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

3 SECTION 1. A business improvement district, hereafter referred to as the  
4 Albuquerque Tourism Marketing District (“ATMD”), is established and is  
5 hereby authorized to be created under the following terms and conditions:

6 1. The initial period of existence for the ATMD shall be for a five (5) year  
7 period, from July 1, 2022, or as soon as possible thereafter, and end five (5)  
8 years from its start date. Prior to the expiration of the ATMD’s initial term, the  
9 City Council shall review the ATMD to determine whether it should remain in  
10 existence and be renewed. If a majority of the City Council decides that the  
11 purpose for which the ATMD was created has been served and that it is in the  
12 best interest for the ATMD, the City Council shall terminate the ATMD’s status  
13 by ordinance or resolution and record the ordinance or resolution with the  
14 municipal clerk. If the City Council determines that the ATMD should remain  
15 in existence, it may renew the ATMD for an additional five (5) year term.

16 2. The ATMD District Plan, dated March 2, 2022, prepared by the  
17 Planning Group is hereby adopted and approved.

18 3. The ATMD shall provide additional tourism promotion services and  
19 improvements that are designed and intended to increase overnight visitation  
20 to ATMD lodging businesses and the City of Albuquerque. The additional  
21 tourism promotion services and improvements to be provided are sales,  
22 marketing, and communications; visitor services enhancements; destination  
23 product development / partner grants; and related administration programs, as  
24 described in Section IV of the ATMD District Plan. The ATMD District Plan is  
25 attached hereto and incorporated by reference as “Exhibit B” of this  
26 Ordinance.

27 4. The additional tourism promotion services and improvements to be  
28 provided by the ATMD are intended and designed to increase overnight  
29 visitation to and room sales at lodging businesses within the boundaries of  
30 the ATMD. The businesses to be assessed a business improvement benefit  
31 fee for the ATMD are all lodging businesses, existing and in the future,  
32 available for public occupancy within the boundaries of the commercial areas  
33 of the City of Albuquerque as shown on the map attached hereto and

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1 incorporated by reference as “Exhibit A” of this Ordinance. “Lodging  
2 business” means: a hotel, apartment, apartment hotel, apartment house,  
3 lodge, lodging house, rooming house, motor hotel, guest house, bed and  
4 breakfast, guest ranch, ranch resort, mobile home, motor court, auto court,  
5 trailer court, trailer camp, tourist camp, cabin or other premises used for  
6 lodging.

7 5. The ATMD business improvement benefit fee is levied solely upon  
8 the ATMD lodging businesses, and the lodging business owners are solely  
9 responsible for payment of the business improvement benefit fee when due. If  
10 the lodging business owner chooses to collect any portion of the business  
11 improvement benefit fee from a guest, that portion shall be specifically called  
12 out and identified for the guest in any and all communications from the  
13 lodging business owner as the “Tourism Marketing Benefit Fee” as specified  
14 in the District Plan.

15 6. The additional tourism promotion services and improvements to be  
16 provided by the ATMD shall be funded by the levy of a business improvement  
17 benefit fee on lodging businesses within the ATMD boundary, as  
18 recommended by the Planning Group. The business improvement benefit fee  
19 shall be levied on the basis of benefit to the ATMD lodging businesses.  
20 Because the additional tourism promotion services and improvements to be  
21 provided by the ATMD are intended to increase room rentals at ATMD lodging  
22 businesses, a business improvement benefit fee based on room rentals is the  
23 best measure of benefit. The annual business improvement benefit fee shall  
24 be two percent (2%) of ATMD lodging businesses’ gross room rental revenue.  
25 The total five (5) year improvement and service plan budget is projected at  
26 approximately \$4,800,000 annually, or \$24,000,000 total over the term of the  
27 ATMD. This amount may fluctuate as sales and revenue increase at assessed  
28 lodging businesses. Furthermore, as calculation of the ATMD budget was  
29 based on data collected prior to the COVID-19 pandemic, this amount may  
30 fluctuate in accordance with post-COVID economic circumstances. Based on  
31 the benefit received, business improvement benefit fees will not be levied on:  
32 stays of more than thirty (30) consecutive days; stays pursuant to a written  
33 agreement for at least thirty (30) consecutive days; stays by any person to

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1 whom rent is charged at the rate of \$2.00 per day or less; stays at institutions  
2 of the federal government, the state or any political subdivisions thereof;  
3 stays at religious, charitable, educational, or philanthropic institutions,  
4 including without limitation stays at summer camps operated by such  
5 institutions; stays at clinics, hospitals, or other medical facilities; stays at  
6 privately-operated convalescent homes or homes for the aged, inform,  
7 indigent, or chronically ill; stays at any short term rental unit; and stays  
8 pursuant to contracts executed prior to July 1, 2022.

