

CITY OF ALBUQUERQUE

TWENTIETH COUNCIL

COUNCIL BILL NO. O-12-36 ENACTMENT NO. _____

SPONSORED BY: Dan Lewis, by request

1

ORDINANCE

2 RELATING TO CITY OF ALBUQUERQUE, NEW MEXICO SPECIAL
3 ASSESSMENT DISTRICT NO. 228; RATIFYING THE PROCEEDINGS TAKEN IN
4 PROVIDING FOR CERTAIN STREET, SANITARY SEWER LINES, WATER
5 LINES, STORM DRAINAGE AND PRIVATE UTILITY IMPROVEMENTS IN SUCH
6 DISTRICT; PROVIDING FOR THE PAYMENT OF THE COSTS AND EXPENSES
7 OF SUCH IMPROVEMENTS; PROVIDING FOR THE FILING OF A CLAIM OF
8 LIEN; ASSESSING THE COST OF SUCH IMPROVEMENTS AGAINST THE
9 TRACTS, PARCELS AND LOTS OF LAND BENEFITTED BY SUCH
10 IMPROVEMENTS; ESTABLISHING THE INTEREST RATES ON THE UNPAID
11 ASSESSMENTS; AND PROVIDING FOR A PENALTY FOR DELINQUENT
12 PAYMENTS.

13 WHEREAS, the City Council (the "Council") of the City of Albuquerque (the
14 "City"), in the State of New Mexico, has heretofore, pursuant to the requisite
15 preliminary proceedings, provided for and ordered the grading, paving, draining, and
16 otherwise completing of certain streets and parts thereof (the "Street
17 Improvements"); grading, constructing, installing, and otherwise providing certain
18 storm drainage improvements (the "Storm Drainage Improvements"); constructing,
19 installing, and otherwise improving of certain sanitary sewer lines (the "Sanitary
20 Sewer Improvements"), water lines (the "Water Improvements"), and private utilities
21 (the "Private Utility Improvements"), (collectively, the "Improvements"), all within the
22 City and designated City of Albuquerque, New Mexico Special Assessment District

1 No. 228 (the “District”), all pursuant to and in conformity with Sections 3-33-1
2 through 3-33-43 NMSA 1978, as supplemented and amended; and

3 WHEREAS, the Council has determined and does hereby reaffirm that the
4 Improvements are to be constructed in, along and around all of the following roads,
5 rights of way, areas and parts thereof:

6 PAVING AND STORM DRAINAGE IMPROVEMENTS

7 Agua Fria Court (Unit 22) - Papagayo Road to a cul-de-sac ending the street.

8 Aguilar Street (Units 18 & 19) – Papagayo Road to south of Azor Lane.

9 Alderete Court (Unit 22) - Camino Alderete to cul-de-sac ending the street.

10 Alto Rey Court (Unit 22) – Papagayo Road to a cul-de-sac ending the street.

11 Azor Lane (Unit 19) - Aguilar Street to Vista del Prado.

12 Calle Nortena (Units 26 & 27) - Paseo del Norte to Rosa Parks Rd.

13 Camino Alderete (Unit 22) - Kimmick Drive to Petirrojo Road at a curve.

14 Camino Alto (Unit 22) - Papagayo Road to a corner then easterly to a cul-de-
15 sac ending the street.

16 Camino Alto Court (Unit 22) - Camino Alto to a cul-de-sac ending the street.

17 Camino Del Oeste (Unit 19) – Vista Del Prado to Urraca Street.

18 Canavio Place (Units 18 & 22) - Papagayo Road to Camino Alderete.

19 Canoncito Drive (Unit 22) –Kimmick Drive to Canavio Place.

20 Compass Drive (Units 18 & 19) - Kimmick Drive to 400’ South of Petirrojo
21 Road.

22 Compass Court (Unit 19) – Compass Drive to a cul-de-sac ending the street.

23 Cuervo Place (Unit 18) - Compass Drive to Aguilar Street.

24 Kimmick Drive; also platted as 81st Street (Units 18, 22, & 26) – Unser Blvd.
25 to 325’ East of Camino de Paz and Rosa Parks Rd to Paseo del Norte.

