

CITY of ALBUQUERQUE

TWENTY FIFTH COUNCIL

COUNCIL BILL NO. R-23-137

ENACTMENT NO. 3-2023-055

SPONSORED BY: Isaac Benton, by request

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RESOLUTION

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

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

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

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

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

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

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

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

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

1 WHEREAS, the Plan and Project meets the objectives of the Act and will
2 benefit the City's efforts to revitalize the Historic Central Metropolitan
3 Redevelopment Area of the City; and
4 WHEREAS, the Plan has been filed with the City Clerk and presented to the
5 Council; and
6 WHEREAS, the Council has held a public hearing on the Plan and the
7 Project; and
8 WHEREAS, the form of the Lease has been filed with the City Clerk and
9 presented to the Council (the Lease and Deed are collectively referred to in the
10 Resolution as the "Project Documents"); and
11 WHEREAS, the Council has determined that it is in the best interest of the
12 City to approve the Project and to execute and deliver the Project Documents,
13 and other documents related thereto; and
14 WHEREAS, the City is authorized to execute the Project Documents, in
15 form, under the Act and this Resolution, and has concluded that it is desirable
16 at this time to approve the Project which constitutes a valid public purpose.

17 BE IT RESOLVED BY THE COUNCIL, THE GOVERNING BODY OF THE CITY OF
18 ALBUQUERQUE:

19 Section 1. RATIFICATION. All actions not inconsistent with the provisions
20 of this Resolution previously taken by the Council and the officials of the City
21 directed toward approval of the Plan and the Project should be approved and
22 the same hereby are ratified, approved and confirmed.

23 Section 2. FINDINGS. The Council hereby declares that it has considered
24 all relevant information presented to it relating to the Plan and the Project and
25 hereby finds and determines that approval of the Plan and the Project, and the
26 execution of the Project Documents, pursuant to this Resolution are
27 necessary and advisable and in the interest of and will promote the public
28 health, safety, morals, convenience, education, economy and welfare of the
29 City and the residents of the City. The Council finds that:

30 (1) The Plan and the proposed activities under the Plan aid in the
31 elimination or prevention of slum or blight;
32 (2) The Plan conforms to the general plan for the City as a whole and the
33 terms of the Historic Central Metropolitan Redevelopment Plan;

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

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

6 (5) The Project property comprises of four-story mixed-use property
7 offering 34 housing units and 1,700 SF of retail/commercial space on
8 approximately 0.58 acres located near Central Avenue and 16th Street
9 Northwest in central Albuquerque, New Mexico, all within the Historic Central
10 Metropolitan Redevelopment Area.

11 **Section 3. THE PROJECT.** The City shall acquire the Project for the
12 purposes hereinabove described, and the Project shall be located at all times
13 within the corporate limits of the City and within the Historic Central
14 Metropolitan Redevelopment Area.

15 **Section 4. PLAN APPROVAL.**

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

18 **Section 5. AUTHORIZATION OF OFFICERS; APPROVAL OF DOCUMENTS;**
19 **ACTIONS TO BE TAKEN.**

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

23 B. The Mayor or Chief Administrative Officer of the City is authorized to
24 execute and deliver in the name and on behalf of the City, and the City Clerk or
25 Deputy City Clerk is hereby authorized to attest, as necessary, the Project
26 Documents with such changes therein as are not inconsistent with this
27 Resolution.

28 C. The Mayor, Chief Administrative Officer, Treasurer and City Clerk are
29 further authorized to execute, authenticate and deliver such certifications,
30 instruments, documents, letters and other agreements and to do such other
31 acts and things as are necessary or appropriate to consummate the
32 transactions contemplated by the Project Documents and the Plan.

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1 D. The officers of the City shall take such action as is necessary to
2 effectuate the provisions of the Project Documents and shall take such action
3 as is necessary in conformity with the Act for the Project and for carrying out
4 other transactions as contemplated by this Resolution and the Project
5 Documents.

