

**CITY of ALBUQUERQUE
TWENTY-FIFTH COUNCIL**

COUNCIL BILL NO. R-22-61 ENACTMENT NO. R-2022-065

SPONSORED BY: Isaac Benton, by request

RESOLUTION

1
2 RELATING TO THE REDEVELOPMENT, LEASING AND SALE OF A
3 METROPOLITAN REDEVELOPMENT PROJECT WITHIN THE DOWNTOWN 2025
4 METROPOLITAN REDEVELOPMENT AREA CONSISTENT WITH THE TERMS OF
5 THE DOWNTOWN 2025 METROPOLITAN REDEVELOPMENT PLAN; APPROVING
6 THE METROPOLITAN REDEVELOPMENT APPLICATION ENTITLED "VILLA
7 AGAVE, LLC; THE DOWNTOWN 2025 METROPOLITAN REDEVELOPMENT
8 APPLICATION"; AUTHORIZING THE ACQUISITION OF LAND AND EXISTING
9 IMPROVEMENTS AND CONSTRUCTION OF A BUILDING WITHIN THE DOWNTOWN
10 2025 METROPOLITAN REDEVELOPMENT AREA; AUTHORIZING THE
11 DISPOSITION BY LEASE AND SALE OF THE CITY'S INTEREST IN SUCH PROJECT
12 TO VILLA AGAVE, LLC, ITS SUCCESSORS AND ASSIGNS; AUTHORIZING THE
13 EXECUTION AND DELIVERY OF A LEASE AGREEMENT AND OTHER DOCUMENTS
14 IN CONNECTION WITH THE PROJECT; MAKING CERTAIN DETERMINATIONS AND
15 FINDINGS RELATING TO THE PROJECT; RATIFYING CERTAIN ACTIONS TAKEN
16 PREVIOUSLY; AND REPEALING ALL ACTIONS INCONSISTENT WITH THIS
17 RESOLUTION.

18 WHEREAS, the City of Albuquerque (the "City") is a legally and regularly
19 created, established, organized and existing municipal corporation of the State of
20 New Mexico (the "State"); and

21 WHEREAS, the City desires to promote redevelopment in areas designated
22 as blighted areas so as to promote neighborhood stabilization by providing
23 affordable housing, convenient services, creating new jobs, upgrading area
24 buildings, infrastructure and housing for such areas and to promote public health
25 welfare, safety convenience and prosperity; and

1 WHEREAS, pursuant to the Metropolitan Redevelopment Code, Sections 3-
2 60A-1 through 3-60A-13 and Sections 3-60A-14 through 3-60A-48, New Mexico
3 Statutes Annotated, 1978 Compilation, as amended (the "Act"), the City is
4 authorized to acquire, whether by construction, purchase, gift or lease, and to
5 finance, sell, lease, or otherwise dispose of, projects as defined in the Act; and

6 WHEREAS, the City Council (the "Council") has adopted an ordinance
7 establishing the Albuquerque Development Commission (the "Development
8 Commission") to review metropolitan redevelopment projects proposed to be
9 owned and leased by the City pursuant to City Resolution No. 16-1985, as amended;
10 and

11 WHEREAS, Villa Agave, LLC, a New Mexico limited liability company
12 (together with its successors and assigns, the "Company") has presented to the
13 Development Commission and the Council a proposed metropolitan
14 redevelopment project application (the "Plan") whereby the City will, pursuant to
15 the Act, acquire from the Company land and existing improvements located within
16 the City and within the Downtown 2025 Metropolitan Redevelopment Area for
17 redevelopment by the lessee/purchaser thereof for a multi-family project (the
18 "Project") consistent with the Downtown 2025 Metropolitan Redevelopment Plan
19 and the Act; and

20 WHEREAS, under the Company's proposal, the City will effectuate the
21 transfer and sale of real property with the Company related to the Project, as
22 authorized under this ordinance (this "Resolution"); and

