

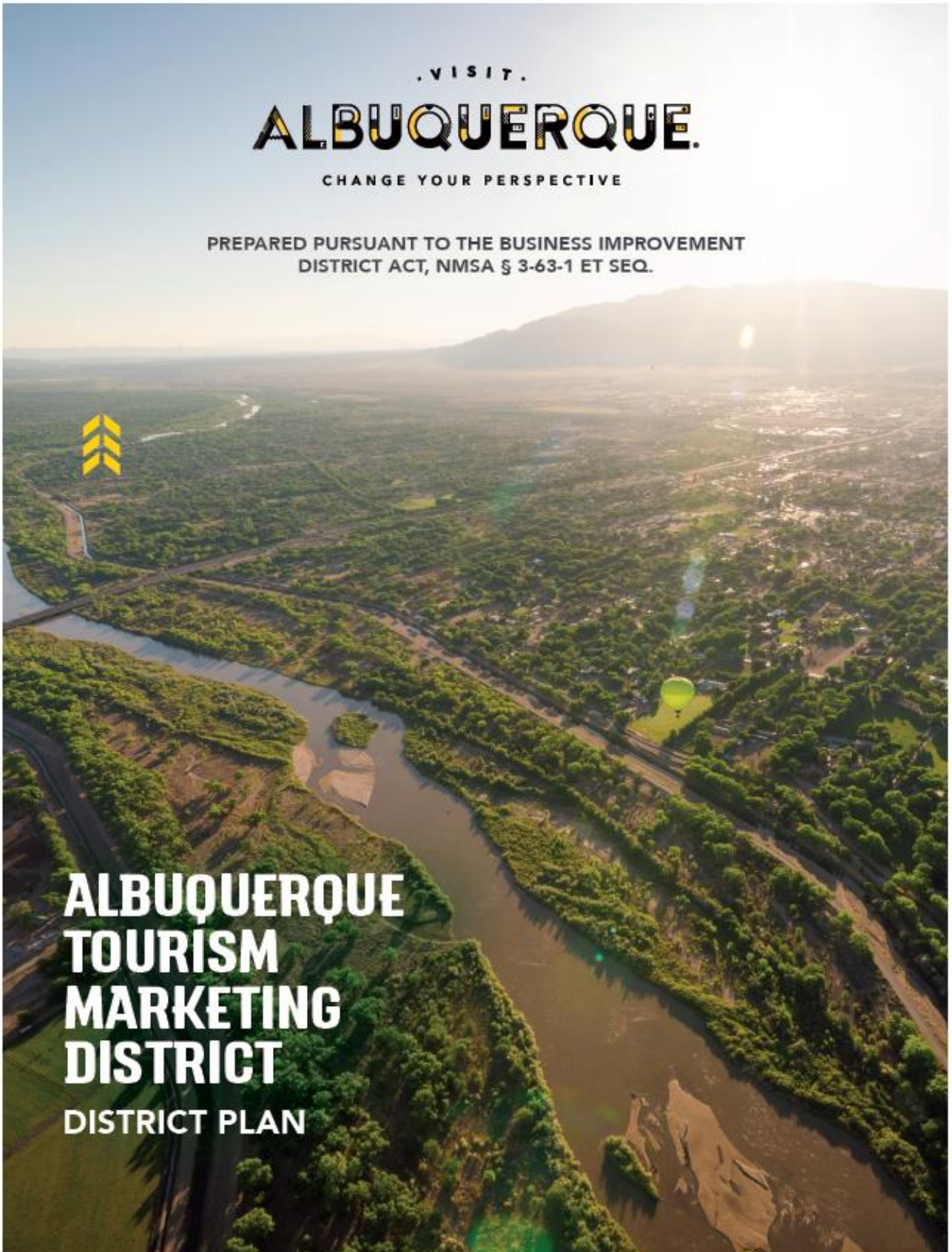
. VISIT .  
**ALBUQUERQUE.**

CHANGE YOUR PERSPECTIVE

PREPARED PURSUANT TO THE BUSINESS IMPROVEMENT  
DISTRICT ACT, NMSA § 3-63-1 ET SEQ.



**ALBUQUERQUE  
TOURISM  
MARKETING  
DISTRICT  
DISTRICT PLAN**



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## I. OVERVIEW

Developed by Visit Albuquerque and Albuquerque lodging businesses, the Albuquerque Tourism Marketing District (ATMD) is a business improvement district proposed to promote the economic vitality of the district and the general welfare of the City of Albuquerque by providing specific benefits to payors, by exclusively funding sales, marketing, communications, visitor services enhancements, and destination product development/partner grants programs for assessed lodging businesses. This approach has been used successfully in other destination areas throughout the country to provide the benefit of additional room night sales directly to payors.

The COVID-19 pandemic has had a significant impact on the tourism industry. The ATMD will be a crucial funding source as Albuquerque hoteliers look to the future. With unpredictable tourism recovery times, the ATMD will aim to expedite the time it takes to return to pre-COVID levels. The ATMD will allow Visit Albuquerque to market and heighten demand for the destination with the dedicated supplemental funding.

*Location:* The proposed ATMD includes all lodging businesses located within the boundaries of the commercial areas of the City of Albuquerque, as shown on the map in Section III. A detailed map series can be found in Appendix 3.

*Services:* The ATMD is designed with the purpose to promote the economic vitality and general welfare of the City of Albuquerque by providing specific benefits directly to payors by increasing room night sales. Marketing and sales promotions will increase overnight tourism and market payors as tourist, meeting and event destinations, thereby increasing room night sales.

*Budget:* The total ATMD annual budget for the initial year of its five (5) year operation is anticipated to be approximately \$4,800,000. Calculation of the ATMD budget was based on data collected prior to the COVID-19 pandemic, and may fluctuate in accordance with post-COVID economic circumstances.

*Cost:* The annual business improvement benefit fee rate is two percent (2%) of gross room rental revenue. Based on the benefit received, business improvement benefit fees will not be collected on: stays of more than thirty (30) consecutive days; stays pursuant to a written agreement for at least thirty (30) consecutive days; stays by any person to whom rent is charged at the rate of \$2.00 per day or less; stays at institutions of the federal government, the state or any political subdivisions thereof; stays at religious, charitable, educational, or philanthropic institutions, including without limitation stays at summer camps operated by such institutions; stays at clinics, hospitals, or other medical facilities; stays at privately-operated convalescent homes or homes for the aged, infirm, indigent, or chronically ill; stays at short-term rental units; and stays pursuant to contracts executed prior to July 1, 2022, or as soon as possible thereafter.

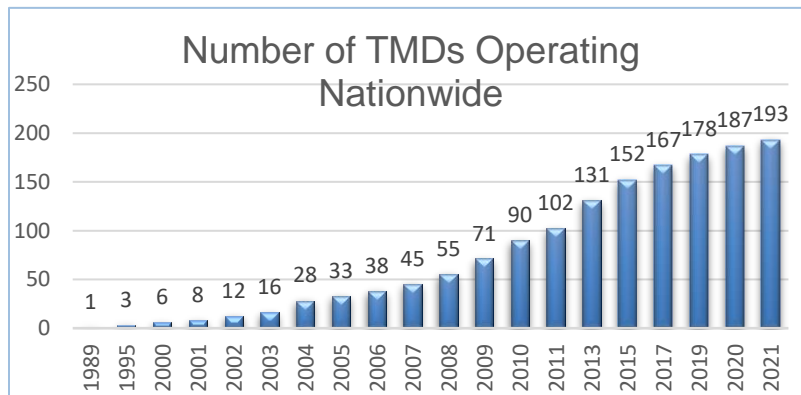
*Collection:* The City will be responsible for collecting the business improvement benefit fee on a monthly basis (including any delinquencies, penalties and interest) from each lodging business located in the boundaries of the ATMD. The City shall take all reasonable efforts to collect the business improvement benefit fee from each lodging business.

