

CITY of ALBUQUERQUE

TWENTY FOURTH COUNCIL

COUNCIL BILL NO. R-20-15 ENACTMENT NO. _____

SPONSORED BY: Isaac Benton, by request

1 RESOLUTION

2 DECLARING THE INTENT OF THE CITY OF ALBUQUERQUE, NEW MEXICO,
3 SUBJECT TO THE SATISFACTION OF CERTAIN CONDITIONS, TO ISSUE
4 METROPOLITAN REDEVELOPMENT BONDS IN AN AGGREGATE PRINCIPAL
5 AMOUNT NOT TO EXCEED \$10,000,000.00 IN CONNECTION WITH THE
6 ACQUISITION, CONSTRUCTION AND EQUIPPING OF THE FRANZ PROJECT
7 FOR THE PURPOSE OF INDUCING 1716 CENTRAL AVENUE, LLC OR ITS
8 SUCCESSORS AND ASSIGNS, TO LOCATE THE PROJECT IN THE CITY AND
9 TO DEVELOP THE PROJECT IN THE CITY AS DESCRIBED IN THE PROJECT
10 PLAN.

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

14 WHEREAS, pursuant to the Metropolitan Redevelopment Code, Chapter
15 3, Article 60A, New Mexico Statutes Annotated, 1978 Compilation, as amended
16 (the "Code"), the City Council (the "Council") of the City is authorized to
17 acquire metropolitan redevelopment projects to be located within metropolitan
18 redevelopment areas; and

19 WHEREAS, the City desires to encourage redevelopment, so as to
20 promote industry and develop trade or other economic activity by inducing
21 profit or non profit corporations and commercial or business enterprises,
22 among others, to locate, expand or remain in metropolitan redevelopment
23 areas, to reduce unemployment and to secure and maintain a balanced and
24 stable economy in such areas and to promote public health, welfare, safety,
25 convenience and prosperity; and

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1 WHEREAS, the City has previously designated the area within which the
2 Project Site (as defined below) and the Project (as defined below) are located
3 within the Historic Central Avenue Metropolitan Redevelopment Area; and

4 WHEREAS, 1716 Central Avenue, LLC, a New Mexico limited liability
5 company (together with its successors and assigns, the "Company") has
6 presented to the City a proposal (the "Project Plan") whereby, in accordance
7 with the Code, the City will acquire certain land with a specific site address of
8 1716 Central Avenue SW, all within the City (the "Project Site"), upon which
9 renovation, construction and equipping of the Project Site for the purpose of
10 providing a mixed-use project consisting of multifamily residential and related
11 amenities and office uses will occur (the "Project") in accordance with the
12 Code; and

13 WHEREAS, The Project Plan proposes the issuance by the City of its
14 Metropolitan Redevelopment Bonds (The Franz Project) Series 2019 (the
15 "Bonds") under the Code in an aggregate principal amount not to exceed
16 \$10,000,000.00 to finance all or part of the costs of construction and equipping
17 of the Project and certain costs in connection with the authorization, issuance
18 and sale of the Bonds; and

19 WHEREAS, the issuance of the Bonds by the City to finance all or a part
20 of the Project will constitute one of the inducements relied upon by the
21 Company to construct and equip the Project in the City and

22 WHEREAS, the City desires to indicate its intent, subject to the
23 conditions provided in Section 6 below, to proceed with the issuance of the
24 Bonds for the financing of the Project pursuant to the terms of an ordinance
25 (the "Bond Ordinance") to be subsequently considered for approval by the
26 Council; and

27 WHEREAS, the Albuquerque Development Commission, which acts as
28 the Metropolitan Development Commission under the provisions of City
29 Ordinance 12-1985 (the "Commission") held a public hearing on November 21,
30 2019 on the Project and the issuance of the Bonds, at which hearing
31 comments from the public were gathered and considered by the Commission;
32 and

1 WHEREAS, at the conclusion of the public hearing, the Commission
2 voted to recommend approval of the Project and the issuance of the Bonds to
3 the Council and approved the Project Plan; and

4 WHEREAS, the City and the Company understand that the adoption of
5 this resolution shall not obligate the City to issue the Bonds except in full
6 compliance with the terms of the Bond Ordinance to be adopted by the
7 Council prior to the issuance of the Bonds and of related bond documents in
8 form satisfactory to the City to be approved by the Council prior to the
9 issuance of the Bonds.