26 Unser Frontage Road – from Sujet Road to Kimmick Drive

27 Papagayo Road (Units 18 & 22) - Compass Drive to Camino Alderete to end
28 the street.

29 Paseo Del Norte - 300’ East of Calle Plata to Calle Nortena.

30 Pato Road (Unit 18) - Papagayo Road to Urraca Street.

31 Petirrojo Road (Units 18 & 22) - Compass Drive to Camino Alderete.

- 1 Picardia Place (Units 18 & 22) - Petirrojo Road to Petirrojo Road.
- 2 Rainbow Boulevard – Unser Boulevard to 900' northwest of Universe
- 3 Boulevard.
- 4 Rosa Parks Road (Units 26 & 27) - 300' East of Calle Plata to Kimmick Drive.
- 5 Scenic Road - Rainbow Boulevard to 250' southwest of Rainbow Boulevard.
- 6 Sujeto Road (Unit 18) – Unser Blvd. to Aguilar Street.
- 7 Universe Boulevard - Rainbow Boulevard to 450' northeast of Rainbow
- 8 Boulevard.
- 9 Unser Boulevard – Compass Drive to Kimmick Drive.
- 10 Urraca Street (Units 18-22) - Kimmick Drive to Camino del Oeste.
- 11 Valiente Road (Units 26 & 27) – Kimmick Drive to Calle Nortena.
- 12 Vista del Prado (Unit 19) – Azor Lane to Urraca Street.
- 13 Vista del Prado Court (Unit 19) – Vista del Prado to a cul-de-sac ending the
- 14 street.

15 **SANITARY SEWER IMPROVEMENTS**

- 16 Agua Fria Court (Unit 22) - Papagayo Road to a cul-de-sac ending the street.
- 17 Aguilar Street (Units 18 & 19) – Papagayo Road to south of Azor Lane.
- 18 Alderete Court (Unit 22) - Camino Alderete to cul-de-sac ending the street.
- 19 Alto Rey Court (Unit 22) – Papagayo Road to a cul-de-sac ending the street.
- 20 Azor Lane (Unit 19) - Aguilar Street to Vista del Prado.
- 21 Calle Nortena (Units 26 & 27) - Paseo del Norte to Rosa Parks Rd.
- 22 Camino Alderete (Unit 22) - Kimmick Drive to Petirrojo Road at a curve.
- 23 Camino Alto (Unit 22) - Papagayo Road to a corner then easterly to a cul-de-
- 24 sac ending the street.
- 25 Camino Alto Court (Unit 22) - Camino Alto to a cul-de-sac ending the street.
- 26 Camino Del Oeste (Unit 19) – Vista Del Prado to Urraca Street.
- 27 Canavio Place (Units 18 & 22) - Papagayo Road to Camino Alderete.
- 28 Canoncito Drive (Unit 22) –Kimmick Drive to Canavio Place.
- 29 Compass Drive (Units 18 & 19) - Kimmick Drive to 400' South of Petirrojo
- 30 Road.
- 31 Compass Court (Unit 19) – Compass Drive to a cul-de-sac ending the street.

1 Cuervo Place (Unit 18) - Compass Drive to Aguilar Street.
2 Kimmick Drive; also platted as 81st Street (Units 18, 22, & 26) – Unser Blvd.
3 to 325’ East of Camino de Paz and Rosa Parks Rd to Paseo del Norte.
4 Unser Frontage Road – from Sujeto Road to Kimmick Drive
5 Papagayo Road (Units 18 & 22) - Compass Drive to Camino Alderete to end
6 the street.
7 Pato Road (Unit 18) - Papagayo Road to Urraca Street.
8 Petirrojo Road (Units 18 & 22) - Compass Drive to Camino Alderete.
9 Picardia Place (Units 18 & 22) - Petirrojo Road to Petirrojo Road.
10 Rainbow Boulevard – Unser Boulevard to 900’ northwest of Universe
11 Boulevard.
12 Rosa Parks Road (Units 26 & 27) - 300’ East of Calle Plata to Kimmick Drive.
13 Scenic Road - Rainbow Boulevard to 250’ southwest of Rainbow Boulevard.
14 Sujeto Road (Unit 18) – Unser Blvd. to Aguilar Street.
15 Universe Boulevard - Rainbow Boulevard to 450’ northeast of Rainbow
16 Boulevard.
17 Urraca Street (Units 18-22) - Kimmick Drive to Camino del Oeste.
18 Valiente Road (Units 26 & 27) – Kimmick Drive to Calle Nortena.
19 Vista del Prado (Unit 19) – Azor Lane to Urraca Street.
20 Vista del Prado Court (Unit 19) - Vista del Prado to a cul-de-sac ending the
21 street.

22 WATER IMPROVEMENTS

23 Agua Fria Court (Unit 22) - Papagayo Road to a cul-de-sac ending the street.
24 Aguilar Street (Units 18 & 19) – Papagayo Road to south of Azor Lane.
25 Alderete Court (Unit 22) - Camino Alderete to cul-de-sac ending the street.
26 Alto Rey Court (Unit 22) – Papagayo Road to a cul-de-sac ending the street.
27 Azor Lane (Unit 19) - Aguilar Street to Vista del Prado.
28 Calle Nortena (Units 26 & 27) - Paseo del Norte to Rosa Parks Rd.
29 Camino Alderete (Unit 22) - Kimmick Drive to Petirrojo Road at a curve.
30 Camino Alto (Unit 22) - Papagayo Road to a corner then easterly to a cul-de-
31 sac ending the street.

