

# CITY of ALBUQUERQUE

## TWENTY-FIRST COUNCIL

COUNCIL BILL NO. R-15-188 ENACTMENT NO. \_\_\_\_\_

SPONSORED BY: Ken Sanchez

1 RESOLUTION

2 DECLARING THE INTENT OF THE CITY COUNCIL OF THE CITY OF  
3 ALBUQUERQUE, NEW MEXICO TO CONSIDER FOR ADOPTION A RESOLUTION  
4 APPROVING THE FORMATION OF THE LOWER PETROGLYPHS TAX INCREMENT  
5 DEVELOPMENT DISTRICT; APPROVING, SUBJECT TO FURTHER PROCEEDINGS  
6 OF THE CITY COUNCIL, A TAX INCREMENT DEVELOPMENT PLAN FOR THE  
7 DISTRICT, THE PURPOSES OF THE DISTRICT, IDENTIFICATION OF GROSS  
8 RECEIPTS TAX INCREMENT AND PROPERTY TAX INCREMENT FINANCING  
9 MECHANISMS, AND BONDS SECURED BY GROSS RECEIPTS TAX INCREMENT  
10 REVENUE AND PROPERTY TAX INCREMENT REVENUE; AUTHORIZING AND  
11 DIRECTING THE POSTING, MAILING AND PUBLICATION, IN A NEWSPAPER OF  
12 GENERAL CIRCULATION WITHIN THE COUNTY, OF A NOTICE OF PUBLIC  
13 MEETING AND HEARING TO BE HELD ON \_\_\_\_\_, 2015 TO CONSIDER FOR  
14 ADOPTION THE RESOLUTION APPROVING THE FORMATION OF THE DISTRICT.

15 WHEREAS, the Legislature of the State has enacted the Tax Increment for  
16 Development Act, NMSA 1978, §§ 5-15-1 to -28 (2006, as amended) (the "Act"),  
17 pursuant to which the governing body of a municipality may adopt a resolution  
18 authorizing the formation of a tax increment development district following a  
19 public hearing and based upon certain findings required pursuant to NMSA 1978,  
20 § 5-15-7 (2006); and

21 WHEREAS, the City Council of the City of Albuquerque has enacted  
22 Sections 4-10-1 to 8 ROA 1994, (the "City Policy Guidelines") establishing policy  
23 guidelines and application procedures for tax increment development districts in  
24 the City; and

[+Bracketed/Underscored Material+] - New  
[-Bracketed/Strikethrough Material-] - Deletion

1 WHEREAS, pursuant to NMSA 1978, § 5-15-4 (2009), upon filing with the  
2 City Clerk an approved tax increment development plan and upon receipt of a  
3 petition bearing the signatures of the owners of at least fifty percent (50%) of the  
4 real property located within a proposed tax increment development area, the City  
5 Council may adopt a resolution declaring its intent to form a tax increment  
6 development district; and

7 WHEREAS, pursuant to NMSA 1978, § 5-15-6 (2009), upon adoption of a  
8 resolution indicating an intent to form a tax increment development district, the  
9 governing body of a municipality shall set a date no sooner than 30 days and no  
10 later than 60 days after the adoption of the resolution for a public hearing  
11 regarding the formation of the district; and

12 WHEREAS, Western Albuquerque Land Holdings LLC, a Delaware limited  
13 liability company has, pursuant to the Act and the City Policy Guidelines,  
14 submitted to the City of Albuquerque (the “City”) a petition for formation (the  
15 “Petition”) of the Lower Petroglyphs Tax Increment Development District (the  
16 “District”), together with documents submitted to the City in support of the  
17 Petition (the “Application”); and

18 WHEREAS, the Petition and Application request the formation by the City  
19 of the District in order to finance public infrastructure that directly or indirectly  
20 benefits or otherwise facilitates development within the approximately 336 acres  
21 of land known collectively as the Town Center and the Town Center Village; and

22 WHEREAS, the Application includes, among other things, (i) a proposed  
23 tax increment development plan for the District (the “Tax Increment Development  
24 Plan”), including all information required pursuant to NMSA 1978, § 5-15-5 (2006)  
25 and Section 5(F) of the City Policy Guidelines, which Tax Increment Development  
26 Plan has been filed with the City Clerk, and (ii) a study of the feasibility, the  
27 financing and the estimated costs of improvements, services and benefits to  
28 result from the formation of the proposed District, and all other applicable  
29 information required by NMSA 1978, § 5-15-4 (2009) and Sections 5(E)&(G) and  
30 7(D)&(E) of the City Policy Guidelines (the “Financial Feasibility Study”); and

31 WHEREAS, the Petition contains the signatures of the owners of one  
32 hundred percent (100%) of the real property to be included in the District and

1 states that those owners waive the right to an election for formation of the  
2 District; and

3 WHEREAS, the Application contains evidence that there is no resident  
4 qualified elector or any other person located on the real property to be included  
5 in the District; and

6 WHEREAS, the City Council intends to consider for adoption a resolution  
7 ordering the formation of the District as provided by NMSA 1978, § 5-15-4 (2009)  
8 and NMSA 1978, § 5-15-7 (2006) and Section 6(H) of the City Policy Guidelines.