10 BE IT RESOLVED BY THE COUNCIL, THE GOVERNING BODY OF THE CITY OF
11 ALBUQUERQUE:

12 Section 1. Ratification. All actions (not inconsistent with the provisions
13 hereof) heretofore taken by the Council, the Commission and the officers and
14 officials of the City and the Commission, related to the purposes of this
15 Resolution, are ratified, approved and confirmed.

16 Section 2. Project. The Council has been informed that:

17 a. The location of the Project is at an address of 1716 Central Avenue
18 SW located within the Historic Central Avenue Metropolitan Redevelopment
19 Area.

20 b. The Project consists of up to approximately 3.3 acres of land
21 together with a mixed-use buildings containing 58 residential housing units
22 and approximately 2,000 square feet of office and coworking space and related
23 improvements.

24 c. The maximum aggregate face amount of the obligations to be issued
25 with respect to the Project is \$10,000,000.00.

26 d. The Project conforms to the requirements of the Historic Central
27 Avenue Metropolitan Redevelopment Plan and the Code. The Project will
28 remediate blighted conditions and infrastructure, improving the health, safety
29 and welfare of the public and will encourage economic and commercial growth
30 within the area.

31 Section 3. Interest on the Bonds not Federally Tax-exempt. The City
32 understands that the Company does not intend that the Bonds be “qualified

private activity bonds” as that term is defined in the Internal Revenue Code of 1986, as amended.

Section 4. Intent to Issue Bonds. In order to promote the local health and general welfare, safety, convenience and prosperity of the inhabitants of the City, it is the Council’s intent to take all necessary and advisable steps to effect the issuance of the Bonds, in a principal amount not to exceed \$10,000,000.00 in order to defray part or all of the costs of the construction and equipping of the Project, provided that this expression of intent is conditioned upon the issuance of the Bonds on or before one year from the date of the adoption of this Resolution, and further provided that issuance of the Bonds is subject to the conditions described in Section 6 hereof.

Section 5. No Pecuniary Liability of the City. The Bonds shall be payable solely from the revenues of the Project, by the Company, from proceeds of the Bonds and from investment earning of Bond proceeds, if any. The Bonds shall not constitute a debt or indebtedness of the City within the meaning of any provision of limitation of the Constitution or statutes of the State of New Mexico or the Charter of the City. In addition, if the Bonds are issued, the Company shall indemnify and hold the City harmless from and against any liability that may be asserted against the City with respect to the City’s ownership of, or leasehold interest in, the Project or the issuance of the Bonds. Nothing in this Resolution or in any other instrument shall be considered as obligating the City to any pecuniary liability or as constituting a charge upon the general credit of the City or against its general revenues or its taxing power, it being understood that no costs are to be borne by the City and that all costs incurred by the City in connection with the issuance and sale of the Bonds will be promptly reimbursed by the Company.

Section 6. Issuance of Bonds Conditioned upon Full Review and Approval. The issuance of the Bonds and the execution and delivery of any documents to which the City is a party in connection therewith shall be subject to, and specifically conditioned upon, a full review of such documents and the approval and authorization by the Council of the issuance of the Bonds pursuant to the Bond Ordinance following reasonable public notice of the time, date and place of the Council’s public hearing relating to adoption of

1 the Bond Ordinance. In connection with this Resolution, the Council has been
2 informed that the Company has expressed its understanding that a failure or
3 refusal of the Council, however arising, to adopt the Bond Ordinance will have
4 the effect of voiding any benefits to the Company under the Code.

5 Section 7. Authorized Actions. The Mayor and other appropriate City
6 officials are hereby authorized and empowered to take such steps and to do
7 such things as may be necessary to achieve the purposes of this Resolution.

8 Section 8. Severance Clause. If any section, paragraph, clause or
9 provision of this resolution shall for any reason be held to be invalid or
10 unenforceable, the invalidity or unenforceability of such section, paragraph,
11 clause or provision shall not affect any of the remaining provisions of this
12 Resolution.

13 Section 9. Headings. Titles of the sections in this Resolution are included
14 for convenience only and shall not be construed as modifying the text.

15 Section 10. Repealer. All orders and resolutions, or parts thereof, in
16 conflict with this Resolution are hereby repealed; however, this repealer shall
17 not be construed to revive any order, resolution or part thereof, heretofore
18 repealed.

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