- 1 Camino Alto Court (Unit 22) - Camino Alto to a cul-de-sac ending the street.
- 2 Camino Del Oeste (Unit 19) – Vista Del Prado to Urraca Street.
- 3 Canavio Place (Units 18 & 22) - Papagayo Road to Camino Alderete.
- 4 Canoncito Drive (Unit 22) –Kimmick Drive to Canavio Place.
- 5 Compass Drive (Units 18 & 19) - Kimmick Drive to 400' South of Petirrojo
- 6 Road.
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- 8 Cuervo Place (Unit 18) - Compass Drive to Aguilar Street.
- 9 Kimmick Drive; also platted as 81st Street (Units 18, 22, & 26) – Unser Blvd.
- 10 to 325' East of Camino de Paz and Rosa Parks Rd to Paseo del Norte.
- 11 Unser Frontage Road – from Sujeto Road to Kimmick Drive
- 12 Papagayo Road (Units 18 & 22) - Compass Drive to Camino Alderete to end
- 13 the street.
- 14 Pato Road (Unit 18) - Papagayo Road to Urraca Street.
- 15 Petirrojo Road (Units 18 & 22) - Compass Drive to Camino Alderete.
- 16 Picardia Place (Units 18 & 22) - Petirrojo Road to Petirrojo Road.
- 17 Rainbow Boulevard – Unser Boulevard to 900' northwest of Universe
- 18 Boulevard.
- 19 Rosa Parks Road (Units 26 & 27) - 300' East of Calle Plata to Kimmick Drive.
- 20 Scenic Road - Rainbow Boulevard to 250' southwest of Rainbow Boulevard.
- 21 Sujeto Road (Unit 18) – Unser Blvd. to Aguilar Street.
- 22 Universe Boulevard - Rainbow Boulevard to 450' northeast of Rainbow
- 23 Boulevard.
- 24 Urraca Street (Units 18-22) - Kimmick Drive to Camino del Oeste.
- 25 Valiente Road (Units 26 & 27) – Kimmick Drive to Calle Nortena.
- 26 Vista del Prado (Unit 19) – Azor Lane to Urraca Street.
- 27 Vista del Prado Court (Unit 19) - Vista del Prado to a cul-de-sac ending the
- 28 street.
- 29 **DRY UTILITY IMPROVEMENTS**
- 30 Agua Fria Court (Unit 22) - Papagayo Road to a cul-de-sac ending the street.
- 31 Aguilar Street (Units 18 & 19) – Papagayo Road to south of Azor Lane.

- 1 Alderete Court (Unit 22) - Camino Alderete to cul-de-sac ending the street.
- 2 Alto Rey Court (Unit 22) – Papagayo Road to a cul-de-sac ending the street.
- 3 Azor Lane (Unit 19) - Aguilar Street to Vista del Prado.
- 4 Calle Nortena (Units 26 & 27) - Paseo del Norte to Rosa Parks Rd.
- 5 Camino Alderete (Unit 22) - Kimmick Drive to Petirrojo Road at a curve.
- 6 Camino Alto (Unit 22) - Papagayo Road to a corner then easterly to a cul-de-
- 7 sac ending the street.
- 8 Camino Alto Court (Unit 22) - Camino Alto to a cul-de-sac ending the street.
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- 11 Canoncito Drive (Unit 22) –Kimmick Drive to Canavio Place.
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- 14 Compass Court (Unit 19) – Compass Drive to a cul-de-sac ending the street.
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- 20 the street.
- 21 Pato Road (Unit 18) - Papagayo Road to Urraca Street.
- 22 Petirrojo Road (Units 18 & 22) - Compass Drive to Camino Alderete.
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1 Valiente Road (Units 26 & 27) – Kimmick Drive to Calle Nortena.
2 Vista del Prado (Unit 19) – Azor Lane to Urraca Street.
3 Vista del Prado Court (Unit 19) - Vista del Prado to a cul-de-sac ending the
4 street.

5 ALL WITHIN THE CITY OF ALBUQUERQUE, BERNALILLO COUNTY, NEW
6 MEXICO; and

7 WHEREAS, the Council has determined, and does hereby determine, that
8 there shall be assessed to each lot, parcel or tract of land specially benefited its
9 proportionate share of the costs of constructing the Improvements, as more
10 specifically set forth in Council Bill No. R-11-306, Enactment No. 2011-135 duly
11 passed and adopted on December 19, 2011 which provisionally ordered the
12 construction of the Improvements and which finally passed on all protests and
13 objections questioning the propriety and advisability of constructing the
14 Improvements, the estimated costs of the Improvements, the manner of paying for
15 the Improvements, and the maximum amount to be assessed against the individual
16 lots, tracts and parcels of land in the District, created the District and directed the
17 City Clerk to advertise for bids, as required by law, for doing the work of constructing
18 the Improvements; and

19 WHEREAS, pursuant to notice duly given, the City on the 14th day of
20 February, 2012, received bids for doing the work of constructing the Improvements,
21 and, on the 21st day of May, 2012, the Council conditionally awarded the contract for
22 the doing of such work and furnishing of all necessary materials to the lowest bidder,
23 Albuquerque Underground, Inc. of Albuquerque, New Mexico and the Council
24 intends to make the final award of the contract pursuant to this Ordinance; and