9 7. The ATMD business improvement benefit fee shall be collected by  
10 the City of Albuquerque monthly, in accordance with Section IV of the District  
11 Plan.

12 8. Bonds shall not be issued to fund ATMD services or improvements  
13 or for the retirement of pre-existing debt of the City of Albuquerque.

14 9. ATMD business improvement benefit fee funds received by the City  
15 of Albuquerque shall be held in a special account for the benefit of the ATMD  
16 and shall only be used for the purposes set forth in this Ordinance and the  
17 District Plan. The funds shall be distributed to the management committee on  
18 a monthly basis by providing the funds received monthly to the management  
19 committee within thirty (30) days of receipt, less the City of Albuquerque's one  
20 percent (1%) charge for its expense of assessing, collecting, and  
21 administering the ATMD business improvement benefit fee.

22 10. Pursuant to NMSA Section 3-63-11, the City Council hereby appoints  
23 Visit Albuquerque, an existing nonprofit corporation operating within the  
24 boundaries of the district, to serve as the management committee for the  
25 ATMD. Visit Albuquerque shall be responsible for the operation of the ATMD  
26 and the administration and implementation of the District Plan. Visit  
27 Albuquerque shall serve as the management committee for the five (5) year  
28 term of the ATMD unless removed earlier by the City Council. As the ATMD  
29 management committee, Visit Albuquerque shall do all of the following:

30 a. Prepare and file annually with the City Council for its review and  
31 approval a budget and progress report for the ATMD;

32 b. Administer all improvements within the ATMD;

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- 1 c. Recommend the annual assessment to be made by the City Council;
- 2 and
- 3 d. File annually with the City Council a report of the ATMD activities for
- 4 the preceding fiscal year, which report shall include a complete financial
- 5 statement setting forth its assets, liabilities, income, and operating expenses
- 6 as of the end of the fiscal year and the benefits of the ATMD's program to the
- 7 ATMD lodging businesses owners.
- 8 11. During the operation of the ATMD, there shall be a thirty (30) day
- 9 period each year in which ATMD lodging businesses may request
- 10 disestablishment of the ATMD. The first such period shall begin one (1) year
- 11 after the date of establishment of the ATMD and shall continue for thirty (30)
- 12 days. Each successive year of operation of the ATMD have such a thirty (30)
- 13 day period. Upon the written petition of ATMD lodging businesses comprising
- 14 at least fifty-one percent (51%) of the total number of lodging businesses then
- 15 operating within the ATMD, the City Council shall notice a hearing on
- 16 disestablishment of the ATMD.
- 17 12. The ATMD shall reimburse the City for any costs associated with
- 18 collecting unpaid business improvement benefit fees. If sums in excess of the
- 19 delinquent ATMD business improvement benefit fees are sought to be
- 20 recovered in the same collection action by the City, the ATMD shall bear its
- 21 pro rata share of such collection costs. Assessed lodging businesses which
- 22 are delinquent in paying the business improvement benefit fee shall be
- 23 responsible for paying:
  - 24 a. Original Delinquency: Lodging businesses shall make a return by the
  - 25 25<sup>th</sup> of each month on forms provided by the City for lodging paid to the
  - 26 lodging business in the preceding calendar month and shall remit therewith to
  - 27 the City payment of the business improvement fee then. The report shall
  - 28 include sufficient information to enable the City to audit the report. If the 25<sup>th</sup>
  - 29 day of the month falls on a weekend or holiday, the return shall be due on the
  - 30 next business day. If any lodging business makes a return without paying the
  - 31 business improvement benefit fee then due, the lodging business shall be
  - 32 liable for the business improvement benefit fee and a penalty equal to ten
  - 33 percent (10%) thereof or \$100, whichever is greater. Promptly after receipt of

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1 such return, the City shall give the delinquent lodging business written notice  
2 of the business improvement benefit fee and penalty.

3 b. Neglect or Refusal to Make Return: If any lodging business neglects  
4 or refuses to make a return and pay the business improvement benefit fee, the  
5 Mayor shall make an estimate based upon an examination of the lodging  
6 business' books and records, or upon any information in its possession or  
7 that may come into its possession, of the amount of gross room rental  
8 revenue of the delinquent lodging business for the period in respect to which  
9 the lodging business has failed to make a return, and upon the basis of said  
10 estimated amount shall compute and assess the business improvement  
11 benefit fee payable by the delinquent lodging business, adding to this amount  
12 a penalty equal to ten percent (10%) thereof or \$100, whichever is greater.  
13 Promptly thereafter the City shall give the delinquent lodging business written  
14 notice of the estimated business improvement benefit fee and penalty.

