

# CITY of ALBUQUERQUE

## TWENTY FOURTH COUNCIL

COUNCIL BILL NO. R-21-184 ENACTMENT NO. \_\_\_\_\_

SPONSORED BY: Klarissa J. Peña

### RESOLUTION

1  
2 APPROVING THE APPLICATION AND PETITION OF SUCCESS LAND HOLDINGS,  
3 LLC AND HERITAGE TRAILS DEVELOPMENT I, LLC, FOR FORMATION OF THE  
4 ASPIRE PUBLIC IMPROVEMENT DISTRICT PURSUANT TO THE PUBLIC  
5 IMPROVEMENT DISTRICT ACT, NMSA 1978, §§ 5-11-1 to -27 (2001, AS AMENDED  
6 THROUGH 2019) AND CITY ORDINANCE ENACTMENT NO. 0-2003-12, COUNCIL  
7 BILL NO. FS 0-03-84; MAKING FINDINGS IN CONNECTION WITH THE  
8 APPLICATION AND PETITION AND SUPPORTING DOCUMENTATION  
9 REQUESTING APPROVAL OF THE FORMATION OF THE DISTRICT;  
10 DETERMINING THE REAL PROPERTY TO BE INCLUDED WITHIN THE DISTRICT  
11 AND THE PURPOSES FOR WHICH THE DISTRICT IS BEING FORMED;  
12 APPROVING THE GENERAL PLAN, FEASIBILITY STUDY, RATE, METHOD OF  
13 APPORTIONMENT AND MANNER OF COLLECTION OF A SPECIAL LEVY TO BE  
14 IMPOSED UPON REAL PROPERTY WITHIN THE DISTRICT, AND APPROVING A  
15 DEVELOPMENT AGREEMENT FOR THE DISTRICT; ESTABLISHING  
16 PARAMETERS FOR THE ISSUANCE OF SPECIAL LEVY BONDS; AUTHORIZING  
17 THE DISTRICT TO ISSUE SUBORDINATE OBLIGATIONS; PROVIDING FOR  
18 GOVERNANCE OF THE DISTRICT; PROVIDING THAT BONDS AND OTHER  
19 OBLIGATIONS OF THE DISTRICT SHALL NOT BE OBLIGATIONS OF THE CITY;  
20 WAIVING AND CANCELLING CERTAIN REQUIREMENTS TO FORMATION OF A  
21 PUBLIC IMPROVEMENT DISTRICT; RATIFYING CERTAIN ACTIONS  
22 HERETOFORE TAKEN; REPEALING ALL ACTIONS INCONSISTENT WITH THIS  
23 FORMATION RESOLUTION; DIRECTING THE MAILING OF A NOTICE OF  
24 ADOPTION OF THIS FORMATION RESOLUTION BY THE CITY CLERK; AND

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1 **TAKING RELATED ACTION.**

2 Capitalized terms used in the recitals below and not defined therein shall have  
3 the meanings ascribed to such terms in Section 1 hereof.

4 WHEREAS, the New Mexico Public Improvement District Act, NMSA 1978, §§ 5-  
5 11-1 to -27 (2001, as amended through 2019) provides that an application and petition  
6 may be filed with the governing body of a municipality for the formation of a public  
7 improvement district for the purpose of financing public infrastructure improvements;  
8 that, unless waived pursuant to the Act, the governing body shall hold a hearing to  
9 determine whether a public improvement district should be formed; and, upon  
10 determination that formation of a district is in the interest of the property owners and the  
11 citizens of the governing body's municipal jurisdiction, shall order that the public  
12 improvement district be formed, and that the district shall be formed without an owner  
13 determination if the application and petition were submitted by the owner(s) of 100% of  
14 the property proposed to be included within the district; and

15 WHEREAS, the formation of a public improvement district may result in the  
16 imposition of special levies to pay the costs of public infrastructure to be acquired by a  
17 public improvement district; and

18 WHEREAS, the Act authorizes owners, public improvement districts and  
19 municipalities to enter into development agreements to establish the obligations of the  
20 owner or developer, the municipality and the public improvement district concerning the  
21 zoning, subdivision, improvement, impact fees, financial responsibilities, and other  
22 matters relating to the development, improvement and use of real property within the  
23 district; and