25 WHEREAS, after the making of such contract, the Council determined the
26 total cost to the City of the Improvements, including advertising, appraising,
27 engineering, legal, printing, and other proper incidental costs, is \$27,098,175 and
28 determined that all of such costs shall be paid by the benefited lots, tracts, and
29 parcels of land within the District; and

30 WHEREAS, after determining the portion of the costs of such work to be paid
31 by the property specially benefited within the District, the Council, together with

1 Wilson & Company, Inc., professional engineers duly licensed under the laws of the
2 State of New Mexico, jointly prepared an assessment roll for the District, and caused
3 it to be filed in the office of the City Clerk on April 2, 2012 and a final assessment roll
4 for the District was filed in the office of the City Clerk on August 1, 2012 (the
5 "Assessment Roll"), which Assessment Roll contains, among other things, the
6 names of the last known owners of each lot, tract or parcel of land to be assessed,
7 or, if not known, a statement that the name is unknown, a description of each lot,
8 tract or parcel of land to be assessed, and the amount of the assessment against
9 each such lot, tract or parcel of land; and

10 WHEREAS, the assessments in no event exceed the estimated maximum
11 benefit to the property assessed nor that portion of the total cost of the
12 Improvements payable by assessments as set forth above ; and

13 WHEREAS, the property benefiting from the Improvements will be assessed
14 at a rate of 4.43%; and

15 WHEREAS, the Council gave the requisite legal notice that any owner of any
16 lot, tract or parcel of land proposed to be assessed for the cost of the Improvements
17 could file with the City Clerk a specific protest or objection to the Assessment Roll
18 and that the Council would hear and consider any of such comments and would
19 consider confirming, ratifying and approving the distribution of the assessments at
20 the Vincent E. Griego Council Chambers, City of Albuquerque/Bernalillo County
21 Government Center, in the City, on the 18th day of June, 2012, at 5:00 p.m.; and

22 WHEREAS, all comments, protests and objections to the Assessment Roll,
23 both written and oral, were heard and considered by the Council, and were accepted
24 or overruled in that certain Council Resolution entitled "RELATING TO CITY OF
25 ALBUQUERQUE, NEW MEXICO SPECIAL ASSESSMENT DISTRICT NO. 228;
26 CONFIRMING AND APPROVING THE ASSESSMENT ROLL FOR SUCH
27 DISTRICT; AND MAKING AN APPROPRIATION," duly passed and adopted on the
28 5th day of September, 2012 (the "Confirming Resolution"); and

29 WHEREAS, it is incumbent upon the Council to provide herein when
30 assessments shall become due and delinquent, the rates of interest payable
31 thereon, and the penalties payable after delinquency.

1 BE IT ORDAINED BY THE COUNCIL, THE GOVERNING BODY OF THE CITY OF
2 ALBUQUERQUE:

3 Section 1. All action heretofore taken, not inconsistent with the provisions
4 of this Ordinance, by the City and the officers of the City, directed toward the
5 construction of the Improvements in the District and toward performing all
6 prerequisites to the levying of special assessments and to fixing the assessment lien
7 against the lots, tracts and parcels of land in the District be, and the same hereby is,
8 ratified, approved and confirmed. The contract for construction of the Improvements
9 in the District shall be and hereby is finally awarded to Albuquerque Underground,
10 Inc.

11 Section 2. For the purpose of paying the costs and expenses of the
12 Improvements there shall be, and there hereby is, levied and assessed against the
13 lots, tracts and parcels of land specially benefited by the Improvements in the District
14 the amounts and the assessments shown in the Assessment Roll for the District, as
15 filed in the office of the City Clerk on or about the 1st day of August, 2012, as
16 approved and confirmed by the Council by the Confirming Resolution.

17 Upon completion of the construction and installation of the Improvements, the
18 Department of Finance and Administrative Services of the City may rebate or refund
19 a portion of the amounts imposed by the assessments shown in the Assessment
20 Roll to the extent that the cost of constructing and installing the Improvements is less
21 than the amounts collectively imposed by the assessments shown in the
22 Assessment Roll. Such rebates or refunds may be undertaken on terms and
23 conditions established by the Department of Finance and Administrative Services of
24 the City provided that the amounts of the rebates or refunds do not cause the
25 amounts collectively imposed by the assessments shown in the Assessment Roll to
26 be less than the amounts necessary for payment of the then outstanding loans
27 entered into by the City for the District.