23 WHEREAS, under the Company's proposal, after the City's acquisition of the
24 Property through a deed, the City and the Company will enter into a Lease
25 Agreement (the "Lease"), pursuant to which the Company will lease and agree to
26 purchase the land and improvements comprising the Project from the City, and the
27 Company shall comply with the obligations incurred pursuant to the provisions of
28 the Lease and this Resolution; and

29 WHEREAS, the Albuquerque Development Commission has reviewed the
30 Plan, has held a public hearing on the Plan and Project, has determined that the
31 Company has complied with Resolution No. 16-1985, as amended, and has
32 recommended approval of the Plan and Project by the Council; and

1 **WHEREAS, the Council has held a public hearing on the Plan and the Project,**
2 **after proper notice; and**

3 **WHEREAS, the Plan and Project meets the objectives of the Act and will**
4 **benefit the City's efforts to revitalize the Downtown 2025 Metropolitan**
5 **Redevelopment Area of the City; and**

6 **WHEREAS, the Plan has been filed with the City Clerk and presented to the**
7 **Council; and**

8 **WHEREAS, the form of the Lease has been filed with the City Clerk and**
9 **presented to the Council; and The Lease and Deed are collectively referred to in**
10 **the Resolution as the "Project Documents"; and**

11 **WHEREAS, the Council has determined that it is in the best interest of the**
12 **City to approve the Project and to execute and deliver the Project Documents, and**
13 **other documents related thereto; and**

14 **WHEREAS, the City is authorized to execute the Project Documents under**
15 **the Act and this Resolution, and has concluded that it is desirable at this time to**
16 **approve the Project which constitutes a valid public purpose; and**

17 **WHEREAS, there has been published in The Albuquerque Journal, a**
18 **newspaper of general circulation in the City, public notice of the Council's intention**
19 **to adopt this Resolution, which notice contained certain information concerning**
20 **the Plan and the ownership, purpose, location and size of the Project, which notice**
21 **was published at least fourteen days prior to final action upon this Resolution.**

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

24 **Section 1. RATIFICATION. All actions not inconsistent with the provisions of**
25 **this Resolution previously taken by the Council and the officials of the City directed**
26 **toward approval of the Plan and the Project should be approved and the same**
27 **hereby are ratified, approved and confirmed.**

28 **Section 2. FINDINGS. The Council, after a public hearing held upon proper**
29 **notice, hereby declares that it has considered all relevant information presented to**
30 **it relating to the Plan and the Project and hereby finds and determines that approval**
31 **of the Plan and the Project, and the execution of the Project Documents, pursuant**
32 **to this Resolution are necessary and advisable and in the interest of and will**

1 promote the public health, safety, morals, convenience, education, economy and
2 welfare of the City and the residents of the City. The Council finds that:

3 (1) The Plan and the proposed activities under the Plan aid
4 in the elimination or prevention of slum or blight;

5 (2) The Plan conforms to the general plan for the City as a
6 whole and the terms of the Downtown 2025 Metropolitan Redevelopment Plan;

7 (3) The Plan affords maximum opportunity consistent with
8 the needs of the community for the rehabilitation or redevelopment of the area by
9 private enterprise or persons, and the objectives of the Plan justify the proposed
10 activities as public purposes and needs;

11 (4) The developer of the Project property is the Company;
12 and

13 (5) The Project property comprises of 14-unit multi-family
14 mixed use community on 0.63 acres located near 7th Street NW and Copper Ave
15 NW in central Albuquerque, New Mexico, all within the Downtown 2025
16 Metropolitan Redevelopment Area.

17 Section 3. THE PROJECT. The City shall acquire the Project for the purposes
18 hereinabove described, and the Project shall be located at all times within the
19 corporate limits of the City and within the Downtown 2025 Metropolitan
20 Redevelopment Area.