24 WHEREAS, the City has enacted policy guidelines and application procedures  
25 for the establishment of public improvement districts within the City; and

26 WHEREAS, the Applicants have presented an Application and Petition for  
27 Approval of the Formation of the Aspire Public Improvement District and the following  
28 documents in support of the Petition:

- 29 (i) a description of the proposed District, including a legal description  
30 and current title report for the Land, the identity and addresses of all persons or entities  
31 with any interest in the property, evidence that there are no persons registered to vote

1 within the boundaries of the District and that the owners of the Land have unanimously  
2 consented to the formation of the District, and a description of the appropriateness of  
3 the boundaries;

4 (ii) a General Plan, which includes, among other things, a description of  
5 the District's boundaries, anticipated types and locations of Infrastructure  
6 Improvements, information regarding the future ownership and maintenance of the  
7 Infrastructure Improvements, and adequate information to establish financial  
8 parameters for operation of the District;

9 (iii) a Feasibility Study, which includes a market absorption study,  
10 description of improvements to be constructed, construction schedule and financing  
11 plan for the Infrastructure Improvements upon formation of the District, a description of  
12 the Applicants' equity contribution and the timing and sources of the contribution, and  
13 an operating plan for the Infrastructure Improvements;

14 (iv) a Rate and Method of Special Levy Apportionment in sufficient  
15 detail to enable each owner or resident within the District to estimate the maximum  
16 amount of the proposed District Special Levy;

17 (v) an MAI Appraisal;

18 (vi) a description of Applicants' development experience and financial  
19 ability to complete the Infrastructure Improvements;

20 (vii) forms of Disclosure of District Special Levy;

21 (viii) a description of the consistency of the Infrastructure Improvements  
22 with the City's development policies and objectives;

23 (ix) a Development Agreement to be entered into by and between the  
24 City, the District, and the Developer;

25 (x) a form of Formation Resolution; and

26 WHEREAS, except for those improvements that are dedicated and conveyed to  
27 another governmental entity, the PID Funded Infrastructure Improvements will be  
28 designed and constructed according to all applicable City requirements, will be suitable  
29 for dedication to the City upon completion, and will be acquired by the District and then  
30 dedicated to, owned and operated by the City; and

31 WHEREAS, pursuant to the Development Agreement, the District may fund the

1 cost of formation and acquisition of PID Funded Infrastructure Improvements from the  
2 Developer with proceeds of (i) one or more series of District Bonds, as provided in the  
3 Act, which will be payable from the District Special Levy, and/or (ii) the collection of the  
4 District Special Levy, with or without the issuance of the District Bonds, through, among  
5 other things, the satisfaction of one or more Subordinate Obligations; and

6 WHEREAS, pursuant to the Application, the District will (i) be responsible for  
7 imposing the District Special Levy as provided in the Act, (ii) adopt procedures for the  
8 foreclosure of delinquent District Special Levy liens on the Land, and (iii) administer the  
9 District Special Levy, including any required payments to the Bernalillo County Assessor  
10 and Bernalillo County Treasurer from the proceeds of the District Special Levy; and

11 WHEREAS, pursuant to the Formation Documents, the District will finance and  
12 acquire the PID Funded Infrastructure Improvements to serve a tract of land  
13 approximately eighty-three (83) acres of land, located wholly within the corporate  
14 boundaries of the City to consist of an estimated five hundred and six (506) single family  
15 detached residential lots, which is an authorized purpose and appropriate use of a  
16 public improvement district as set forth in the PID Ordinance; and

17 WHEREAS, the City Council has considered the Application and has determined  
18 that proceeding further with the formation of the District is consistent with the PID  
19 Ordinance and promotes the interests, convenience or necessity of the owners,  
20 residents of the District and citizens of the City of Albuquerque.