28 Section 3. The assessments shall be due and payable at the office of the
29 City Treasurer within 15 days after the date of this Ordinance's publication, without
30 interest and without demand; provided that all or any part of such assessments may,
31 at the election of the owner of the lot, tract or parcel of land so assessed, be paid in

1 installments with interest as hereinafter provided. Failure to pay the whole
2 assessment within such 15 day period shall be conclusively considered to be held
3 an election on the part of the affected property owner, whether under disability or
4 otherwise, to pay the unpaid assessments in installments as hereinafter provided. In
5 the case of an election to pay in installments, the unpaid assessments shall be
6 payable in thirty substantially equal semiannual installments of principal
7 commencing on April 1, 2013 until paid in full, with interest in all cases on the unpaid
8 and deferred installments of principal until paid in full, from the date of publication of
9 this Ordinance, at a rate of 4.43% per annum.

10 Failure to pay any installment, whether of principal or interest on or before
11 such dates shall cause the account to become delinquent. Failure to pay any
12 installment, whether of principal or interest, when due, shall cause the whole of the
13 unpaid principal to become due and payable immediately, at the option of the City as
14 indicated by its commencement of foreclosure proceedings; and the whole amount
15 of the unpaid installment shall, after such delinquency, whether such option is or is
16 not exercised, bear penalty at the rate of one percent (1.0%) per month and, after
17 exercise of such option by commencement of foreclosure proceedings, the whole
18 amount of the unpaid principal and interest shall bear penalty at the rate of one and
19 one percent (1.0%) per month, plus, in either or both circumstance(s), the affected
20 property owner shall also be responsible for payment of reasonable attorneys' fees
21 and the disbursements incurred by the City in taking action preliminary to and in the
22 foreclosure of a delinquent assessment, including without limitation, obligations
23 incurred in making title searches, serving proceedings, publishing notices and filing
24 recorded instruments appertaining to such delinquent assessments, until paid. All
25 payments of installments and any payments intended to bring delinquent accounts
26 current or to prepay assessments shall be applied in the following manner: first to
27 attorney fees, court costs and any other disbursements incurred by the City in taking
28 action preliminary to and in foreclosure of a delinquent assessment; second to
29 penalty; third to delinquent interest; fourth to delinquent principal; fifth to current
30 interest and finally to current principal. The owner of any property not in default as
31 to any installment or payment, may at any time prepay the whole or any part of the

1 unpaid principal with interest accruing thereon to the next installment payment date.
2 Any sums paid as required hereunder shall be used for the payment of the costs of
3 the Improvements or for the payment of the loans entered into to defray such costs.

4 Section 4. From and after the date of publication of this Ordinance, the
5 amounts assessed as aforesaid together with any interest or penalty accruing on
6 such assessed amounts are a lien upon the lot, tract or parcel of land so assessed.
7 Such lien is coequal with the lien for general, ad valorem taxes and the lien of other
8 improvement districts, and is superior to all other liens, claims and titles. The sale of
9 any such lot, tract or parcel of land for general taxes or any other assessment shall
10 not relieve such lot, tract or parcel of land from such assessment or the lien therefor.
11 All purchasers, mortgagees or encumbrancers of a lot, tract or parcel of land so
12 assessed shall hold the lot, tract or parcel of land subject to the lien so created.

13 Section 5. In case any lot, tract or parcel of land is delinquent in the
14 payment of the assessment or any installment of an assessment, whether as to
15 principal or interest, the City shall forthwith cause the affected property owner, if
16 known, to be immediately notified in writing of the delinquency; notice shall be given
17 by first class mail, postage prepaid, addressed to the affected property owner at his
18 last known address; and if the delinquency shall not be paid within one year after
19 such notice shall have been given by deposit in the United States mails, then the
20 City at its own expense, shall institute proceedings to foreclose the special
21 assessment lien against the property or properties wherein the delinquency exists in
22 the method now or hereafter provided by the statutes for the foreclosure of
23 mortgages on real estate, or as otherwise provided by law; provided that nothing
24 herein shall prevent the City from instituting proceedings to foreclose such special
25 assessment lien prior to the expiration of one year after the notice of the delinquency
26 is mailed to the affected property owner. Fifteen days after the date that an order,
27 judgment or decree of foreclosure is issued by the court, there may be held a sale of
28 the affected property, as provided by law, to satisfy the delinquent assessment, and
29 at such sale, if there is no other purchaser therefor, the City may purchase the lot,
30 tract or parcel of land and may bid for the lot, tract or parcel of land, in lieu of cash,
31 the amount of the balance due on the assessment plus any interest, penalties,

1 attorney's fees and costs which have accrued against the land and upon the
2 assessment. If the City fails or refuses to initiate foreclosure proceedings to sell a
3 lot, tract or parcel of land for a delinquent assessment or installment of an
4 assessment, then the lender whose loan is secured by the assessment may initiate
5 and prosecute a foreclosure action in the name of the City. Such lender may also
6 proceed under this Ordinance, by suit, action, or special proceedings in equity or at
7 law, either for the appointment of a receiver or for the specific performance of any
8 provision contained herein or in an award of execution shall have any power herein
9 granted for the enforcement of any proper legal, or equitable, remedy as such lender
10 may deem most effectual to protect and enforce the rights aforesaid.