21 Section 4. PLAN APPROVAL.

22 A. The Plan in the form on deposit in the office of the City Clerk is
23 hereby approved in all respects.

24 B. Prior to submitting for building permit approval by the City, the
25 Developer shall submit to MRA the site plan, landscape plan, and full color
26 elevations of the Project for review and approval to ensure final building plans are
27 consistent with the Proposal.

28 Section 5. AUTHORIZATION OF OFFICERS; APPROVAL OF DOCUMENTS;
29 ACTIONS TO BE TAKEN.

30 A. The form, terms and provisions of the Project Documents in the
31 form on deposit in the office of the City Clerk are in all respects approved,
32 authorized and confirmed.

1 **B. The Mayor or Chief Administrative Officer of the City is**
2 **authorized to execute and deliver in the name and on behalf of the City, and the**
3 **City Clerk or Deputy City Clerk is hereby authorized to attest, as necessary, the**
4 **Project Documents with such changes therein as are not inconsistent with this**
5 **Resolution.**

6 **C. The Mayor, Chief Administrative Officer, Treasurer and City**
7 **Clerk are further authorized to execute, authenticate and deliver such**
8 **certifications, instruments, documents, letters and other agreements and to do**
9 **such other acts and things as are necessary or appropriate to consummate the**
10 **transactions contemplated by the Project Documents and the Plan.**

11 **D. The officers of the City shall take such action as is necessary to**
12 **effectuate the provisions of the Project Documents and shall take such action as**
13 **is necessary in conformity with the Act for the Project and for carrying out other**
14 **transactions as contemplated by this Resolution and the Project Documents.**

15 **E. The Project Documents shall not be executed until Construction**
16 **of the Project is complete, as exemplified by a final Certificate of Occupancy, or**
17 **prior at the sole discretion of the City. The Project Documents must be entered**
18 **into and effective within three years of the date of this Resolution.**

19 **Section 6. LEASE TERM. The Lease term shall not exceed seven years.**

20 **Section 7. FINDINGS REGARDING PROPERTY TAX ABATEMENT AND**
21 **OTHER MATTERS. The Council makes the following determinations and findings**
22 **in accordance with Sections 3-60A-39 and 3-60A-40 of the Act:**

23 **A. The Company is committed to pay the fair value of the Project**
24 **pursuant to the Project Documents and the Act and comply with the terms of the**
25 **Lease.**

26 **B. It shall not be necessary to deposit any amount in a controlled**
27 **account for the maintenance of the Project property.**

28 **C. The Lease requires that the Company maintain the Project**
29 **property in good repair and condition (excepting reasonable wear and tear) and**
30 **carry all proper insurance with respect to the Project property.**

31 **D. The Lease requires the Company to make all payments of or**
32 **relating to the Project property as they become due.**

1 E. In accordance with Section 7-36-3.1, NMSA 1978, as amended
2 and supplemented, the Project property shall be exempt from property taxation on
3 the improvements to the Project for the shorter of the period of time in which the
4 City owns the Project or December 31 of the year in which the seventh anniversary
5 of the acquisition of the Project property by the City will occur.

6 Section 8. LIMITED OBLIGATIONS. Nothing contained in the Resolution or in
7 the Project Documents or any other instrument shall be construed as obligating
8 the City (except with respect to the Project property as provided in the Project
9 Documents), nor as incurring a pecuniary liability or a charge upon the general
10 credit of the City or against its taxing power, nor shall the breach of any agreement
11 contained in the Resolution, the Project Documents or any other instrument be
12 construed as obligating the City (except with respect to the Project property as
13 provided in the Project Documents), nor as incurring a pecuniary liability or a
14 charge upon the general credit of the City or against its taxing power, the City
15 having no power to pay out of its general funds, or otherwise contribute any part
16 of the costs of constructing or furnishing the Project property.