21 BE IT RESOLVED BY THE COUNCIL, THE GOVERNING BODY OF THE CITY  
22 OF ALBUQUERQUE THAT:

23 Section 1. As used in this Formation Resolution, the following terms shall have  
24 the meanings specified, unless the context clearly requires otherwise (such meanings to  
25 be equally applicable to both the singular and the plural forms of the terms defined):

26 A. "ABCWUA" means the Albuquerque Bernalillo County Water Utility  
27 Authority.

28 B. "Act" means the Public Improvement District Act, NMSA 1978, §§  
29 5-11-1 to -27 (2001, as amended) and the home rule powers and all enactments of the  
30 City Council.

31 C. "Applicants" means the Petitioner and the Developer.

1 D. "Application" means the Application and Petition filed with the City  
2 for the formation of the Aspire Public Improvement District and all documentation  
3 incorporated by reference in the Petition, submitted to the City pursuant to the Act and  
4 the PID Ordinance.

5 E. "Bond Resolution" means one or more resolutions of the District  
6 Board authorizing issuance of one or more series of District Bonds for the purpose of  
7 financing the acquisition of the PID Funded Infrastructure Improvements and other  
8 eligible costs, which are subject to the financing parameters and other applicable  
9 requirements established in this Formation Resolution.

10 F. "City" means the City of Albuquerque, New Mexico.

11 G. "Clerk" means the City Clerk.

12 H. "Council" means the City Council of the City.

13 I. "County" means Bernalillo County, New Mexico.

14 J. "Developer" means Heritage Trails Development I, LLC, a New  
15 Mexico limited liability company.

16 K. "Development Agreement" means the Infrastructure Development  
17 and Acquisition Agreement dated as of even date herewith by and between the City, the  
18 District, and the Developer, which agreement shall memorialize the obligations of the  
19 District to the City and the Developer, shall be binding upon and enforceable against the  
20 District immediately following adoption of this Formation Resolution, with no further  
21 action by the District, and shall then be subsequently ratified and executed by the  
22 District.

23 L. "Disclosure of District Special Levy" means each disclosure of  
24 special levy in the forms attached as Exhibit 8 to the Application.

25 M. "District" means the Aspire Public Improvement District.

26 N. "District Board" means the governing body of the District.

27 O. "District Bonds" means one or more series of bonds proposed to be  
28 issued by the District pursuant to the Act, which are secured by a first lien and pledge of  
29 the District Special Levy.

30 P. "District Boundary Map" means the map attached as Exhibit [A] to  
31 the General Plan.

1 Q. "District Special Levy" or "District Special Levies" means the special  
2 levy or special levies to be imposed on the Land pursuant to NMSA 1978, § 5-11-20  
3 (2013).

4 R. "Feasibility Study" means the study of the estimated costs and  
5 financing methods of the Infrastructure Improvements, including the Plan of Finance,  
6 submitted by the Applicants in connection with the Application and as supplemented or  
7 amended from time to time.

8 S. "Formation Documents" means the Application, the Petition, the  
9 General Plan, the Feasibility Study, Rate and Method of Special Levy Apportionment,  
10 the Development Agreement, and such other documents as are required by the Act and  
11 the PID Ordinance to be submitted by the Applicants in connection with an application  
12 for the formation of the District.

13 T. "Formation Resolution" means this resolution adopted by the  
14 Council in connection with its approval of the formation of the District.

15 U. "General Plan" means the General Plan submitted by the  
16 Applicants in connection with the Application and as supplemented or amended from  
17 time to time, which is on file with the Clerk and includes, among other information, a  
18 map depicting the boundaries of the District and the real property proposed to be  
19 included in the District, a general description of anticipated improvements and their  
20 locations, and general cost estimates, proposed financing methods and anticipated  
21 District Special Levies.

22 V. "Infrastructure Improvements" means the PID Funded Infrastructure  
23 Improvements, as well as all other public and private improvements on the Land to be  
24 financed from sources other than the District Special Levy.

25 W. "Land" means the real property described in the District Boundary  
26 Map.

27 X. "MAI Appraisal" means the valuation of the Land as of October 1,  
28 2020, as prepared by David Pearson, MAI, together with the Supplemental Market  
29 Study and Valuation, as of October 1, 2020, as prepared by David Pearson, MAI.