*Duration:* The proposed ATMD will have a five (5) year life, beginning July 1, 2022 or as soon as possible thereafter, and end five (5) years from its start date.

*Management:* Visit Albuquerque will serve as the ATMD's management committee. The management committee is responsible for the operations of the ATMD in accordance with this Plan, and must prepare and file annually a budget and progress report for the ATMD to be reviewed and approved by City Council. Visit Albuquerque shall establish a TMD committee as outlined on Page 12.

## II. BACKGROUND

TMDs are an evolution of the traditional Business Improvement District. The first TMD was formed in West Hollywood, California in 1989. Since then, over 180 destinations throughout the United States have followed suit. In recent years, other states have begun adopting the California model – Montana, South Dakota, Washington, Colorado, Texas and Louisiana have adopted TMD laws. Several other states are in the process of adopting their own legislation. The cities of Wichita, Kansas, Newark, New Jersey, and Newport, Rhode Island used an existing business improvement district law to form a TMD. And, some cities, like Portland, Oregon, Memphis, Tennessee, and Tampa, Florida have utilized their home rule powers to create TMDs without a state law.



Nationwide, TMDs collectively raise over \$440 million for local destination marketing. With competitors raising their budgets, and increasing rivalry for visitor dollars, it is important that Albuquerque lodging businesses invest in stable, lodging-specific marketing programs.

TMDs utilize the efficiencies of private sector operation in the market-based promotion of tourism districts. TMDs allow lodging business owners to organize their efforts to increase room night sales. Lodging business owners within the TMD pay a business improvement benefit fee and those funds are used to provide services that increase room night sales.

In New Mexico, TMDs are formed pursuant to the Business Improvement District Act. This law allows for the creation of a benefit district to raise funds within a specific geographic area. *The key difference between TMDs and other benefit districts is that funds raised are returned to the private non-profit corporation governing the district. The funds must be spent in accordance with the requirements of this Plan.*

There are many benefits to TMDs:

- Funds must be spent on services and improvements that provide a specific benefit to those who pay;
- Funds cannot be diverted to general government programs;
- They are customized to fit the needs of payors in each destination;
- They allow for a wide range of services;
- They are **designed, created and governed by those who will pay** the business improvement benefit fee; and
- They provide a stable, long-term funding source for tourism promotion.

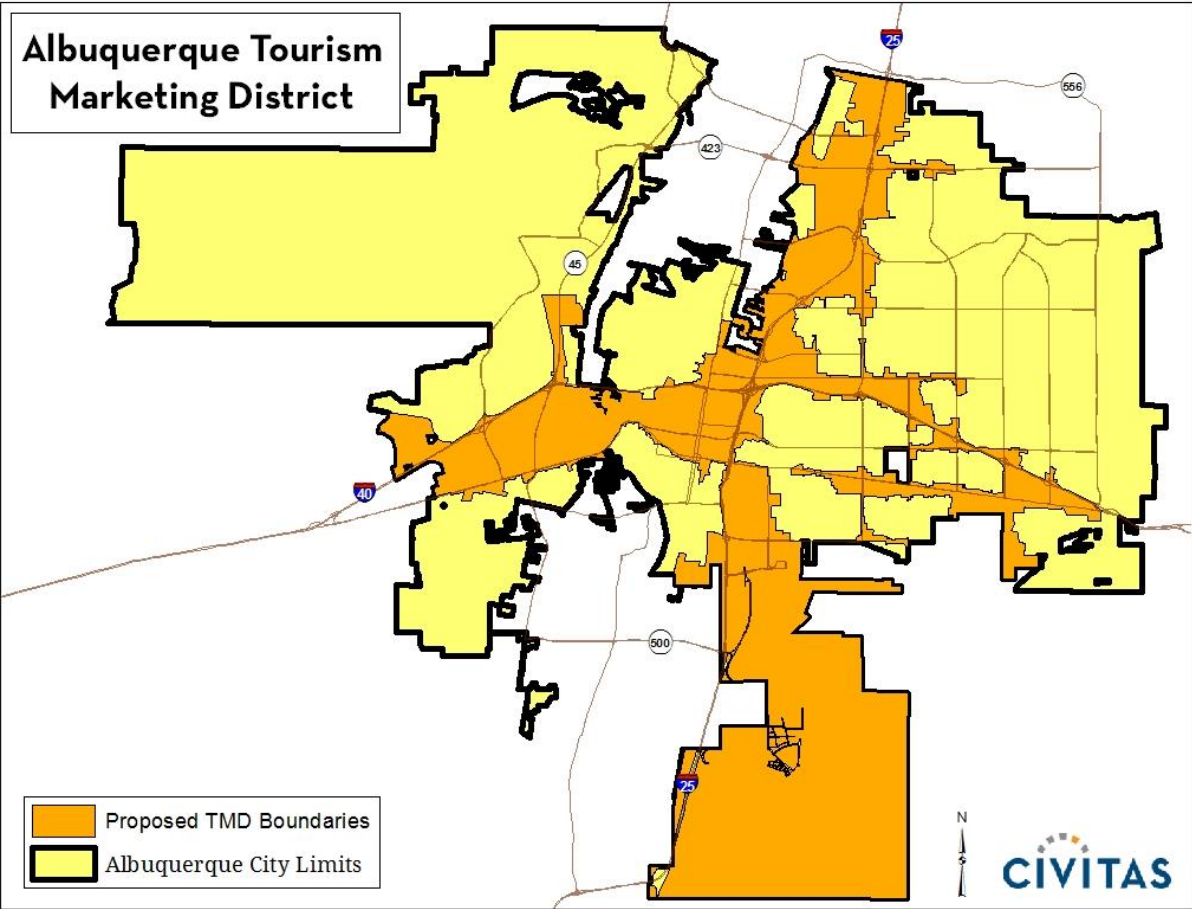
### III. BOUNDARY

The ATMD will include all lodging businesses, existing and in the future, available for public occupancy within the boundaries of the commercial areas of the City of Albuquerque.

Lodging business means: a hotel, apartment, apartment hotel, apartment house, lodge, lodging house, rooming house, motor hotel, guest house, bed and breakfast, guest ranch, ranch resort, mobile home, motor court, auto court, auto camp, trailer court, trailer camp, trailer park, tourist camp, cabin or other premises used for lodging.

Lodging business shall not include short term rental units. However, the district intends to include all lodging businesses in the near future, including short term rental units.

A complete listing of lodging businesses within the proposed ATMD can be found in Appendix 2. A detailed map book can be found in Appendix 3.



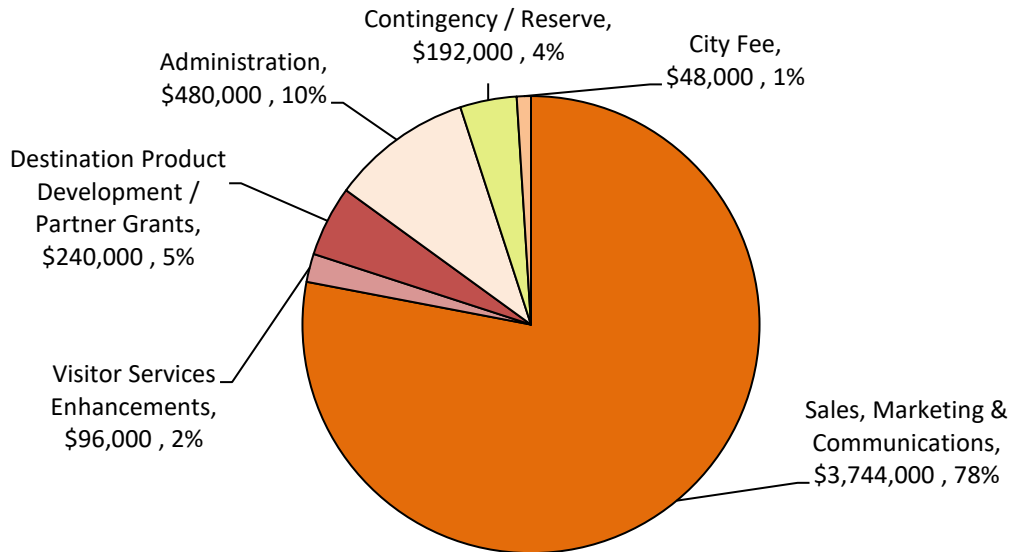
## IV. BUDGET AND SERVICES

### A. Annual Service Plan

Business improvement benefit fee funds shall be spent to provide specific benefits conferred directly to the assessed lodging businesses. The services provided with the ATMD funds shall be exclusively sales, marketing, communications, visitor services enhancements, and destination product development/partner grants programs available only to assessed lodging businesses.