11 Section 6. It shall be the duty of the City Clerk to prepare, sign, attest with
12 the seal of the City, and file for record within sixty days after the publication of this
13 Ordinance, but after the termination of the 15-day period hereinabove provided for in
14 Section 3 of this Ordinance, in the office of the County Clerk of Bernalillo County,
15 New Mexico, a claim of lien or liens for the amount due and assessed against each
16 lot, tract or parcel of land, as above specified and then remaining unpaid, and all
17 purchasers, mortgagees and encumbrancers of said lots, tracts and parcels of land
18 shall take the same subject to the lien. When the assessments and the installments
19 thereof, the interest therefor, and penalties, have been paid in full, it shall be the duty
20 of the City Clerk to release and discharge the lien and liability.

21 Section 7. Each claim of lien to be so filed for record shall be in
22 substantially the following form:

23 **(Form of Claim of Lien)**

24 CLAIM OF LIEN

25 BY THE CITY OF ALBUQUERQUE, NEW MEXICO

26 October ____, 2012

27 WHEREAS, the City of Albuquerque (the "City"), County of Bernalillo and
28 State of New Mexico, in accordance with the provisional order method provided by
29 Sections 3-33-1 through 3-33-43 NMSA 1978, as supplemented and amended, has
30 created "City of Albuquerque, New Mexico Special Assessment District No. 228" (the
31 "District"), for the purpose of the construction of certain Paving Improvements,

1 Sanitary Sewer Improvements, Water Improvements, Storm Drainage Improvements
2 and Private Utility Improvements (collectively, the “Improvements”) all within the City,
3 which Improvements are to be constructed in, along and around all of the following
4 roads, rights of way, areas and parts thereof:

5 (Insert streets, rights of ways, areas and parts thereof designated in
6 the preambles of this Ordinance)

7 ALL IN THE CITY OF ALBUQUERQUE, BERNALILLO COUNTY, NEW
8 MEXICO; and

9 WHEREAS, the City regularly and formally entered into a contract in
10 compliance with the law for the construction of the Improvements with the lowest
11 bidder; and

12 WHEREAS, the City by Twentieth Council Ordinance, Council Bill No. __ (the
13 “Assessing Ordinance”), passed and adopted on the 17th day of September, 2012,
14 levied assessments against the lots, tracts and parcels of property benefited by the
15 Improvements and against the owners thereof certain amounts, as hereinafter
16 described, in the sum of \$27,098,175; and

17 WHEREAS, the Assessing Ordinance provided that the assessments
18 hereinbefore fixed shall be due and payable within 15 days after the publication of
19 the Ordinance, without interest and without demand, provided, that all or any part of
20 such assessments might, at the election of the affected property owner, be paid in
21 thirty substantially equal semiannual installments of principal commencing April 1,
22 2013 until paid in full, with interest in all cases on the unpaid and deferred
23 installments of principal until paid in full; and

24 WHEREAS, the unpaid assessments shall bear interest at a rate of 4.43%
25 from the date of publication of the Ordinance, both principal and accrued interest
26 being payable semiannually on the first day of April 1 and October 1 of each year
27 commencing on April 1, 2013 at the office of the City Treasurer.

28 NOW THEREFORE, the undersigned City Clerk of the City, on behalf of the
29 City, in accordance with the provisions of Section 3-33-23 NMSA 1978, as amended,
30 and all acts thereunto enabling and the ordinances, resolutions and proceedings of
31 the City, does hereby prepare, sign, attest with the seal of the City, and file for

1 record in the office of the County Clerk of the County of Bernalillo, and State of New
2 Mexico a Claim of Lien for the amount due and assessed against each lot, tract and
3 parcel of land in the District, in accordance with the terms and provisions of the
4 Assessing Ordinance, duly passed and adopted by the City on the 17th day of
5 September, 2012, as follows:

	Description				
	Property Owner				
Item No.	Name & Address	Lot	Block	Subdivision	Assessment
(Insert here those assessments listed in the Assessment Roll designated in Section 2 of this Ordinance which are not paid during the 15-day period described in Section 3 of this Ordinance.)					

12 All purchasers, mortgagees, or encumbrancers of each of the lots, tracts or
13 parcels of land in the District shall hereafter take the same subject to the aforesaid
14 lien in accordance with the laws of the State of New Mexico and City of Albuquerque
15 in the County of Bernalillo and State of New Mexico.

16 WITNESS my hand and the seal this _____ day of _____, 2012.

18 CITY OF ALBUQUERQUE, NEW MEXICO

20 (SEAL) By _____
21 Amy Bailey, City Clerk

22 STATE OF NEW MEXICO)
23) ss.
24 COUNTY OF BERNALILLO)

26 This instrument was acknowledged before me on this _____ day of _____,
27 2012, by Amy Bailey, as City Clerk of the City of Albuquerque, State of New Mexico,
28 on behalf of the City of Albuquerque by authority of its City Council and laws of the
29 State of New Mexico and of the City of Albuquerque.

