

CITY of ALBUQUERQUE

TWENTIETH COUNCIL

COUNCIL BILL NO. R-12-81 ENACTMENT NO. _____

SPONSORED BY: Dan Lewis, by request

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RESOLUTION

RELATING TO ALBUQUERQUE, NEW MEXICO SPECIAL ASSESSMENT DISTRICT NO. 228; CONFIRMING, AND APPROVING THE REVISED ASSESSMENT ROLL FOR SUCH DISTRICT; AND MAKING AN APPROPRIATION.

WHEREAS, the City Council (the "Council") of the City of Albuquerque (the "City"), in the County of Bernalillo and the State of New Mexico, has heretofore, pursuant to the requisite preliminary proceedings, provided for and provisionally ordered the grading, graveling, paving, sidewalks, curbing, guttering, draining, and otherwise improving of certain streets and parts thereof (the "Street Improvements"); and the constructing, installing, improving and otherwise acquiring of certain sanitary sewer lines (the "Sanitary Sewer Improvements"); water lines (the "Water Improvements"); storm drainage improvements (the "Storm Drainage Improvements"), and dry utility service lines (the "Dry Utility Improvements"), all within the City and designated "Albuquerque, New Mexico, Special Assessment District No. 228" (the "District") (collectively, the "Improvements"), all pursuant to and in conformity with Sections 3-33-1 through 3-33-43, NMSA, 1978, as amended and supplemented; and

WHEREAS, by Council Bill No. R-11-306, Enactment No. 2011-135, passed and adopted the 19th day of December, 2011, the Council finally passed on all protests and objections questioning the propriety and advisability of constructing the Improvements, the estimated cost of the improvements, the manner of payment for the improvements and the estimated maximum benefit to each individual tract or parcel of the land within the District, created the District, determined to proceed with the Improvements and directed the City Clerk of the City (the "City Clerk") to advertise for bids as required by law for doing the work of constructing the Improvements; and

1 WHEREAS, the City Clerk did advertise for construction bids as directed in
2 accordance with State Statutes and the City Purchasing Ordinance; and

3 WHEREAS, pursuant to notice duly given, the City on the 14th day of February,
4 2012, received bids for doing the work of constructing the Improvements and, on the 10th
5 day of April, 2012 the Department of Municipal Development successor to Public Works
6 Department, in accordance with City Ordinances, provided a conditional award of the
7 contract for doing such work and the furnishing of all necessary materials to the lowest
8 responsible bidder, Albuquerque Underground, Inc. of Albuquerque, New Mexico; and

9 WHEREAS, Wilson & Company, Inc., (the "Consulting Engineer") and the Public
10 Works Department determined that the total cost to the City of the Improvements,
11 including advertising, appraising, engineering, legal, printing, and other proper incidental
12 costs to be \$27,098,174.71, and determined that all of such costs shall be paid by the
13 benefitted tracts and parcels of land within the District; and

14 WHEREAS, by Council Bill No. R-11-185, Enactment No. R-2011-021, funds in the
15 amount of \$28,000,000 were appropriated for the District which are more than the final
16 total cost of \$27,098,174 .71; and

17 WHEREAS, the Council, and the Consulting Engineer, professional engineers duly
18 licensed under the laws of the State of New Mexico, prepared an assessment roll and
19 caused it to be filed in the office of the City Clerk on or before the 2nd day of April, 2012,
20 and amended the assessment roll and caused the amended assessment roll to be filed in
21 the Office of the City Clerk on the 1st day of August, 2012, (the "Assessment Roll") which
22 Assessment Roll contains, among other things, the names of the last-known owners of
23 each tract or parcel of land to be assessed, or, if not known, a statement that the name is
24 unknown, a description of each tract or parcel of land to be assessed, and the amount of
25 the assessment against each such tract or parcel of land; and

26 WHEREAS, the Council has determined, and does hereby determine, that all
27 property in the City which is specially benefitted by the Improvements acquired in the
28 District, and only the property which is so specially benefitted, is included in the
29 Assessment Roll; and

30 WHEREAS, the Council gave the requisite legal notice that any owner of any lot,
31 tract, or parcel of land proposed to be assessed for the cost of the Improvements could file
32 with the City Clerk a specific protest or objection to the Assessment Roll for the District
33 and that the Council would hear and consider any such protests or objections at the City of

1 Albuquerque/Bernalillo County Government Center, in the City, on Monday, the 18th day
2 of June, 2012, at 5:00 p.m.; and

3 WHEREAS, the written protests and objections filed with the City Clerk and
4 presented to the Council for consideration at the hearing on the 18th day of June, 2012
5 have been reviewed by the Consulting Engineer and the City and a recommendation of
6 disposition prepared that responds to the written protests and objections; and

7 WHEREAS, the original financing plan for the District contemplated that the New
8 Mexico Finance Authority would make tax-exempt and taxable loans to the City to pay the
9 costs of the Improvements; and

10 WHEREAS, the New Mexico Finance Authority has informed the City that it will not
11 be able to timely provide loans for the District and alternative financing methods must be
12 pursued by the City.

13 BE IT RESOLVED BY THE COUNCIL, THE GOVERNING BODY OF THE CITY OF
14 ALBUQUERQUE, NEW MEXICO:

15 Section 1. That Council Bill No. R-11-185, Enactment No. R-2011-021 which
16 made the appropriations for the Improvements is amended as restated below and that the
17 appropriations are hereby made and/or changed as indicated:

18	Purpose	Source	Appropriation
19	Department of Municipal		
20	Development		
21	SAD 228	Assessments	\$27,098,174.71
22		Total Appropriation	\$27,098,174.71

23 The Water Utility Connection Fee, estimated to be \$2,700 per lot will be prepaid
24 by the SAD 228 property owner and included in the assessments. The Paving and
25 Trails Impact Fee, estimated to be \$4,430 per lot will be prepaid by the SAD 228
26 property owner and included in the assessments.