A service plan budget has been developed to deliver services that benefit the assessed lodging businesses. Annually, a detailed budget will be developed by the Visit Albuquerque TMD Committee and will be reviewed and approved by the City Council. The table below illustrates the initial annual budget allocations. The total initial budget is \$4,800,000. Calculation of the ATMD budget was based on data collected prior to the COVID-19 pandemic, and may fluctuate in accordance with post-COVID economic circumstances.

### Initial Annual Budget - \$4,800,000



Although actual revenues will fluctuate due to market conditions, the proportional allocations of the budget shall remain the same. However, the TMD Committee shall have the authority to adjust budget allocations between the categories by no more than fifteen percent (15%) of the total budget per year. A description of the proposed improvements and activities for the initial year of operation is below. The same activities are proposed for subsequent years. In the event of a legal challenge against the ATMD, any and all business improvement benefit fee funds may be used for the costs of defending the ATMD. In the first year of operation, the costs of creating the ATMD may be repaid by deducting repayment funds proportionally from budget categories. Repayment costs shall not exceed \$250,000.

Each budget category includes all costs related to providing that service. For example, the sales and marketing budget includes the cost of staff time dedicated to overseeing and implementing the sales and marketing program. Staff time dedicated to administrative tasks is allocated to the administrative portion of the budget. The costs of an individual staff member may be allocated to multiple budget

categories. The staffing levels necessary to provide the services below will be determined by Visit Albuquerque on an as-needed basis.

### **Sales, Marketing & Communications**

The sales, marketing and communications program will promote assessed lodging businesses as tourist, meeting, and event destinations. The sales and marketing program will have a central theme of promoting Albuquerque as a desirable place for overnight visits. The program will have the goal of increasing overnight visitation and room night sales at assessed lodging businesses, and may include the following activities:

- Internet marketing efforts to increase awareness and optimize internet presence to drive overnight visitation and room sales to assessed lodging businesses;
- Print ads in magazines and newspapers, television ads, and radio ads targeted at potential visitors to drive overnight visitation and room sales to assessed lodging businesses;
- Attendance of trade shows to promote assessed lodging businesses;
- Sales blitzes for assessed lodging businesses;
- Familiarization tours of assessed lodging businesses;
- Preparation and production of collateral promotional materials such as brochures, flyers and maps featuring assessed lodging businesses;
- Attendance of professional industry conferences and affiliation events to promote assessed lodging businesses;
- Lead generation activities designed to attract tourists and group events to assessed lodging businesses;
- Director of Sales and General Manager meetings to plan and coordinate tourism promotion efforts for assessed lodging businesses;
- Development and maintenance of a website designed to promote assessed lodging businesses;
- Develop messaging for recovery efforts to ensure that Albuquerque is top-of-mind for potential visitors to increase demand for overnight visitation to assessed businesses;
- Development and implementation of a recovery plan for Albuquerque that will outline phases to market the destination to increase demand for overnight visitation and room sales to assessed businesses; phases could include targeting local marketing, followed by drive markets, short-fly markets, long-fly markets, and eventually key international markets; and
- Utilize research to determine recovery factors that dictate consumer sentiment towards travel to assessed businesses.

### **Visitor Services Enhancements**

The visitor services enhancement (VSE) program will provide funding for programs and initiatives based on criteria to be developed by Visit Albuquerque. The focus of the VSE program will be on the entire destination brand footprint to ensure a consistent brand experience throughout the ATMD. VSE programs may include:

- A long term ambassador program with trained staff that supplements the current level of police presence around assessed businesses and encourages overnight visitation at assessed lodging businesses;
- Welcome center and kiosk improvements including new technology-driven visitor information enhancements; and
- Brand-centric visitor services training program for both public and private sector staff.



## **Destination Product Development / Partner Grants**

Destination product development / partner grants projects will be designed to improve the visitor experience in an effort to increase overnight visitation at assessed lodging businesses. As the total number of rooms sold and room prices increases over time, the amount of available funds for projects will increase. As required by applicable law or regulation, the TMD Committee will observe all appropriate City-required practices, including but not limited to the obtaining of contracts and permits, to implement destination project development/ partner grants projects. Projects may include:

- Comprehensive and integrated wayfinding signage system including signage to parking decks and lots;
- Rubber tire trolley transportation program connecting assessed lodging businesses with downtown and other attractions, to increase room night sales;
- Art and cultural projects, to attract overnight visitors;
- Gateway enhancements, to attract overnight visitors;
- Enhancements to environmental experiences which attract overnight visitors, that expose visitors to the value of the vital ecosystems;
- Improvements to existing parks and sports facilities utilized by overnight visitors;
- Grants and Partnerships with targeted special events that attract overnight visitors;
- Safe and fun entertainment complex for young teens and adults utilized by overnight visitors;
- Live music venue which attracts overnight visitors;
- Infrastructure improvements that enhance Albuquerque's competitive position to attract desirable special events year around and attract overnight visitors; and
- Improvements to the City's downtown parking deck that make the overnight visitor experience more desirable.

## **Administration**

The administration portion of the budget shall be utilized for administrative staffing costs, office costs, advocacy, and other general administrative costs such as insurance, legal, and accounting fees. The administration portion of the budget shall not exceed ten percent (10%) of the annual budget in any year of the ATMD's term. There shall be an emphasis on spending TMD funds on programs that drive maximum benefit to the assessed lodging businesses at the least possible cost.

## **Contingency/Reserve**

The budget includes a contingency line item to account for uncollected business improvement benefit fees, if any. If there are contingency funds collected, they may be held in a reserve fund or utilized for other program, administration or renewal costs at the discretion of the TMD Committee. Policies relating to contributions to the reserve fund, the target amount of the reserve fund, and expenditure of monies from the reserve fund shall be set by the TMD Committee. Contingency/reserve funds may be spent on District programs or administrative and renewal costs. The reserve fund may be used for the costs of renewing the District.

## **City Fee**

The City of Albuquerque shall retain a fee equal to one percent (1%) of the amount of business improvement benefit fees collected to cover its costs of collection and administration.

## **B. Annual Budget**

The total five (5) year improvement and service plan budget is projected at approximately \$4,800,000 annually, or \$24,000,000 total over the term of the ATMD. This amount may fluctuate as sales and

revenue increase at assessed lodging businesses. Furthermore, as calculation of the ATMD budget was based on data collected prior to the COVID-19 pandemic, this amount may fluctuate in accordance with post-COVID economic circumstances.

### **C. Business Improvement Benefit Fee**

The annual business improvement benefit fee rate is two percent (2%) of gross room rental revenue. Based on the benefit received, business improvement benefit fees will not be collected on: stays of more than thirty (30) consecutive days; stays pursuant to a written agreement for at least thirty (30) consecutive days; stays by any person to whom rent is charged at the rate of \$2.00 per day or less; stays at institutions of the federal government, the state or any political subdivisions thereof; stays at religious, charitable, educational, or philanthropic institutions, including without limitation stays at summer camps operated by such institutions; stays at clinics, hospitals, or other medical facilities; stays at privately-operated convalescent homes or homes for the aged, infirm, indigent, or chronically ill; stays at any short term rental unit; and stays pursuant to contracts executed prior to July 1, 2022.