9 BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF  
10 ALBUQUERQUE, NEW MEXICO:

11 Section 1. The Petition and Application are hereby accepted for further  
12 proceedings to be held at a public hearing as set forth in Section 6 of this  
13 Resolution. The Tax Increment Development Plan is hereby approved for  
14 purposes of NMSA 1978, § 5-15-4(A) (2009), subject to further proceedings of the  
15 City Council.

16 Section 2. The area to be included within the District is described in the  
17 map of the District included as part of the Tax Increment Development Plan.

18 Section 3. The purpose for which the District is to be formed is to finance  
19 the costs of public improvements, as that term is defined in NMSA 1978, § 5-15-  
20 3(R) (2006), in accordance with the Tax Increment Development Plan.

21 Section 4. The Tax Increment Development Plan has been filed with the  
22 City Clerk and includes a map depicting the boundaries of the tax increment  
23 development area of the District and real property proposed to be included in that  
24 area.

25 Section 5. As proposed, the District may:

26 A. impose a tax levy in an amount not to exceed \$5.00 per \$1,000 of net  
27 taxable value of taxable property within the District;

28 B. determine the amount, timing and form of financing mechanisms  
29 necessary to implement the Tax Increment Development Plan, which may include  
30 bonds, loans, advances and other indebtedness to be paid from the revenues  
31 generated by up to seventy-five percent (75%) of the gross receipts tax  
32 increments of each municipal and/or county local option gross receipts tax, state-  
33 shared distribution pursuant to NMSA 1978, § 7-1-6.4 (2006), municipal hold

1 harmless distribution pursuant to NMSA 1978, § 7-1-6.46 (2013), county hold  
2 harmless distribution pursuant to NMSA 1978, § 7-1-6.47 (2013), and/or state  
3 gross receipts tax generated within the District, and/or up to seventy-five (75%) of  
4 the property tax increment generated within the District; and

5 C. issue one or more series of revenue bonds secured by up to seventy-  
6 five percent (75%) of the gross receipts tax increments of each municipal and/or  
7 county local option gross receipts tax, state-shared distribution pursuant to  
8 NMSA 1978, § 7-1-6.4 (2006), municipal hold harmless distribution pursuant to  
9 NMSA 1978, § 7-1-6.46 (2013), the county hold harmless distribution pursuant to  
10 NMSA 1978, § 7-1-6.47 (2013), and/or state gross receipts tax generated within the  
11 District, and/or up to seventy-five (75%) of the property tax increment generated  
12 within the District.

13 Section 6. A public hearing for the formation of the District pursuant to  
14 the Act is required and shall be held on \_\_\_\_\_, 2015 which date is more than  
15 30 days and less than 60 days after the adoption of this Resolution.

16 Section 7. Pursuant to NMSA 1978, § 5-15-6 (2009), the City Clerk is  
17 hereby authorized and directed to cause to be published, in the *Albuquerque*  
18 *Journal*, a newspaper of general circulation within the City in which the proposed  
19 District is located, a notice of the public hearing in substantially the following  
20 form:

21 PUBLIC NOTICE

22 CITY OF ALBUQUERQUE, NEW MEXICO

23 NOTICE OF MEETING AND PUBLIC HEARING

24 The City Council of the City of Albuquerque, New Mexico hereby gives notice of  
25 its meeting scheduled for Monday, \_\_\_\_\_, 2015 at 5:00 p.m. in the City  
26 Council Chambers, at One Civic Plaza N.W., Albuquerque, New Mexico, which is  
27 the regular meeting place of the City Council. At such meeting the City Council  
28 will hold a public hearing concerning the adoption of a resolution relating to the  
29 formation of the Lower Petroglyphs Tax Increment Development District (the  
30 "District") pursuant to the Tax Increment for Development Act, NMSA 1978, §§ 5-  
31 15-1 to -28 (2006, as amended). The City Council may consider and take other  
32 necessary action relating to the formation of the District and other business

1 which may come before the Council. The title of the proposed resolution is as  
2 follows:

3 APPROVING THE PETITION OF WESTERN ALBUQUERQUE LAND HOLDINGS  
4 LLC FOR FORMATION OF THE LOWER PETROGLYPHS TAX INCREMENT  
5 DEVELOPMENT DISTRICT PURUSANT TO THE TAX INCREMENT FOR  
6 DEVELOPMENT ACT, NMSA 1978, §§ 5-15-1 TO -28 (2006, AS AMENDED) AND  
7 SECTIONS 4-10-1 TO 8 ROA 1994; MAKING FINDINGS IN CONNECTION WITH THE  
8 PETITION AND SUPPORTING DOCUMENTATION REQUESTING APPROVAL OF  
9 THE FORMATION OF THE DISTRICT; DETERMINING THE REAL PROPERTY TO  
10 BE INCLUDED WITHIN THE DISTRICT AND THE PURPOSE FOR WHICH THE  
11 DISTRICT IS BEING FORMED; APPROVING THE APPLICATION, PETITION,  
12 FINANCIAL FEASIBILITY STUDY AND DEVELOPMENT AGREEMENT FOR  
13 IMPLEMENTATION OF THE DISTRICT; RATIFYING THE TAX INCREMENT  
14 DEVELOPMENT PLAN APPROVED FOR CONSIDERATION IN CONNECTION WITH  
15 THE FORMATION OF THE DISTRICT; DEDICATING UP TO SEVENTY-FIVE  
16 PERCENT (75%) OF THE GROSS RECEIPTS TAX INCREMENT REVENUE AND UP  
17 TO SEVENTY-FIVE PERCENT (75%) OF THE PROPERTY TAX INCREMENT  
18 REVENUE FOR THE FINANCING OF PUBLIC INFRASTRUCTURE FOR THE  
19 DISTRICT AS PROVIDED IN THE DEVELOPMENT AGREEMENT; ESTABLISHING  
20 PARAMETERS FOR THE ISSUANCE OF DISTRICT BONDS; PROVIDING FOR  
21 GOVERNANCE OF THE DISTRICT THROUGH THE APPOINTMENT OF MEMBERS  
22 OF THE GOVERNING BODY OF THE DISTRICT; PROVIDING THAT BONDS OF  
23 THE DISTRICT AND OTHER OBLIGATIONS OF THE DISTRICT SHALL NOT BE  
24 OBLIGATIONS OF THE CITY OF ALBUQUERQUE; RATIFYING CERTAIN ACTIONS  
25 HERETOFORE TAKEN; REPEALING ALL ACTIONS INCONSISTENT WITH THIS  
26 RESOLUTION.

27 A summary of the subject matter of the Resolution is contained in its title.  
28 Complete copies of the proposed resolution are on file in the Office of the City  
29 Clerk at 600 2nd NW, Albuquerque, New Mexico 87102 and are available for  
30 inspection during regular office hours.

31 The formation of the District is proposed and will be considered by the City  
32 Council at the above-referenced meeting, which will be open to the public.  
33 Persons wishing to object or comment on the proposed resolution and the

1 matters within its scope may provide objections or comments in person at the  
2 meeting or may provide objections or comments in writing, to the City Clerk at  
3 the address stated above, and actually received by the City Clerk at least one  
4 business day before the date of the meeting.

5 The map below depicts the geographical boundaries of the area proposed for  
6 inclusion in the District:

7  
8 [INSERT MAP OF THE DISTRICT]  
9

10 A tax increment development plan for District is on file with the City Clerk at the  
11 address stated above and may be reviewed upon request.

12 A copy of the application requesting the formation of the District by the City is on  
13 file in the office of the City Clerk at the address stated above and available for  
14 inspection during regular office hours and is also available electronically on the  
15 City's website at <http://www.cabq.gov/>.

16 This Notice constitutes compliance with NMSA 1978, § 5-15-6 (2009).

17 Section 8. The City Clerk shall cause notice of the public hearing, as set  
18 forth in Section 7 above, to be published once each week for two consecutive  
19 weeks in the *Albuquerque Journal*. The City Clerk shall obtain an affidavit from  
20 Albuquerque Journal after each publication is made and shall cause the affidavits  
21 to be placed in the official records of the City.

22 Section 9. The notice of the public hearing shall also be posted by the  
23 City in a prominent location on property located within the proposed District for  
24 fourteen days prior to the hearing.

