

CITY of ALBUQUERQUE

TWENTY FOURTH COUNCIL

COUNCIL BILL NO. R-21-225 ENACTMENT NO. R-2022-009

SPONSORED BY: Isaac Benton and Pat Davis, by request

1 RESOLUTION
2 APPROVING A FORM OF MASTER DEVELOPMENT AGREEMENT FOR
3 IMPLEMENTATION OF THE SOUTH CAMPUS TAX INCREMENT DEVELOPMENT
4 DISTRICT; REPEALING ALL ACTIONS INCONSISTENT WITH THIS
5 RESOLUTION.

6 Capitalized terms in the following preamble shall have the meanings assigned in
7 Section 1 of this Resolution, unless the context clearly requires otherwise.

8 WHEREAS, the Regents of the University of New Mexico by and through Lobo
9 Development Corporation, a New Mexico nonprofit corporation formed under the
10 Research Park and Economic Development Act, owned, controlled and established
11 by the Regents, and the City of Albuquerque, New Mexico, submitted to the City a
12 Petition and joint application for the formation of the South Campus Tax Increment
13 Development District, which includes, without limitation, a Tax Increment
14 Development Plan for the District, a map depicting the boundaries of the District, a
15 study of the feasibility, the financing and the estimated costs of improvements,
16 services and benefits to result from the formation of proposed District and a
17 proposed Master Development Agreement for the District; and

18 WHEREAS, the City Council considered the Application, the Formation
19 Documents and related submittals by the Applicant, conducted a public hearing as
20 provided by Sections 5-15-6 and 5-15-7 NMSA 1978, and has determined in
21 Resolution Enactment F/S R-21-202, adopted on October 4, 2021 that the formation
22 of the South Campus Tax Increment Development District is consistent with the
23 TIDD Ordinance and promotes the interests, convenience or necessity of the owners
24 and residents of the District and citizens of the City thus forming the Districts; and

25 WHEREAS, the City Council determined in the Formation Resolution that the
26 City will dedicate 75% of the gross receipts tax increment revenues of the City's

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1 local option gross receipts tax revenues and state-shared gross receipts tax
2 revenues, and 75% of the property tax revenues generated within the Districts for
3 the purpose of securing District Bonds; and

4 WHEREAS, pursuant to the Application and Master Development Agreement,
5 the purpose of the District is to finance public infrastructure to serve, in part,
6 approximately 337 acres of land in the vicinity of the University of New Mexico; and

7 WHEREAS, the Applicant estimates that the initial cost of public infrastructure, in
8 2020 dollars, is \$267 million which may be financed with proceeds of Gross Receipts
9 Tax Increment and Property Tax Increment and Tax Increment Bonds issued by the
10 District, as provided in the TIDD Act and Ordinance No. F/S O-06-44, Chapter 4,
11 Article 10; and

12 WHEREAS, the TIDD Act authorizes owners, tax increment for development
13 districts, municipalities and counties to enter into development agreements to
14 establish the obligations of the owner or developer, the municipality and the tax
15 increment development district concerning the zoning, subdivision, improvements,
16 impact fees, financial responsibilities, and other matters relating to the development,
17 improvement and use of real property within the TIDD; and

18 WHEREAS, pursuant to the TIDD Ordinance, the City has enacted policy
19 guidelines and application procedures for the establishment of tax increment
20 development districts within the City; and

21 WHEREAS, the TIDD Improvements will be constructed in accordance with the
22 estimated construction schedule included in the Application and pursuant to the
23 Master Development Agreement; and

24 WHEREAS, pursuant to the Application and as provided for in the TIDD Act, the
25 Applicant anticipates that the TIDD Improvements will be financed, in part through
26 the issuance by the District of a series of bonds secured by the portion of Gross
27 Receipts Tax Increment and Property Tax Increment generated within the District
28 and dedicated by the City; and

29 WHEREAS, pursuant to the Master Development Agreement, the TIDD
30 Improvements are to be (i) designed and constructed according to all applicable
31 standards, (ii) suitable for dedication to state and local public bodies, including the
32 City and the University of New Mexico upon completion, and (iii) owned and