The term “gross room rental revenue” as used herein means: the consideration received by a lodging business in money, credits, property or other consideration value in money for lodgings. Gross room rental revenue shall not include any federal, state or local taxes collected, including but not limited to state gross receipts taxes, local sales taxes, and lodgers’ taxes.

The business improvement benefit fee is levied upon and a direct obligation of the assessed lodging business. However, the assessed lodging business may, at its discretion, pass the business improvement benefit fee on to transients. The amount of the business improvement benefit fee, if passed on to each transient, shall be disclosed in advance and separately stated from the amount of rent charged and any other applicable taxes, and each transient shall receive a receipt for payment from the lodging business. The business improvement benefit fee shall be disclosed as the “Tourism Marketing Benefit Fee.” The business improvement benefit fee is imposed solely upon, and is the sole obligation of the assessed lodging business even if it is passed on to transients. The business improvement benefit fee shall not be considered taxable revenue for any purposes, including calculation of lodgers’ taxes.

Bonds shall not be issued that are secured by ATMD revenue for the provision of ATMD programs or for the retirement of pre-existing debt of the City of Albuquerque.

### **D. Penalties and Interest**

The ATMD shall reimburse the City of Albuquerque for any costs associated with collecting unpaid business improvement benefit fees. If sums in excess of the delinquent ATMD business improvement benefit fees are sought to be recovered in the same collection action by the City, the ATMD shall bear its pro rata share of such collection costs. Assessed lodging businesses which are delinquent in paying the business improvement benefit fee shall be responsible for paying:

1. *Original Delinquency:* Lodging businesses shall make a return by the 25<sup>th</sup> of each month on forms provided by the City for lodging paid to the lodging business in the preceding calendar month and shall remit therewith to the City payment of the business improvement fee then. The report shall include sufficient information to enable the City to audit the report. If the 25<sup>th</sup> day of the month falls on a weekend or holiday, the return shall be due on the next business day. If any lodging business makes a return without paying the business improvement benefit fee then due, the lodging business shall be liable for the business improvement benefit fee and a penalty equal to ten percent (10%) thereof or \$100, whichever is greater. Promptly after receipt of such return, the City shall give the delinquent lodging business written notice of the business improvement benefit fee and penalty.

2. *Neglect or Refusal to Make Return:* If any lodging business neglects or refuses to make a return and pay the business improvement benefit fee, the Mayor shall make an estimate based upon an examination of the lodging business' books and records, or upon any information in its possession or that may come into its possession, of the amount of gross room rental revenue of the delinquent lodging business for the period in respect to which the lodging business has failed to make a return, and upon the basis of said estimated amount shall compute and assess the business improvement benefit fee payable by the delinquent lodging business, adding to this amount a penalty equal to ten percent (10%) thereof or \$100, whichever is greater. Promptly thereafter the City shall give the delinquent lodging business written notice of the estimated business improvement benefit fee and penalty.
3. *Continued Delinquency:* If payment is not made by the lodging business within fifteen (15) days of the date of the notice that the business improvement benefit fee is delinquent, the Mayor may bring an action in law or equity in the district court for the collection of any amounts due, including without limitation penalties thereon, interest on the unpaid principal at a rate of not exceeding one percent (1%) a month, the costs of collection and reasonable attorneys' fees incurred in connection therewith.
4. *Continuous Surety Bond:* A Continuous Surety Bond naming the City as beneficiary in the amount of \$3,000 plus \$60 per room or individual sleeping accommodation available for use by the public shall be posted and filed with the City Clerk upon a lodging business' failure to remit business improvement benefit fees for two (2) consecutive months. If payment or posting Continuous Surety Bond is not made by the lodging business within fifteen (15) days of the date of notice that the business improvement benefit fee is delinquent, the Mayor may bring an action in law or equity in the district court for the collection of any amount due, including without limitation penalties thereon, interest on the unpaid principal at a rate not exceeding one percent (1%) a month, the costs of collection and reasonable attorneys' fees incurred in connection therewith. Continuous Surety Bond shall remain in force three (3) years from date of issuance per arrear incident applicable. Continuous Surety Bond may be augmented or applied to any succeeding arrear business improvement benefit fee due the City of Albuquerque.
5. *Lodging Business Disputes:* A lodging business that disputes the assessment of any business improvement benefit fee or related penalties and interest may, within five (5) working days of the date of the notice from the City that the business improvement benefit fee is delinquent, appeal the Mayor's decision to the City Hearing Officer as set forth in § 4-4-9 of the Municipal Code of the City of Albuquerque.

#### **E. Time and Manner for Collecting Business Improvement Benefit Fees**

The ATMD business improvement benefit fee shall be implemented beginning July 1, 2022 or as soon as possible thereafter, and end five (5) years from its start date. The City shall be responsible for collecting the business improvement benefit fee on a monthly basis (including any delinquencies, penalties and interest) from each lodging business and remitting the funds to Visit Albuquerque. The City shall take all reasonable efforts to collect the business improvement benefit fee from each lodging business. The City shall forward the business improvement benefit fees to the management committee, Visit Albuquerque, on a monthly basis, less the one percent (1%) city fee.

#### **F. Baseline Level of Services**

The ATMD funded services will supplement, not supplant, the City's pre-existing marketing programs. The "baseline level of services" is those tourism marketing services funded by the City of Albuquerque at a rate of 42% of total Lodgers' Tax & Hospitality Fee collections and the services provided pursuant to the City's existing contract for marketing services with Visit Albuquerque are

considered the baseline level of services. In the event the City of Albuquerque reduces tourism marketing funding to a level below the baseline subsequent to the formation of the ATMD, it is the intent of ATMD lodging businesses to gather petitions to disestablish the ATMD.

**G. Dissolution of District**

Once per year, beginning on the anniversary of the ATMD formation, there shall be a thirty (30) day period in which ten (10) or more business owners comprising at least fifty-one percent (51%) of the total business owners in the ATMD may protest and initiate a City Council hearing on ATMD termination. If business owners comprising at least fifty-one percent (51%) of the total business owners of the proposed assessment submit disestablishment petitions, the City shall notice a hearing on the disestablishment of the ATMD.

## **V. GOVERNANCE**

### **A. Management Committee**

The City Council, through adoption of the ordinance creating the ATMD and pursuant to § 3-63-11 NMSA, shall appoint an existing nonprofit corporation that operates within the boundaries of the ATMD, to serve as the ATMD's management committee and administer and implement this Plan. The City Council has determined that Visit Albuquerque shall serve as the management committee for the ATMD. Visit Albuquerque shall establish a TMD Committee comprised solely of lodging business owners or owner representatives paying the TMD assessment. The committee shall be responsible for approving the budget for TMD funds and managing expenditures.

### **B. Duties and Responsibilities of the Management Committee**

As the ATMD's management committee, Visit Albuquerque shall perform the following duties and responsibilities:

- Prepare and file annually with the City Council for its review and approval a budget and progress report for the ATMD;
- Administer all improvements within the ATMD;
- Recommend the annual assessment to be made by the City Council; and
- File annually with the City Council a report of the ATMD activities for the preceding fiscal year, which report shall include a complete financial statement setting forth its assets, liabilities, income and operating expenses as of the end of the fiscal year and the benefits of the ATMD's program to the business owners of the ATMD.

## **APPENDIX 1 – LAW**

### **ARTICLE 63**

#### **Business Improvement Districts**

##### **3-63-1. Short title.**

This act [3-63-1 through 3-63-16 NMSA 1978] may be cited as the "Business Improvement District Act".