27 Section 2. That the Council hereby validates and confirms the revised
28 Assessment Roll as filed in the records of the City Clerk on August 1st, 2012 (the
29 "Revised Assessment Roll"). The Revised Assessment Roll substitutes and replaces
30 the Original Assessment Roll filed with the City Clerk on April 2, 2012 and states the
31 assessments to be levied on each tract or parcel of land included in the District.

32 The total costs of \$ 27,098,174 .71 are being assessed pursuant to the
33 Revised Assessment Roll.

1 All protests, both written and oral, made at the hearing on June 18, 2012 are
2 hereby found to be not directly related to the methodology and amount of the
3 assessment to be made to the tract or parcel of land owned by the protester, and are
4 therefore deemed to be without merit and are hereby overruled and denied.

5 Section 3. That any owner of a tract or parcel of land listed on the Assessment
6 Roll who filed an objection pursuant to Section 3-33-22 NMSA 1978 protesting the
7 Assessment levied on the tract or parcel of land shall have the right, within thirty days
8 from the adoption and approval of this Resolution, to appeal the determination of the
9 Council set forth in this Resolution pursuant to the provisions of Section 39-3-1.1 NMSA
10 1978.

11 Section 4. That, given the need to pursue alternative financing methods, the
12 officers of the City are hereby authorized and instructed to seek financing alternatives for
13 the District from commercial banks, financial institutions and underwriters.

14 Section 5. That all actions heretofore taken, not inconsistent with the
15 provisions of this Resolution, by the City and the officers thereof directed toward
16 performing all prerequisites to levying the assessments for the District and confirming
17 the Assessment Roll and the assessments herein be, and the same hereby is, ratified,
18 approved, and confirmed.

19 Section 6. All by-laws, orders, resolutions, and ordinances or parts thereof
20 inconsistent herewith are hereby repealed to the extent only of such inconsistency; this
21 repealer shall not be construed to revive any resolution, or ordinance or part thereof
22 heretofore repealed.

23 Section 7. If any section, paragraph, clause, or provision of this Resolution
24 shall for any reason be held to be invalid or unenforceable, the invalidity or
25 unenforceability of such section, paragraph, clause, or provision shall not affect any of
26 the remaining provisions of this Resolution.

27 Section 8. The officers of the City be, and they hereby are, authorized and
28 directed to take all action necessary or appropriate to effectuate the provisions of this
29 Resolution.

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CITY OF ALBUQUERQUE
Albuquerque, New Mexico
Office of the Mayor

Mayor Richard J. Berry

INTER-OFFICE MEMORANDUM

August 13, 2012

TO: Trudy Jones, President, City Council

FROM: Richard J. Berry, Mayor 

SUBJECT: Approval of SAD 228 Resolution 5 that confirms and approves the revised Assessment Roll, disposes of protests and makes an appropriation

I am submitting Resolution #5 for SAD 228 for your review and approval. The SAD will provide all necessary infrastructure for development of over 500 residential lots in the volcano cliffs subdivision, as well as several commercial parcels. The project will also construct roadway improvement to portions of Unser Blvd, Paseo del Norte, and the intersection of Rainbow and Universe. All of the improvements will be paid for by the property owner via assessment levied against the properties. The SAD is requested and supported by the Volcano Cliffs Property Owners Association (VCPOA).


This Resolution (Resolution 5), confirms and approves the revised Assessment Roll, disposes of protests and makes an appropriation.

This Resolution is forwarded to the Council for its action.

DATE: August 13, 2012

SUBJECT: Approval of SAD 228 Resolution 5 that confirms and approves the revised Assessment Roll, disposes of protests and makes an appropriation


Approved:



Robert J. Perry Date
Chief Administrative Officer

KJC
8/15/12

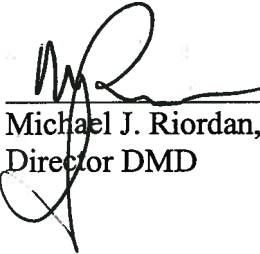
Approved as to Legal Form:



David Tourek Date
City Attorney

CAP
8/14/12

Recommended:



Michael J. Riordan, P.E. Date
Director DMD

Cover Analysis

1. What is it?

Resolution #5 for SAD 228

2. What will this piece of legislation do?

Confirms and approves the revised Assessment Roll, disposes of protests and makes an appropriation.

3. Why is this project needed?

To provide infrastructure for over 500 residential lots as well as improvement to City intersections and roadways.

4. How much will it cost and what is the funding source?

The design and construction cost will be covered by the project assessments

5. Is there a revenue source associated with this contract? If so, what level of income is projected?

Yes, the project will be paid for by assessments to the property owners

SAD 228

Abbreviated Schedule/Illustration

8/20	Intro of Res 5
9/5	Adoption of Res 5, Introduction of Assessing Ordinance and Loan Ordinance
9/17	Adoption of Assessing Ordinance and Loan Ordinance
9/20	Cash Pay Period Begins
10/15	Resolution 6 Introduced
10/22	Cash Pay Period Ends
11/5	Resolution 6 Adopted – Final Pricing and Financing Terms Established
11/13	Closing
11/15	Notice to Proceed Deadline per Construction Bid