1 operated by state and local governmental entities, including the City and the
2 University of New Mexico; and

3 WHEREAS, the City Council desires to approve the Master Development
4 Agreement.

5 BE IT RESOLVED BY THE COUNCIL, THE GOVERNING BODY OF THE CITY OF
6 ALBUQUERQUE:

7 Section 1. Defined Terms. As used in this Resolution, the following terms shall
8 have the meanings specified, unless the context clearly requires otherwise (such
9 meanings to be equally applicable to both the singular and the plural forms of the
10 terms defined):

11 "Act" means Sections 5-15-1 through 5-15-28, NMSA 1978, as supplemented
12 and amended, the Home Rule Powers and all enactments of the City Council,
13 including the TIDD Ordinance and this Resolution.

14 "Applicant" means, collectively, the University of New Mexico by and through
15 Lobo Development Corporation, a New Mexico nonprofit corporation formed under
16 the Research Park and Economic Development Act, owned, controlled and
17 established by the Regents and the City of Albuquerque, New Mexico.

18 "Application" means the Petition for formation of the South Campus Tax
19 Increment Development District and documentation incorporated by reference in the
20 Application and submitted to the City pursuant to the Act and the TIDD Ordinance.

21 "Bonds" or "TIDD Bonds" means Tax Increment Bonds issued by the District,
22 collectively or individually.

23 "City" means the City of Albuquerque, New Mexico.

24 "District" or "TIDD" means, the South Campus Tax Increment Development
25 District.

26 "District Boundary Map" means the map attached as Exhibit 1 to the Tax
27 Increment Development Plan.

28 "Formation Documents" means the Application and such other documents as are
29 required by the TIDD Act and the TIDD Ordinance to be submitted by an applicant in
30 connection with a petition for the formation, implementation and governance of the
31 TIDD.

1 "Formation Resolution" means Resolution Enactment F/S R-21-202, adopted by
2 the City Council on October 4, 2021 in connection with its approval of the formation
3 of the TIDD.

4 "Gross Receipts Tax Increment" means the gross receipts taxes collected within
5 the TIDD in excess of the base gross receipts taxes, collected for the duration of the
6 existence of the TIDD and distributed to the TIDD in the same manner as
7 distributions are made under the provisions of the State Tax Administration Act.

8 "Lobo Development Corporation" means a New Mexico nonprofit corporation
9 formed under the Research Park and Economic Development Act, owned, controlled
10 and established by the Regents.

11 "Master Development Agreement" means the master development agreement by
12 and among the District, Lobo Development Corporation and the City in accordance
13 with Section 4(I) of the TIDD Ordinance, which Development Agreement shall be
14 ratified by the District.

15 "Petition" means the petition for formation of the District and documentation
16 incorporated by reference in the Application submitted to the City pursuant to the
17 TIDD Act and the TIDD Ordinance.

18 "Property Tax Increment" means all property tax collected on real property within
19 a TIDD that is in excess of the base property tax until termination of that TIDD and
20 distributed to that TIDD in the same manner as distributions are made under the
21 provisions of the Property Tax Act.

22 "Regents" means the Board of Regents of the University of New Mexico.

23 "State" means the State of New Mexico.

24 "Tax Increment Bonds" means bonds issued by a TIDD in accordance with the
25 TIDD Act and secured by up to 75% of the revenues of the Gross Receipts Tax
26 Increment, and/or up to 75% of the revenues of the Property Tax Increment.

27 "Tax Increment Development Plan" means the tax increment development plan
28 for the South Campus Tax Increment Development District, including a map
29 depicting the boundaries of the TIDD, as required by the TIDD Ordinance and
30 Section 5-15-5 of the TIDD Act.

31 "TIDD Act" means the Tax Increment for Development Act, Sections 5-15-1
32 through 5-15-29 NMSA 1978, as supplemented and amended, and all enactments of
33 the City's Governing Body, including the TIDD Ordinance and this Resolution.

1 "TIDD Improvements" means the public infrastructure improvements to be
2 financed with proceeds of TIDD Bonds or other tax increment revenue, including
3 Gross Receipts Tax Increment and Property Tax Increment, as authorized by the
4 TIDD Act, as described and in the approximate locations shown in the Tax
5 Increment Development Plan.