##### **3-63-2. Purpose of act.**

The purpose of the Business Improvement District Act is to:

A. promote and restore the economic vitality of areas within municipalities by allowing the establishment of business improvement districts with the powers to provide for the administration and financing of additional and extended services to businesses within business improvement districts;

B. finance local improvements within those districts; and

C. provide municipalities and entrepreneurs a more flexible and proactive vehicle to collaborate in the revitalization efforts of their downtowns, commercial districts and central business districts.

##### **3-63-3. Definitions.**

As used in the Business Improvement District Act:

A. "business" means a fixed place of business within an incorporated municipality where one or more persons are employed or engaged in the purchase, sale, provision or manufacturing of commodities, products or services, and includes the ownership of unoccupied real property that is held for commercial investment purposes, for sale or for lease;

B. "council" means the governing body of the incorporated municipality within which the district is found;

C. "district" means an entity having a contiguous area of clearly defined boundaries within an incorporated municipality in which at least three-quarters of the area is zoned and used for business or mixed commercial or retail use, that is established pursuant to the Business Improvement District Act in which the improvements are to be constructed and upon which the business improvement benefit fee for the costs of the improvements is to be imposed;

D. "improvement" means any one or any combination of services or projects in one or more locations authorized pursuant to the Business Improvement District Act;

E. "management committee" means the district management committee as established pursuant to the Business Improvement District Act;

F. "planning group" means a group appointed by the council to prepare the proposed district plans as provided in the Business Improvement District Act; and

G. "real property" means real property that is used to engage in the purchase, sale, provision or manufacturing of commodities, products or services and unoccupied real property that is held for commercial investment purposes, for sale or for lease.

##### **3-63-4. District creation; purpose; improvement; authority.**

A district may be created pursuant to the Business Improvement District Act to provide services that shall attempt to restore or promote the economic vitality of the district and the general welfare of the incorporated municipality.

### **3-63-5. District; authority; creation.**

A. A district shall assess a business improvement benefit fee on any real property or business located within the district.

B. A district shall include any real property or business that benefits by the improvements set out in the business improvement district plan and that is located within the district's geographic boundaries.

C. The district benefit fee assessment schedule shall not include:

- (1) governmentally owned real property;
- (2) residential real property that is not multifamily residential rental property with at least four units or homeowners associations of multifamily ownership properties;
- (3) real property owned by a nonprofit corporation; or
- (4) residential real property, located within an existing district, that became eligible for a business improvement benefit fee assessment after the district was created, unless the ordinance that created the district is amended to include the new business or property after notice is provided and a hearing is held in accordance with Section 3-63-10 NMSA 1978.

D. A district may be created by petition of real property owners or by petition of business owners in a proposed district after notice and public hearing.

### **3-63-6. Creation by petition.**

A. Whenever ten or more business owners comprising at least fifty-one percent of the total business owners in the proposed district or whenever five or more real property owners comprising at least fifty-one percent of the total real property owners in the proposed district, exclusive of any real property owned by the United States or the state or any of its political subdivisions, petition the council in writing to create a district, the council shall refer the petition to a planning group to prepare a plan pursuant to the provisions of the Business Improvement District Act to implement the creation of the district. The plans shall:

- (1) state the purpose for the creation of the district;
- (2) describe in general terms the real property to be included in the district;
- (3) provide an assessment plat of the area to be included in the district showing an estimate of the benefits to such real property and an amount estimated to be assessed against each parcel of real property;
- (4) provide such other information as the council deems necessary for the proper evaluation of the plan;
- (5) in the case of a petition brought by a majority of business owners within a proposed district, describe in general terms both the real property and the businesses included in the district; and
- (6) in the case of a petition brought by a majority of business owners within a proposed district, provide a formula to be used to assess businesses in the district for the business improvement benefit fee to be collected along with the municipal property tax.

B. After the completion of the plan, the planning group shall have the municipal clerk give notice of a hearing on the proposed plan.

C. If after the hearing the planning group recommends to the council the creation of the district as proposed or amended, the council may adopt by ordinance the proposed district requested by petition and as described by the plan.

### **3-63-7. Ordinance creating the district.**

The ordinance to create a district shall include:

- A. a list of improvements to be provided by the district;
- B. the amount of benefit estimated to be conferred on each tract or parcel of real property;

- C. a description of the real property or businesses to be assessed a business improvement benefit fee;
- D. the assessment method to be used to finance the improvements of the district;
- E. the amount of the assessment to be imposed on each real property owner; and
- F. the terms of members, method of appointment and duties of the management committee for the district.

### **3-63-8. Repealed.**

### **3-63-9. Planning group.**

Upon the initiation of a proposed district, the council shall appoint a planning group consisting of not more than five members, not less than one of which shall be a business owner and not less than two of which shall be real property owners, subject to the assessment, located within the proposed district.

### **3-63-10. Notice and hearing.**

A. The notice of public hearing required by the Business Improvement District Act shall contain:

- (1) the time and place where the planning committee will hold a hearing on the proposed district and improvements;
- (2) the estimated cost of improvements;
- (3) the boundary of the district; and
- (4) the recommended formula or the preliminary estimate of assessment of a business improvement benefit fee against each tract or parcel of real property or business.

B. The notice of the public hearing shall be mailed to the affected real property owners or business owners in the proposed district at least thirty days prior to the date of the hearing. In addition, notice shall be published once each week for two successive weeks in a newspaper of general circulation in the municipality in which the proposed district lies. The last publication shall be at least three days before the date of the hearing.

C. Any citizen, business owner or real property owner affected by the proposed district shall be given opportunity to appear at the public hearing and present his views on the creation of the district as outlined in the preliminary plan.

D. Upon completion of the hearing, the planning group shall present its recommendation on the creation of the proposed district. If the recommendation is against the creation of the district, the council may not adopt an ordinance creating the district.

### **3-63-11. Management committee; creation; duties.**

A. The council, upon adoption of an ordinance creating a district, shall appoint a management committee that shall be responsible for the operation of the district in one of the following manners:

- (1) the council shall appoint an existing downtown, community or central business district revitalization nonprofit corporation that operates within the boundaries of the district, to administer and implement the business improvement district plan; or
- (2) the council shall appoint a management committee to administer and implement the business improvement district plan from nominees submitted by the owners of businesses and the owners of real property located in the district.

B. The management committee shall prepare and file annually with the council for its review and approval a budget and progress report for the district.

C. The management committee shall administer all improvements within the district.

D. The management committee shall recommend the annual assessment to be made by the council.



E. The management committee shall file annually with the council a report of the district activities for the preceding fiscal year, which report shall include a complete financial statement setting forth its assets, liabilities, income and operating expenses as of the end of the fiscal year and the benefits of the district's program to the real property and business owners of the district.

F. The management committee shall be a nonprofit corporation created pursuant to the Nonprofit Corporation Act [Chapter 53, Article 8 NMSA 1978].

### **3-63-12. Issuance and sale of bonds.**

A. An incorporated municipality shall have power to issue business improvement district revenue bonds from time to time in its discretion to finance the undertaking of any improvement within a district or the exercise of any power, authorized or delegated under the Business Improvement District Act, including but not limited to the issuance of bonds to pay the costs of installation, acquisition, construction or reconstruction of any public facility within the district's area of operation. An incorporated municipality shall also have power to issue refunding bonds for the payment or retirement of bonds previously issued by it pursuant to the Business Improvement District Act. These bonds shall be made payable as to both principal and interest solely from the income, proceeds, revenues and funds of the incorporated municipality derived from or held in connection with its undertakings and carrying out of authorized improvements within a district or activities under the Business Improvement District Act. Payment of these bonds, both as to principal and interest, may be further secured by a pledge of any loan, grant or contribution from the federal government or other source in aid of any improvements within a district under the Business Improvement District Act and by a mortgage or pledge of any of the real property acquired within a district or otherwise pursuant to the authority granted by the Business Improvement District Act.