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Notary Public

My Commission Expires:

(End of form of Claim of Lien)

Section 8. The City Clerk shall publish, as soon as reasonably possible, a notice in a newspaper which maintains an office and is of general circulation in the City, once a week for two consecutive weeks, stating that the assessments have been levied and are due and payable. The notice shall be in substantially the following form:

(Form of Notice)

NOTICE TO PROPERTY OWNERS OF ASSESSMENTS
FOR IMPROVEMENTS IN CITY OF ALBUQUERQUE, NEW MEXICO
SPECIAL ASSESSMENT DISTRICT NO. 228

NOTICE IS HEREBY GIVEN to property owners and other interested persons that by City of Albuquerque Twentieth Council Ordinance, Council Bill No. __ (the "Ordinance"), duly passed and adopted on the 17th day of September, 2012, there were levied and assessed against lots, tracts and parcels of land specially benefited by the improvements in what is commonly designated as "Albuquerque, New Mexico Special Assessment District No. 228," and as more specifically described in the Assessment Roll designated in the Ordinance, the cost and expense of such improvements.

All assessments shall be due and payable at the office of the City Treasurer on or before the 5th day of October, 2012, within 15 days of the date of publication of the Ordinance, without interest and without demand, provided that all such assessments may, at the election of the affected property owner, be paid in installments, with interest as hereafter provided. Failure to pay the whole assessment within the period of 15 days shall be conclusively considered and held an election by the affected property owner, whether under disability or otherwise, to

1 pay the unpaid assessment in installments. In case of such an election to pay in
2 installments, the unpaid assessments shall be payable in thirty substantially equal
3 semiannual installments of principal until paid in full commencing on April 1, 2013,
4 with interest in all cases on the unpaid and deferred installments of principal from the
5 20th day of September, 2012, the date of publication of the Ordinance, at a rate of
6 4.43% with both principal and accrued interest being payable semiannually at the
7 office of the City Treasurer on the first day of April and October of each year,
8 commencing on April 1, 2013. Failure to pay any installment whether of principal or
9 interest, when due, shall cause the whole of the unpaid principal to become due and
10 payable immediately at the City's option, and the whole amount of the unpaid
11 installment, shall, after such delinquency, whether such option is or is not exercised,
12 bear penalty at the rate of one percentum (1.0%) per month and, after exercise of
13 such option by commencement of foreclosure proceedings, the whole amount of the
14 unpaid principal and interest shall bear penalty at the rate of one percentum (1.0%)
15 per month, plus, in either or both circumstance(s), the affected property owner shall
16 also be responsible for payment of reasonable attorneys' fees and disbursements
17 incurred by the City in taking action preliminary to and in the foreclosure of the lien
18 relating to such delinquent assessment, including without limitation, obligations
19 incurred in making title searches, serving proceedings, publishing notices, and filing
20 of record instruments appertaining to such delinquent assessments, until paid. The
21 owner of any property not in default as to any installment may, at any time, prepay
22 the whole or any part of the unpaid principal with interest accruing thereon to the
23 next installment payment date.

24 The amounts assessed as aforesaid constitute a lien upon the lots, tracts and
25 parcels of land in the District from the 20th day of September, 2012, the date of
26 publication of the Ordinance, which lien shall be coequal with the lien for general, ad
27 valorem taxes and the lien of other improvement districts and is prior and superior to
28 all other liens, claims and titles. The sale of any such lot, tract or parcel of land for
29 general or other taxes shall not relieve such lot or parcel of land from such
30 assessment or the lien therefor.

31 DATED this 20th day of September, 2012.

CITY OF ALBUQUERQUE, NEW MEXICO

(SEAL)

By _____

Amy Bailey, City Clerk

(End of form of Notice)

Section 9. The officers of the City of Albuquerque be, and they hereby are, authorized and directed to take all action necessary or appropriate to effectuate the provisions of this Ordinance.

Section 10. If any section, paragraph, clause or provision of this Ordinance shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Ordinance.

Section 11. All ordinances or resolutions, or parts thereof, inconsistent herewith are hereby repealed to the extent only of such inconsistency. This repealer shall not be construed to revive any ordinance, or resolution, or part thereof, heretofore repealed.

Section 12. Pursuant to Section 3-17-5 NMSA 1978, as amended, the Council hereby declares that this Ordinance shall take effect five days after its publication and that this Ordinance shall be recorded in the book kept by the City for that purpose and authenticated by the signature of the City Clerk.

Section 13. The form of this Ordinance for the purpose of publication shall be substantially as hereinafter set forth in this section, and the Council does hereby declare that publication as herein prescribed shall be conclusive of the sufficiency of such form, to wit:

(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 the following ordinance on the 17th day of September, 2012.