17 Section 9. APPROVAL OF INDEMNIFICATION. The Council specifically
18 approves the provisions of the Lease relating to indemnification which provide that
19 the Company shall indemnify and hold harmless the City and its City Councilors,
20 officials, members, officers, employees and agents against liability to the
21 Company, or to any third parties that may be asserted against the City or its City
22 Councilors, officials, members, officers, employees or agents with respect to the
23 City's ownership of the Project property and arising from the condition of the
24 Project property or the acquisition, construction and operation of the Project
25 property by the Company, except to the extent Section 56-7-1, New Mexico Statutes
26 Annotated, 1978 Compilation, applies, and except claims for any loss or damage
27 arising out of or resulting from the gross negligence or willful misconduct of the
28 City or any member, officer, employee or agent of the City.

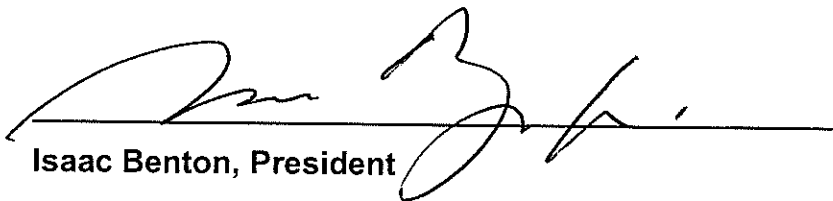
29 Section 10. REPEALER. All bylaws, orders, resolutions and ordinances, or
30 parts thereof, inconsistent with this Resolution are repealed by this Resolution but
31 only to the extent of that inconsistency. This repealer shall not be construed to

1 revive any bylaw, order, resolution or ordinance, or part thereof, previously
2 repealed.

3 Section 11. SEVERABILITY. If any section, paragraph, clause or provision of
4 this Resolution shall for any reason be held to be invalid or unenforceable, the
5 invalidity or unenforceability of that section, paragraph, clause or provision shall
6 not affect any of the remaining provisions of this Resolution.

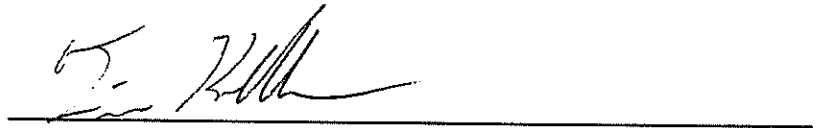
7 Section 12. RECORDING; AUTHENTICATION; PUBLICATION; EFFECTIVE
8 DATE. This Resolution, immediately upon its final passage and approval, shall be
9 recorded in the Resolution book of the City, kept for that purpose, and shall be
10 there authenticated by the signature of the Mayor and the presiding officer of the
11 Council, and by the signature of the City Clerk or any Deputy City Clerk, and notice
12 of adoption thereof shall be published once in a newspaper which maintains an
13 office in, and is of general circulation in, the City, and shall be in full force and
14 effect five days following such publication.

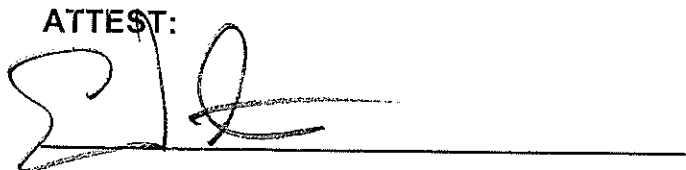
1 PASSED AND ADOPTED THIS 15th DAY OF August, 2022
2 BY A VOTE OF: 9 FOR 0 AGAINST.

3
4
5
6
7
8 
9 Isaac Benton, President
10 City Council

11
12
13
14 APPROVED THIS 26 DAY OF August, 2022

15
16
17 Bill No. R-22-61

18
19
20 
21
22 Timothy M. Keller, Mayor
23 City of Albuquerque
24

25
26
27
28 ATTEST:
29 
30
31 Ethan Watson, City Clerk
32

[Bracketed/Underscored Material] - New
[Bracketed/Strikethrough Material] - Deletion