B. Bonds issued under this section shall not constitute an indebtedness within the meaning of any constitutional or statutory debt limitation or restriction and shall not be subject to the provisions of any other law or charter relating to the authorization, issuance or sale of bonds. Bonds issued under the provisions of the Business Improvement District Act are declared to be issued for an essential public and governmental purpose and the bonds and interest and income from them shall be exempted from all taxes.

C. Bonds issued under this section shall be authorized by ordinance of the council if the authorization and planned issuance of the bonds was included in an improvement approved by the council and may be issued in one or more series and shall bear a date or dates, be payable upon demand or mature at a time or times, bear interest at a rate or rates not exceeding the legally authorized rate, be in a denomination or denominations, be in the form provided by the Supplemental Public Securities Act [~~6-14-8~~ through ~~6-14-11~~ NMSA 1978] as to registration, have rank or priority, be executed in a manner, be payable in a medium of payment at a place or places, be subject to the terms of redemption, with or without premium, be secured in a manner and have the other characteristics as may be provided by the resolution or trust indenture or mortgage issued pursuant thereto.

D. The bonds or any portion of the bonds may be sold at not less than par at public sales held after notice published prior to the sale in a newspaper having a general circulation in the area of operation and in any other medium of publication as the council may determine. The bonds may be exchanged for other bonds on the basis of par. The bonds may be sold to the federal government or to the state at private sale at not less than par, and, in the event less than all of the authorized principal amount of the bonds is sold to the federal government or to the state, the balance may be sold at private sale at not less than par at an interest cost to the incorporated municipality of not to exceed the interest cost to the incorporated municipality of the portion of the bonds sold to the federal government.

E. In case any of the public officials of the incorporated municipality whose signatures appear on any bonds or coupons issued under the Business Improvement District Act shall cease to be public officials before the delivery of the bonds, the signatures shall, nevertheless, be valid and sufficient for

all purposes, the same as if the officials had remained in office until delivery. Any bonds issued pursuant to the Business Improvement District Act shall be fully negotiable.

F. In any suit, action or proceeding involving the validity or enforceability of any bond issued under the Business Improvement District Act or the security therefor, any bond reciting in substance that it has been issued by the incorporated municipality in connection with authorized improvements within a district shall be conclusively deemed to have been issued for that purpose, and the project shall be conclusively deemed to have been planned, located and carried out in accordance with the provisions of the Business Improvement District Act.

### **3-63-13. Annual assessment; special account.**

A. The council, upon recommendation of the management committee, may annually assess a business improvement benefit fee as defined by the ordinance upon all real property owners and business owners, exclusive of:

- (1) governmentally owned real property;
- (2) residential real property that is not multifamily residential rental property with at least four units or homeowners associations of multifamily ownership properties;
- (3) real property owned by a nonprofit corporation; or
- (4) residential real property, located within an existing district, that became eligible for a business improvement benefit fee assessment after the district was created, unless the ordinance that created the district is amended to include the new business or property after notice is provided and a hearing is held in accordance with Section 3-63-10 NMSA 1978.

B. The council may make reasonable classifications regarding real property owners located within the district. The annual assessment may be based on the amount of space used for business purposes, street front footage, building or land square footage or such other factors or combination of factors as shall be deemed reasonable. The annual assessment shall be in addition to any other incorporated municipal-imposed license fees or other taxes, fees or other charges assessed or levied for the general benefit and use of the incorporated municipality.

C. All money received by the municipality from the district assessment shall be held in a special account for the benefit of the district.

D. In the case of a district that was created by a majority of real property owners, the amount owed by a commercial tenant shall be proportional to the square footage of space that the tenant rents but shall not be more than seventy-five percent of the total business improvement benefit fee assessed on the property. The property owner shall pay at least twenty-five percent of the business improvement benefit fee.

E. In the case of a district that was created by a majority of businesses, the business improvement benefit fee shall be collected at the same time that the real property owner's property taxes are collected. Businesses shall be assessed for one hundred percent of the business fee assessed to the property.

### **3-63-14. Assessments; terms of payment; liens; foreclosure.**

A. The council shall by ordinance:

- (1) establish the time and terms of paying the business improvement benefit fee or installments on the fee;
- (2) set any rate or rates of interest upon deferred payments of the fee, which shall commence from the last date of publication of the ordinance ratifying the assessment;
- (3) fix penalties to be charged for delinquent payment of an assessment;
- (4) establish procedures and guidelines for the classification of property for the fee;
- (5) set a reasonable charge to recover the municipality's expense for the assessment, collection and administration of the fee; and

(6) provide for the control and investment and order the expenditure of all money pertaining to the district.

B. The same interest rate shall be set for fees which are payable over the same time period. No rate or rates of interest in excess of twelve percent a year upon such deferred payments of the fee shall become effective unless the state board of finance or any successor thereof at any time approves a higher interest rate in writing based upon the determination of the state board of finance that the higher rate is reasonable under existing or anticipated bond market conditions, which approval shall be conclusive.

C. After the publication of the ordinance ratifying the assessment, as provided in the Business Improvement District Act, the assessment together with any interest or penalty accruing to the assessment is a lien upon the tract or parcel of land so assessed. Such a lien is coequal with the lien for general real property taxes and the lien of other improvement districts and all other liens, claims and titles. Unmatured installments are not deemed to be within the terms of any general covenant or warranty. All purchasers, mortgagees or encumbrancers of a tract or parcel of land so assessed shall hold the tract or parcel of land subject to the lien so created.

D. Within sixty days after the publication of the assessment roll for a district, the municipal clerk shall prepare, sign, attest with the municipal seal and record in the office of the county clerk a claim of lien for any unpaid amount due and assessed against a tract or parcel of land.

E. Any tract or parcel so assessed shall not be relieved from the assessment or lien by the sale of the tract or parcel of land for general taxes or any other assessment.

### **3-63-15. District review.**

The council shall review each district every five years, and prior to the issuance of business improvement district revenue bonds other than those issued or committed during the first five-year period, to determine whether the district should remain in existence. If a majority of the council decides that the purpose for which the district was created has been served and that it is in the best interest for the district, the council shall terminate the district's status by ordinance or resolution and record this with the municipal clerk. If upon termination of a district's status there is an outstanding revenue bond obligation, the municipality shall continue to assess the business improvement benefit fee for the life of the outstanding bond.

### **3-63-16. Business improvement benefit fee distribution.**

The business improvement benefit fee shall be distributed to the management committee on an annual basis pursuant to rules and guidelines established by the council and in accordance with the approved budget of the management committee.

## APPENDIX 2 – ASSESSED LODGING BUSINESSES

Lodging Business	Address
Adobe Manor	7412 Central Ave SW
Albuquerque KOA	12400 SKYLINE RD NE
Albuquerque Inn	7640 Central Ave SE
Albuquerque Marriott Hotel	2101 Louisiana Blvd NE
Albuquerque Marriott Pyramid North	5151 San Francisco Rd NE
Albuquerque Sleep Inn Airport	2300 International Airport SE
Ambassador Inn	1520 Candelaria NE
Amberly Courtyard Inn & Suites	25 1/2 Hotel Circle NE
American Inn & Suites	7407 Central Ave SE
Americana Motel	5908 Central Ave SW
Amerstone Inn	25 Hotel Circle NE
Barcelona Suites	900 Louisiana Blvd NE
Baymont Inn	2601 Mulberry Street SE
Best Western Executive Suites	4630 Pan American Fwy NE
Best Western Inn Suites Hotel & Suites Airport	2400 Yale Blvd NE
Best Western Plus Rio Grande Inn	1015 Rio Grande Blvd NW
Bottger Mansion of Old Town	110 SAN FELIPE NW
Bow & Arrow Lodge	8300 Central Ave SE
Casas de Suenos	310 RIO GRANDE BLVD SW
Comfort Inn & Suites Alameda	5811 Signal Ave NE
Comfort Inn & Suites Downtown	411 McKnight Ave NW
Comfort Inn Airport	1801 Yale Blvd SE
Comfort Suites Albuquerque Airport	1401 WOODWARD RD SE
Comfort Suites North	5251 San Antonio Dr NE
Coronado Village	8401 Pan American Fwy NE
Court John Motel	2700 4th Street NW
Courtyard by Marriott - Airport	1920 Yale Blvd SE
Courtyard by Marriott/Journal Center	5151 Journal Center Blvd NE
Crossroads Motel	1001 Central Ave NE
Crowne Plaza Hotel	1901 University Blvd NE
Days Inn & Suites Airport	2331 Centre Ave SE
Days Inn & Suites North	5101 Ellison NE
Days Inn Hotel Circle	10321 Hotel Ave NE
Days Inn West	6031 Iliff Rd NW
Desert Sands Inn & Suites	13317 Central Ave NE
DoubleTree Hotel	201 Marquette Ave NW