ORDINANCE

RELATING TO CITY OF ALBUQUERQUE, NEW MEXICO SPECIAL ASSESSMENT DISTRICT NO. 228; RATIFYING THE PROCEEDINGS TAKEN IN

1 PROVIDING FOR CERTAIN STREET, SANITARY SEWER LINES, WATER
2 LINES, STORM DRAINAGE AND PRIVATE UTILITY IMPROVEMENTS IN SUCH
3 DISTRICT; PROVIDING FOR THE PAYMENT OF THE COSTS AND EXPENSES
4 OF SUCH IMPROVEMENTS; PROVIDING FOR THE FILING OF A CLAIM OF
5 LIEN; ASSESSING THE COST OF SUCH IMPROVEMENTS AGAINST THE
6 TRACTS, PARCELS AND LOTS OF LAND BENEFITTED BY SUCH
7 IMPROVEMENTS; ESTABLISHING THE INTEREST RATES ON THE UNPAID
8 ASSESSMENTS; AND PROVIDING FOR A PENALTY FOR DELINQUENT
9 PAYMENTS.

10 A general summary of the Ordinance is as follows:

11 The preambles recite matters such as: that the City Council of the City of
12 Albuquerque has previously ordered that certain streets, and sanitary sewer, water
13 and storm drainage systems in the City be improved (collectively, the
14 "Improvements"), all under the designation of "City of Albuquerque, New Mexico
15 Special Assessment District No. 228" (the "District"), that the total cost of the
16 Improvements is \$27,098,175; that special assessments shall be levied in that
17 amount calculated on the basis therein set forth; that no assessments exceed
18 maximum benefits; reviewing the Council's action in causing an assessment roll to
19 be filed, in providing for a hearing on the 18th day of June, 2012, and in giving mailed
20 and published notice of such hearing; that such hearing was held, that all protests or
21 objections were considered, that the Assessment Roll was confirmed, and approved
22 by the resolution of the Council adopted on the 5TH day of September, 2012, that it is
23 necessary for the Council to provide for the collection of such assessments; and
24 reviewing other action theretofore taken.

25 Section 1 ratifies, approves and confirms all prior action taken in connection
26 with the District and the Improvements.

27 Section 2 levies assessments against all specially benefited property in the
28 District as set forth in the Assessment Roll filed with the City Clerk on or about the
29 1st day of August, 2012, as approved by the resolution of the Council adopted on
30 September 5, 2012.

1 Section 3 provides for the times, terms and conditions for the payment of the
2 assessments, including but not necessarily limited to provisions for the payment of
3 the assessments in thirty substantially equal semiannual installments of principal
4 with interest thereon at the rate of 4.43% per annum; provides for the option to
5 accelerate payment of principal and interest in case of failure to pay any installment
6 of principal and interest; provides for the payment of a one percent (1.0%) per month
7 penalty, interest and other penalties; provides for the payment of any assessment in
8 full at any time under certain conditions.

9 Section 4 provides that the amounts assessed shall constitute a lien on the
10 property assessed coequal with that for general, ad valorem taxes and other
11 improvement districts.

12 Section 5 provides for mailed notices to the owners of any delinquent
13 property, in the case of delinquency in payment of any installment of principal or
14 interest; provides for the duty of the City to foreclose such lien the same as the
15 foreclosure of mortgages on real estate as provided by law, if the assessment is not
16 paid within one year after such notice; provides the City may buy such property at a
17 specified minimum amount through a credit bid if there is no other purchaser
18 therefor; provides for any lender to enforce such lien in the name of the City or to
19 proceed against the City to enforce the rights of the lender under the Ordinance.

20 Section 6 requires the City Clerk to execute and file a claim of lien for unpaid
21 assessments with the City Clerk of the City of Albuquerque within sixty days after the
22 publication of this Ordinance, but after the 15-day cash payment period; provides
23 that all purchasers, mortgagees and encumbrancers of each lot, tract or parcel of
24 land in the District shall take subject to such lien; and provides for the duty of the
25 City Clerk to release and discharge such lien and liability upon certain conditions.

26 Section 7 specifies the form of the claim of lien to be filed.

27 Section 8 orders the City Clerk to publish once a week for two consecutive
28 weeks a notice stating that the assessments have been levied and are due and
29 payable and specifies the form of notice for publication.

30 Section 9 authorizes the City officers to take any action necessary to
31 effectuate the Ordinance.

1 Sections 10 and 11 are severability and repealer clauses respectively.

2 Sections 12 and 13 provide that the Ordinance shall take effect as provided
3 by law and specify this form for publication.

4 Complete copies of the Ordinance are on file in the office of the City Clerk,
5 Albuquerque/Bernalillo County Government Center, One Civic Plaza, NW,
6 Albuquerque, New Mexico, for inspection during regular office hours.

7 WITNESS my hand and the seal of the City of Albuquerque, New Mexico this
8 __ day of _____, 2012.

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CITY OF ALBUQUERQUE, NEW MEXICO

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13 (SEAL)

By _____

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Amy Bailey, City Clerk

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(End of Form of Ordinance for Publication)

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