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

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

11 Section 7. PROJECT LEASE PROVISIONS. Project will be subject to
12 annual retail/commercial occupancy rates per the Lease.

13 Section 8. FINDINGS REGARDING PROPERTY TAX ABATEMENT AND
14 OTHER MATTERS. The Council makes the following determinations and
15 findings:

16 A. The Company is committed to provide fair consideration under the
17 Lease through planned improvements to the Project pursuant to the Project
18 Documents and the Act and comply with the terms of the Lease.

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

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

24 D. In accordance with Section 7-36-3.1, NMSA 1978, as amended and
25 supplemented, the Project property shall be exempt from property taxation on
26 the improvements to the Project for the shorter of the period of time in which
27 the City owns the Project or December 31 of the year in which the seventh
28 anniversary of the acquisition of the Project property by the City will occur.

29 Section 9. LIMITED OBLIGATIONS. Nothing contained in the Resolution or
30 in the Project Documents or any other instrument shall be construed as
31 obligating the City (except with respect to the Project property as provided in
32 the Project Documents), nor as incurring a pecuniary liability or a charge upon
33 the general credit of the City or against its taxing power, nor shall the breach

1 of any agreement contained in this Resolution, the Project Documents or any
2 other instrument be construed as obligating the City (except with respect to
3 the Project property as provided in the Project Documents), nor as incurring a
4 pecuniary liability or a charge upon the general credit of the City or against its
5 taxing power, the City having no power to pay out of its general funds, or
6 otherwise contribute any part of the costs of constructing or furnishing the
7 Project property.

8 **Section 10. APPROVAL OF INDEMNIFICATION.** The Council specifically
9 approves the provisions of the Lease relating to indemnification which provide
10 that the Company shall indemnify and hold harmless the City and its City
11 Councilors, officials, members, officers, employees and agents against
12 liability to the Company, or to any third parties that may be asserted against
13 the City or its City Councilors, officials, members, officers, employees or
14 agents with respect to the City's ownership of the Project property and arising
15 from the condition of the Project property or the acquisition, construction and
16 operation of the Project property by the Company, except to the extent Section
17 56-7-1, New Mexico Statutes Annotated, 1978 Compilation, applies, and except
18 claims for any loss or damage arising out of or resulting from the gross
19 negligence or willful misconduct of the City or any member, officer, employee
20 or agent of the City.

21 **Section 11. REPEALER.** All bylaws, orders, resolutions and ordinances, or
22 parts thereof, inconsistent with this Resolution are repealed by this Resolution
23 but only to the extent of that inconsistency. This repealer shall not be
24 construed to revive any bylaw, order, resolution or ordinance, or part thereof,
25 previously repealed.

26 **Section 12. SEVERABILITY.** If any section, paragraph, clause or provision
27 of this Resolution shall for any reason be held to be invalid or unenforceable,
28 the invalidity or unenforceability of that section, paragraph, clause or
29 provision shall not affect any of the remaining provisions of this Resolution.

30 **Section 13. COMPIILATION.** Sections 1 through 11 shall be incorporated in
31 and made part of the City of Albuquerque, New Mexico Code of Resolutions in
32 Chapter 1 Article 9.

1 **Section 14. EFFECTIVE DATE.** This Resolution shall take effect five days
2 after publication by title and general summary.

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1 PASSED AND ADOPTED THIS 21st DAY OF June, 2023
2 BY A VOTE OF: 8 FOR 0 AGAINST.

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4 Excused: Lewis

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Pat Davis, President
9 City Council

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APPROVED THIS 30 DAY OF June, 2023

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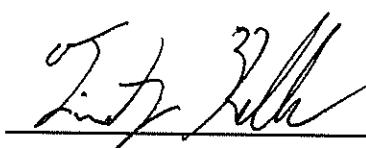
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Bill No. R-23-137

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Timothy M. Keller, Mayor
City of Albuquerque

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ATTEST:

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Camille Chavez for E.W.

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Ethan Watson, City Clerk

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