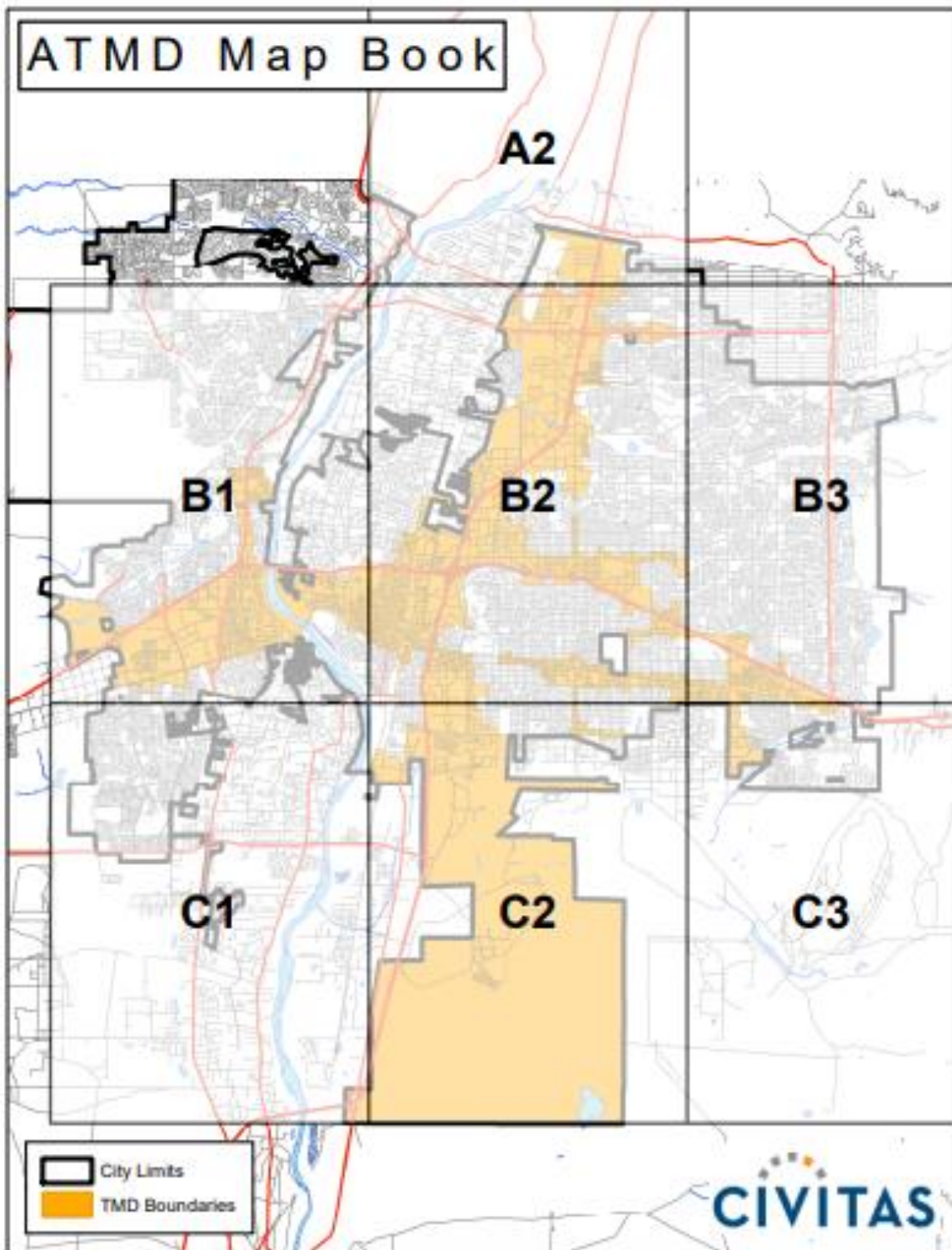
Downtown Days Inn	615 Central Ave NE
Downtown Inn	1213 Central Ave NW
Drury Inn & Suites	4310 the 25 Way NE
EconoLodge - Downtown	817 Central Ave NE
EconoLodge - East	13211 Central Ave NE
EconoLodge - Old Town	2321 Central Ave NW
Econolodge Inn & Suites	10331 Hotel Ave NE
EconoLodge West	5712 Iliff Rd NW
El Cuervo ABQ	701 ROMA AV NW
El Don Motel	2222 Central Ave SW
El Vado	2500 Central SW
Embassy Suites Hotel	1000 Woodward Pl NE
Extend-A-Suites ABQ West	5701 Iliff Rd NW
Extended Stay America	2321 International Ave SE
Fairfield Inn by Marriott - Airport	2300 Centre Ave SE
Fairfield Inn by Marriott - Midtown	1760 Menaul Blvd NE
Fairfield Inn by Marriott - North	4875 Pan American West NE
French Quarter Motel	9317 Central Ave NW
Grandview	9700 Central Ave SW
GreenTree Inn Albuquerque North	7630 Pan American Fwy NE
Hampton Inn Airport	1300 Woodward Rd SE
Hampton Inn Midtown	2300 Carlisle Blvd NE
Hampton Inn North	4412 The 25 Way NE
Hampton Inn West	6150 Iliff Rd NW
Hilton Garden Hotel - Airport	2601 Yale Blvd SE
Hilton Garden Inn	222 Central Ave SE
Hilton Garden Inn Journal Center	5320 San Antonion NE
Hilton Garden Inn Uptown	6501 Americas Parkway NE
Holiday Inn & Suites Airport	1501 Sunport Pl SE
Holiday Inn & Suites North	5050 Jefferson NE
Holiday Inn Express - Alameda	5401 Alameda Blvd NE
Holiday Inn Express & Suites Albuquerque East	10501 COPPER POINTE WAY NE
Holiday Inn Express Airport	1921 Yale Blvd SE
Holiday Inn Express Midtown	2500 Menaul Blvd NE
Home2 Suites by Hilton	1660 University Blvd NE
Homewood Suites Airport	1520 Sunport Pl SE
Homewood Suites Downtown	222 Central Ave SE
Homewood Suites Journal Center	5400 San Antonio NE
Homewood Suites Uptown	7101 Arvada Ave NE