30 Y. "Petition" means the petition for formation of the District submitted  
31 by the Petitioner to the City pursuant to the Act and the PID Ordinance, which contains

1 the signature of the owner of one hundred percent (100%) of the Land and requests that  
2 the City declare the District formed without requiring compliance with the provisions for  
3 posting, publication, mailing, notice, hearing and owner determination provided in the  
4 Act.

5 Z. "Petitioner" means Success Land Holdings, LLC, a New Mexico  
6 limited liability company, which is the sole owner of 100% of the Land.

7 AA. "PID Funded Infrastructure Improvements" means the portion of the  
8 Infrastructure Improvements financed with the proceeds of the District Bonds,  
9 Subordinate Obligations, and/or revenues derived from the collection of the District  
10 Special Levy, as identified in the General Plan.

11 BB. "PID Ordinance" means City Ordinance Enactment No. 0-2003-12,  
12 Council Bill No. F/S 0-03-84.

13 CC. "Plan of Finance" means the plan of finance included at Section VI  
14 of the Feasibility Study.

15 DD. "Rate and Method of Special Levy Apportionment" means the rate,  
16 method of apportionment and manner of collection of the District Special Levy submitted  
17 by the Applicants in connection with the Application and as supplemented or amended  
18 from time to time.

19 EE. "State" means the State of New Mexico.

20 FF. "Subordinate Obligations" means one or more subordinate bonds,  
21 subordinate promissory notes and/or other subordinate obligations, secured by a  
22 second priority pledge of the District Special Levy and constituting a reimbursement  
23 obligation, issued by the District to memorialize the obligation of the District to pay the  
24 costs of PID Funded Infrastructure Improvements received by the District plus interest  
25 at a rate authorized by the District Board on the principal amount of such promissory  
26 notes and/or other subordinate obligations.

27 Section 2. Construction of Formation Resolution. Except as otherwise  
28 expressly provided in this Formation Resolution, or unless the context otherwise  
29 requires:

30 A. All words and phrases shall be construed and understood  
31 according to the common and approved usage of language, but technical words and

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1 phrases and such others as may have acquired a peculiar and appropriate meaning in  
2 the law shall be construed and understood according to such peculiar and appropriate  
3 meaning.

4 B. The singular includes the plural and the plural includes the singular.

5 C. Words importing any gender include the other gender.

6 D. All references to Sections shall refer to Sections of this Formation  
7 Resolution, unless otherwise stated.

8 E. "Herein," "hereby," "hereunder," "hereof," "hereinbefore" and  
9 "hereafter" refer to this Formation Resolution and not solely to the particular portion of  
10 this Formation Resolution in which such word is used.

11 F. All times will be local time in the City unless otherwise designated  
12 in this Formation Resolution.

13 Section 3. Findings. The City hereby declares that it has considered the  
14 Application and all other relevant information and data, and hereby makes the following  
15 findings:

16 A. The Petitioner owns 100% of the Land and no persons are  
17 registered to vote within the boundaries of the District within the seventy days  
18 immediately preceding the date of adoption of this Formation Resolution.

19 B. As planned and proposed by the Applicants, the Infrastructure  
20 Improvements to be conveyed to the City have been or will be constructed to City  
21 specifications and will be subject to inspection, approval and acceptance by the City  
22 prior to conveyance to the City, as described in the Development Agreement.

23 C. The District Bonds and Subordinate Obligations will not be backed  
24 by the credit, general funds or resources of the City in any manner. Owners of the  
25 District Bonds or the Subordinate Obligations will have no right to require the City or the  
26 District to impose ad valorem property taxes to pay amounts due under the District  
27 Bonds or the Subordinate Obligations.

28 D. The District will serve the interests, convenience and necessity of  
29 the Applicants the future owners of the Land and the citizens of the City:

30 (i) The District will be utilized to finance PID Funded  
31 Infrastructure Improvements benefitting the Land, which will be developed as a master



1 planned development, consisting of residential uses;

2 (ii) The information provided in the Application provides a  
3 reasonable basis upon which the Council has determined that all the Land is directly or  
4 indirectly benefited by the District, as contemplated by NMSA 1978, §§ 5-11-2(S) (2019)  
5 and 5-11-6(A) (2019);

6 (iii) The cost of constructing the PID Funded Infrastructure  
7 Improvements will be apportioned in a reasonable manner among the owners of Land,  
8 in accordance with the Rate and Method of Special Levy Apportionment, and will not be  
9 passed on to the citizens of the City, other than the owners of the Land, or the City  
10 itself;

11 (iv) The City will receive the benefit of the PID Funded  
12 Infrastructure Improvements through dedication of the Infrastructure Improvements not  
13 otherwise dedicated to the State, the County or the ABCWUA.