6 "TIDD Ordinance" means City Ordinance No. F/S O-06-44, Chapter 4, Article 10.

7 "University" means the University of New Mexico.

8 Section 2. Construction of Resolution. Except as otherwise expressly provided in
9 this Resolution, or unless the context otherwise requires:

10 A. The singular includes the plural and the plural includes the singular.

11 B. All accounting terms not otherwise defined in this Resolution have the
12 meanings assigned to them in accordance with generally accepted accounting
13 principles in the United States.

14 C. All references to Sections shall refer to Sections of this Resolution, unless
15 otherwise stated.

16 D. Words importing any gender include the other gender.

17 E. "Herein," "hereby," "hereunder," "hereof," "hereinbefore" and "hereafter"
18 refer to this Resolution and not solely to the particular portion of this Resolution in
19 which such word is used.

20 F. All times will be local time in the City unless otherwise designated in this
21 Resolution.

22 Section 3. Findings. The City hereby declares that it has considered the
23 Application, Master Development Agreement and all other relevant information and
24 data, and hereby makes the following findings:

25 A. As planned and proposed by the Master Development Agreement, the
26 Applicant will construct the TIDD Infrastructure Improvements in multiple phases, in
27 accordance with the estimated construction schedule included in the Application,
28 applicable rules and regulations and the Master Development Agreement. The TIDD
29 Infrastructure Improvements will be constructed to applicable specifications, and will
30 be subject to inspection, approval and acceptance by the applicable governmental
31 entity prior to dedication.

32 Section 4. Approval of Master Development Agreement. The Master
33 Development Agreement is hereby accepted and approved. The Chief

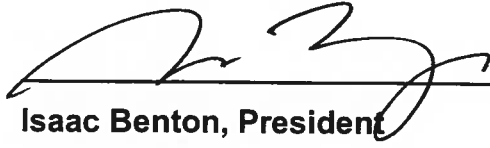
1 Administrative Officer of the City is authorized and directed to execute the Master
2 Development Agreement on behalf of the City, with such changes as are consistent
3 with the provisions of this Resolution. In the event of a discrepancy in the terms
4 thereof, the Master Development Agreement shall control over the Tax Increment
5 Development Plan.

6 Section 5. Amendments. This Resolution may be amended or supplemented by
7 ordinance or resolution adopted by the City Council in accordance with the laws of
8 the City and the State.

9 Section 6. Repealer. All ordinances or resolutions, or parts thereof in conflict with
10 the provisions of this Resolution, are hereby repealed to the extent only of such
11 inconsistency. To the extent, if any, that this Resolution conflicts with any provision
12 of the TIDD Ordinance, that provision is waived solely with respect to the formation
13 of and other matters concerning the District, and the TIDD Ordinance shall remain in
14 full force and effect in connection with any other application or project to which the
15 TIDD Ordinance applies or may apply in the future. This repealer shall not be
16 construed to revive any ordinance or resolution, or part thereof, heretofore repealed.

17 Section 7. Severability. If any section, paragraph, clause or provision of this
18 Resolution shall for any reason be held to be invalid or unenforceable, the invalidity
19 or unenforceability of such section, paragraph, clause or provision shall in no
20 manner affect any remaining provisions of this Resolution.

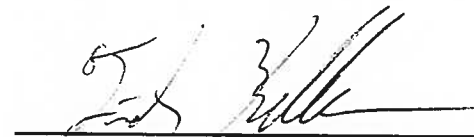
1 PASSED AND ADOPTED THIS 19th DAY OF January, 2022
2 BY A VOTE OF: 9 FOR 0 AGAINST.

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8 Isaac Benton, President
9 City Council

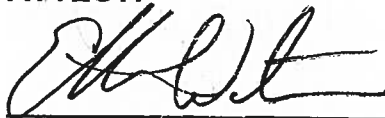
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13 APPROVED THIS 2 DAY OF July, 2022

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17 Bill No. R-21-225

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21 Timothy M. Keller, Mayor
22 City of Albuquerque

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27 ATTEST:

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30 Ethan Watson, City Clerk