Hotel Albuquerque at Old Town	800 Rio Grande Blvd NW
Hotel Andaluz	125 2nd Street NW
Hotel Chaco	2000 Bellamah Ave NW
Hotel Parq Central	806 Central Ave SE
Howard Johnson Midtown	900 Medical Arts Ave NE
Hyatt Place Airport	1400 Sunport Pl SE
Hyatt Place Uptown	6901 Arvada Ave NE
Hyatt Regency Albuquerque	330 Tijeras Ave NW
InTown Suites	4676 Commerce Ave NE
La Hacienda Motel	6214 Central Ave SW
La Quinta Inn Airport	2116 Yale Blvd SE
La Quinta Inn Northeast	5241 San Antonio Dr NE
La Quinta Inn West	6101 Iliff Rd NW
La Quinta Midtown	2011 Menaul NE
La Quinta Northwest	7439 Pan American Fwy NE
Lazy H	5601 Central Ave NE
Luxury Hotel	6718 Central Ave SE
Microtel West	9910 Avalon Rd NW
Midtown Inn & Suites	2120 Menaul Blvd NE
Monterey Motel	2402 Central Ave SW
Motel 6 - Ave Cesar Chavez	1000 Avenida Cesar Chavez
Motel 6 - Central	13141 Central Ave NE
Motel 6 - Pam Am	8510 Pan American Fwy NE
Motel 6 - Prospect	3400 Prospect Ave NE
Motel 6 - University	1701 University Blvd NE
Motel 6 - West	6015 Iliff Rd NW
Motel 76 - Candelaria	2007 Candelaria Rd NE
Mountain View Inn & Suites & RV Park	12999 Central Ave NE
Nativo Lodge	6000 Pan American Fwy NE
Painted Lady Bed & Brew	1100 Bellamah Ave NW
Pinon Motel	8501 Central Ave NE
Quality Inn	450 Paisano NE
Quality Inn & Suites	5601 Alameda Blvd NE
Quality Inn & Suites	1315 Menaul Blvd NE
Quality Inn & Suites West	6100 Iliff Rd NW
Quality Suites - Airport	1501 Gibson Blvd SE
Ramada Airport	2300 Yale Blvd SE
Ramada by Wyndham Albuquerque Midtown	2020 Menaul Blvd NE
Red Roof Inn	2015 Menaul Blvd NE

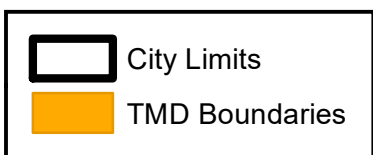
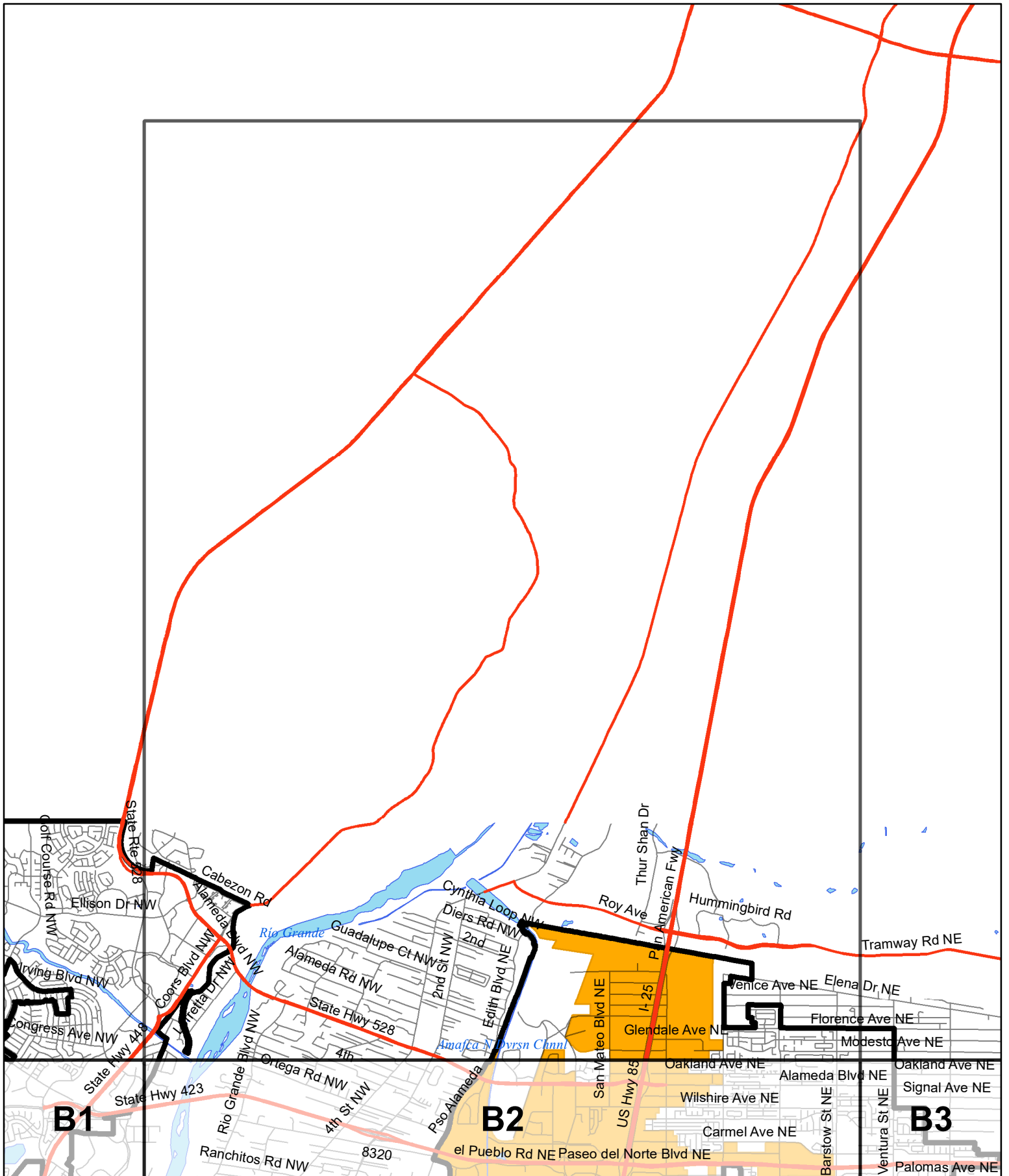
Residence Inn by Marriott Airport	2301 International Dr SE
Residence Inn by Marriott North	4331 the Lane @ 25 NE
Rodeway Inn Albuquerque Downtown on Rt 66	801 Central Ave NE
San Mateo Inn & Suites	2424 San Mateo Blvd NE
Sandia Peak Inn	4614 Central Ave SW
Sheraton Airport	2910 Yale Blvd SE
Sheraton Albuquerque Uptown	2600 Louisiana Blvd NE
Siegel Select	2500 University Blvd NE
Siegel Select-Albuquerque II	5020 Ellison St NE
Sonesta ES Suites Albuquerque	3300 Prospect Ave NE
Sonesta Simply Suites	3025 Menaul Blvd NE
Southwest Suites Inc	5840 Osuna Rd NE
Springhill Suites by Marriott Journal Center	5910 Holly Ave NE
Springhill Suites by Marriott University Area	1101 CENTRAL AVE NE
Staybridge Suites	5817 Signal Ave NE
Staybridge Suites Airport	1350 Sunport Pl SE
Studio 6 #6029	4441 Osuna Rd NE
Suburban Extended Stay	2401 Wellesley Dr NE
Suburban Extended Stay Hotel East	13031 Central Ave NE
Super 8 Airport	2231 Yale Blvd SE
Super 8 Motel West	6030 Iliff Rd NW
SureStay Hotel by Best Western Albuquerque Midtown	1635 Candelaria Rd NE
SureStay Plus by Best Western Albuquerque	10330 Hotel Ave NE
Tewa Motor Lodge	5715 Central Ave NE
Towne Place Suites by Marriott	5511 Office NE
Towne Place Suites by Marriott	2400 Centre Ave SE
Travelodge	601 Paisano Street NE
Travelodge by Wyndham Albuquerque West	6012 Iliff Rd NW
Tru by Hilton	5001 JEFFERSON ST NE
University Lodge	3711 Central Ave NE
University Village Hotel	1901 University Blvd SE
Westward Ho Motel	7500 Central Ave SW
Woodspring Suites Albuquerque	13001 Central Ave NE

\*List as of February 2022

APPENDIX 3 – MAP BOOK







Map Book Page:  
A2