14 E. The Developer has the financial capacity to undertake the  
15 development of the Infrastructure Improvements.

16 F. The Plan of Finance is feasible and will not impose an undue  
17 burden on the future owners of the Land or served by the PID Funded Infrastructure  
18 Improvements.

19 G. The Plan of Finance will enable the District to acquire the PID  
20 Funded Infrastructure Improvements in a cost-effective manner.

21 H. The District is planned and will be implemented in a manner which  
22 provides for the expenses to be paid by the Developer and the District, as applicable.

23 I. As planned, the District and the PID Funded Infrastructure  
24 Improvements are consistent with the City's existing development goals, growth  
25 management policies, and conservation policies.

26 J. The formation of the District and the issuance of District Bonds and  
27 Subordinate Obligations, subject to the requirements and limitations specified in this  
28 Formation Resolution, are consistent with the requirements of the PID Ordinance.

29 Section 4. Formation of District; District Foreclosure Procedures for  
30 Delinquent Special Levies; Property Tax Levy.

31 A. The Aspire Public Improvement District is hereby ordered approved

1 and formed to carry out the purposes set forth in, and according to the provisions of, this  
2 Formation Resolution. The District shall include the Land, which is the real property  
3 described in the General Plan's District Boundary Map and more particularly identified in  
4 the legal description attached as Exhibit 1 to the Application.

5 B. The Application and Petition are hereby accepted and approved.

6 C. The General Plan is hereby accepted and approved.

7 D. The Feasibility Study is hereby accepted and approved. The  
8 District shall implement and reasonably carry out the Plan of Finance.

9 E. The Development Agreement is hereby accepted and approved.

10 The Chief Administrative Officer of the City is hereby authorized and directed to execute  
11 the Development Agreement on behalf of the City. Any changes, insertions, deletions  
12 and modifications to the Development Agreement shall be deemed to have been  
13 approved by the Council upon execution and delivery of the Development Agreement by  
14 the Chief Administrative Officer of the City, such execution and delivery to be conclusive  
15 evidence of such approval. The District shall be a party to the Development Agreement,  
16 as approved by the Council, immediately upon formation of the District and without any  
17 further action by the District and shall be bound to the obligations set forth therein.

18 F. The Development Agreement shall be an agreement or condition  
19 pertaining to the District, as contemplated by § 4(D) of the PID Ordinance, so that any  
20 existing agreements with the Petitioner, Developer or other developers and landowners  
21 regarding the provision of Infrastructure Improvements proposed to be furnished to the  
22 City shall be deemed amended to reflect the terms of the Development Agreement.

23 G. The Rate and Method of Special Levy Apportionment, establishing  
24 the apportionment and manner of collection of District Special Levy in sufficient detail to  
25 enable each owner of all or a portion of the Land or resident within the District to  
26 estimate the maximum amount of the proposed District Special Levy, is hereby  
27 accepted and approved.

28 H. The Disclosure of District Special Levy is hereby approved.

29 I. The District shall have the powers necessary and convenient to pay  
30 a portion of the costs of the District, including administrative and formation costs, and  
31 finance the acquisition of the PID Funded Infrastructure Improvements as provided in

1 the Formation Documents. The District and the City shall be bound by the terms  
2 thereof; however, the Formation Documents (excluding the Development Agreement)  
3 may be amended or supplemented by the District, without further action by the City,  
4 provided that such amendment or supplement is within the financial parameters set by  
5 this Formation Resolution.

6 J. The officers, agents and employees of the City are hereby directed,  
7 authorized and empowered to do all acts and things and to execute and deliver all  
8 documents relating to or requested by the District and necessary to carry out and  
9 comply with the provisions of the Formation Documents.

10 K. The principal purpose of the District shall be to finance the  
11 acquisition of the PID Funded Infrastructure Improvements.