25 Section 10. No later than ten days prior to the public hearing, the City  
26 Clerk shall provide written notice of the public hearing via registered or certified  
27 United States mail, postage prepaid to:

- 28 A. all owners of real property within the proposed District;  
29 B. all persons claiming an interest in the real property within the proposed  
30 District who have filed a written request for a copy of the notice within the six  
31 months preceding or at any time following the adoption of this Resolution; and  
32 C. the secretary of taxation and revenue, the secretary of finance and  
33 administration and the director of the legislative finance committee

1           Section 11. If the City Clerk is informed of a transfer of ownership of real  
2 property within the proposed District and obtains the name and address of the  
3 current property owner, the City Clerk shall mail a copy of the notice of the public  
4 hearing, inclusive of the summary of the resolution, as soon as practicable after  
5 learning of the transfer.

6           Section 12. Within ten days following the date of adoption of this  
7 Resolution, the City shall:

8           A. notify the secretary of taxation and revenue, the secretary of finance  
9 and administration and the director of the legislative finance committee of the  
10 governing body's action and such notice shall include a copy of this Resolution;  
11 and

12           B. cause the Application and resolution materials, including fiscal and  
13 economic studies, to be made available electronically to the public.

14           Section 13. The formation of the District may result in the use of gross  
15 receipts tax increments and property tax increments to pay costs associated with  
16 the construction of public improvements, as that term is defined in NMSA 1978, §  
17 5-15-3(R) (2006).

18  
19 PASSED AND ADOPTED this \_\_\_\_ day of \_\_\_\_\_, 2015.  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32



Richard J. Berry

# CITY OF ALBUQUERQUE


Albuquerque, New Mexico

Office of the Mayor

## INTER-OFFICE MEMORANDUM

April 1, 2015

**TO:** Rey Garduño, President, City Council

**FROM:** Richard J. Berry, Mayor 

**SUBJECT:** Intent Resolution for Lower Petroglyphs Tax Increment Development District.

This resolution will declare the intent of the City Council to consider for adoption a resolution approving the formation of the Lower Petroglyphs Tax Increment Development district; approving, subject to further proceedings of the city council, a tax increment development plan for the district, the purposes of the district, identification of gross receipts tax increment and property tax increment financing mechanisms, and bonds secured by gross receipts tax increment revenue and property tax increment revenue.

This resolution is forwarded to the Council for consideration and action.



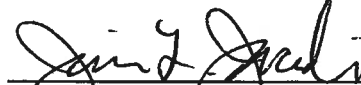


Intent Resolution for Lower Petroglyphs Tax Increment Development District.

Approved:


  
\_\_\_\_\_  
Robert J. Perry                      Date  
Chief Administrative Officer

Approved as to Legal Form:

  
\_\_\_\_\_  
Jenica L. Jacobi                      Date  
Interim City Attorney

  
3-30-15

Recommended:

  
\_\_\_\_\_  
Lou Hoffman, Director                      Date  
Department of Finance

## **Cover Analysis**

### **1. What is it?**

The filing of an intent resolution is needed for the City Council to consider the formation of the Lower Petroglyphs Tax Increment Development District.

### **2. What will this piece of legislation do?**

Accepts the intent resolution and a process for evaluating and determining the application for development of the Tax Increment District subject to further proceedings of City Council.

### **3. Why is this project needed?**

Ordinance requires that an applicant file an intent resolution for approving the formation of a Tax Increment Development District

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

There is no cost associated with the intention resolution, but there will be financial implications depending on the formation of the district and dedications of gross receipts and property tax revenues.

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

No.

# FISCAL IMPACT ANALYSIS

TITLE: Intent Resolution for Lower Petroglyphs Tax Increment Development District

R: O:

FUND:

DEPT:

☐ existing appropriations.

☒ appropriations) of this legislation is as follows:

		Fiscal Years			
		2015	2016	2017	Total
Base Salary/Wages					-
Fringe Benefits at	35.54%	-	-	-	-
Subtotal Personnel		-	-	-	-
Operating Expenses			-		-
Property			-	-	-
Indirect Costs	2.50%	-	-	-	-
Total Expenses		\$ -	\$ -	\$ -	\$ -
affected					
[x] Estimated revenue impact					0
	from				
	of Grant		-	-	
	Match				
	Inkind				
	IDOH				
Total Revenue		\$ -	\$ -	\$ -	\$ -

These estimates do not include any adjustment for inflation.

\* Range if not easily quantifiable.

Number of Positions created


**COMMENTS:** There is no financial impact from the filing of the intent resolution. Any Fiscal impacts will occur with the formation agreement.

**COMMENTS ON NON-MONETARY IMPACTS TO COMMUNITY/CITY GOVERNMENT:**


PREPARED BY:

APPROVED:

  
FISCAL ANALYST

 31 Mar 15  
DIRECTOR (date)

REVIEWED BY:

  
ANALYST

  
BUDGET OFFICER (date)  
3-31-15

  
CITY ECONOMIST