTED THIS 6th DAY OF March, 2017
2 BY A VOTE OF: 7 FOR 2 AGAINST.

Against: Davis, Gibson

**Isaac Benton, President
City Council**

13 APPROVED THIS _____ DAY OF March 17, 2017

Bill No. R-15-188

Richard J. Berry, Mayor
City of Albuquerque

ATTEST:

Natalie Y. Howard, City Clerk