15 c. Continued Delinquency: If payment is not made by the lodging  
16 business within fifteen (15) days of the date of the notice that the business  
17 improvement benefit fee is delinquent, the Mayor may bring an action in law or  
18 equity in the district court for the collection of any amounts due, including  
19 without limitation penalties thereon, interest on the unpaid principal at a rate  
20 of not exceeding one percent (1%) a month, the costs of collection and  
21 reasonable attorneys' fees incurred in connection therewith.

22 d. Continuous Surety Bond: A Continuous Surety Bond naming the City  
23 as beneficiary in the amount of \$3,000 plus \$60 per room or individual  
24 sleeping accommodation available for use by the public shall be posted and  
25 filed with the City Clerk upon a lodging business' failure to remit business  
26 improvement benefit fees for two (2) consecutive months. If payment or  
27 posting Continuous Surety Bond is not made by the lodging business within  
28 fifteen (15) days of the date of notice that the business improvement benefit  
29 fee is delinquent, the Mayor may bring an action in law or equity in the district  
30 court for the collection of any amount due, including without limitation  
31 penalties thereon, interest on the unpaid principal at a rate not exceeding one  
32 percent (1%) a month, the costs of collection and reasonable attorneys' fees  
33 incurred in connection therewith. Continuous Surety Bond shall remain in

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1 force three (3) years from date of issuance per arrear incident applicable.  
2 Continuous Surety Bond may be augmented or applied to any succeeding  
3 arrear business improvement benefit fee due the City of Albuquerque.

4 e. Lodging Business Disputes: A lodging business that disputes the  
5 assessment of any business improvement benefit fee or related penalties and  
6 interest may, within five (5) working days of the date of the notice from the  
7 City that the business improvement benefit fee is delinquent, appeal the  
8 Mayor's decision to the City Hearing Officer as set forth in § 4-4-9 of the  
9 Municipal Code of the City of Albuquerque.

10 13. It is the intention of the City Council to adopt by reference and  
11 incorporate into this Ordinance all of the definitions of terms set forth in the  
12 Business Improvement District Act, N.M.S.A. 3-63-1 et seq.

13 14. It is the intention of the City Council to confer the broadest  
14 discretion to the management committee to accomplish its goals, limited only  
15 by the express terms of the Business Improvement District Act, N.M.S.A. 3-63-  
16 1 et seq., as that State Statute now exists or may be revised, and upon the  
17 further limitation that no ATMD service or improvement may duplicate  
18 services or improvements provided by the City of Albuquerque.

19 15. The City Clerk, or his or her designee, is directed to take all  
20 necessary actions to complete the establishment of the ATMD.

21 SECTION 2. SEVERABILITY CLAUSE. If any section, paragraph, sentence,  
22 clause, word, or phrase of this ordinance is for any reason held to be invalid  
23 or unenforceable by any court of competent jurisdiction, such decision shall  
24 not affect the validity of the remaining provisions of this ordinance. The  
25 Council hereby declares that it would have passed this ordinance and each  
26 section, paragraph, sentence, clause, word, or phrase thereof irrespective of  
27 any provision being declared unconstitutional or otherwise invalid.

28 SECTION 3. COMPILATION. Section 1 of this ordinance shall be  
29 incorporated in and made part of the Revised Ordinances of Albuquerque,  
30 New Mexico, 1994 as a new Article, Article '21', to be added to Chapter 14, and  
31 titled "Albuquerque Tourism Marketing District Business Improvement  
32 District."

1 SECTION 4. EFFECTIVE DATE. This ordinance shall take effect five days  
2 after publication by title and general summary.

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1 PASSED AND ADOPTED THIS 21<sup>st</sup> DAY OF March, 2022  
2 BY A VOTE OF: 9 FOR 0 AGAINST.

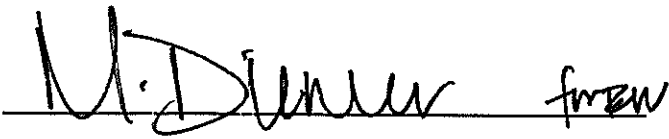
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Isaac Benton, President  
City Council

APPROVED THIS 4 DAY OF April, 2022

Bill No. O-22-14

  
\_\_\_\_\_  
Timothy M. Keller, Mayor  
City of Albuquerque

ATTEST:  
  
\_\_\_\_\_  
Ethan Watson, City Clerk

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