12 L. The District Special Levies to be imposed by the District shall not  
13 exceed the maximum amounts set forth in the Application, subject to adjustment  
14 consistent with the terms of the Act and the Rate and Method of Special Levy  
15 Apportionment.

16 M. The District shall be self-supporting, as provided in § 1(F) of the  
17 PID Ordinance.

18 N. The financing proposed in the Application and other Formation  
19 Documents meet the applicable requirements of §§ 5 and 6 of the PID Ordinance.

20 O. The District Board shall use its best efforts to hold a public meeting  
21 within 60 days following the date of adoption of this Formation Resolution. At that  
22 meeting, the District Board shall adopt an open meeting policy and bylaws for the  
23 District; ratify and execute the Development Agreement, the terms of which shall be  
24 binding upon and enforceable against the District immediately upon formation  
25 notwithstanding this instruction by the Council to the District Board; direct the recording  
26 of the Development Agreement, the notice of formation, the notice of information, and  
27 certain related filings with the Bernalillo County Clerk, as contemplated by the Act; and,  
28 in compliance with NMSA 1978, § 5-11-8(D) (2017), take such other action toward  
29 administering in a reasonable manner the implementation of the General Plan including,  
30 but not limited to, the imposition of the District Special Levy, the acquisition of PID  
31 Funded Infrastructure Improvements, and the issuance of the District Bonds and/or

1 Subordinate Obligations, as authorized by this Formation Resolution.

2 P. Pursuant to the authority granted in NMSA 1978, §§ 5-11-20(I)  
3 (2013) and 5-11-23(F) (2019), the District shall establish procedures for foreclosure of  
4 delinquent District Special Levies and for redemption of foreclosed property, which  
5 procedures shall be substantially similar to the foreclosure and redemption procedures  
6 applicable to Municipal Improvement Districts set forth in NMSA 1978, §§ 3-33-28 to -30  
7 (1965, as amended), and as set forth for the District in the Development Agreement  
8 approved by this Formation Resolution.

9 Q. The District is authorized to impose a tax levy in an amount not to  
10 exceed \$3.00 per \$1,000.00 of net taxable value of taxable property within the  
11 boundaries of the District, unless a higher rate is approved pursuant to NMSA 1978, §  
12 5-11-23(A) (2019).

13 Section 5. Authorization of District Bonds. The District may issue District  
14 Bonds pursuant to the terms of the Development Agreement and one or more Bond  
15 Resolutions in the amounts and subject to the financing requirements and limitations set  
16 forth in this Formation Resolution.

17 A. Each Bond Resolution shall be approved by the City's Debt  
18 Committee prior to its enactment by the District. The City's Debt Committee shall not  
19 condition approval of the Bond Resolution or the issuance of the District Bonds upon  
20 compliance by a third-party owner of the Land with a requirement to furnish the  
21 Disclosure of District Special Levy to prospective or actual purchasers of the Land.

22 B. Each Bond Resolution shall include, at minimum, the following  
23 provisions for the protection of owners of the Bonds:

24 (i) Each Bond Resolution shall provide for the establishment of  
25 a debt service reserve fund in an amount acceptable to the Council and the District  
26 Board.

27 (ii) Each Bond Resolution shall include provisions for the public  
28 offering or private placement of District Bonds in compliance with the criteria of § 5(E)(5)  
29 of the PID Ordinance unless, in accordance with the PID Ordinance then in effect, the  
30 City's Debt Committee and the City Council determine such compliance is not required  
31 based upon the recommendations made by underwriters or financial consultants to the

1 City.

2 (iii) Each Bond Resolution shall provide that the District Bonds  
3 shall be sold pursuant to a limited public offering or private placement and issued in  
4 such denominations as determined by the District Board.

5 (iv) The minimum maturity of District Bonds shall be at least one  
6 day. The final maturity date for Bonds shall not be more than 30 years after the date of  
7 issuance of such series of District Bonds by a District.

8 (v) Each Bond Resolution shall include provisions for  
9 appointment of a trustee pursuant to an indenture of trust, a supplemental indenture of  
10 trust, or other similar instrument.

11 (vi) The District Bonds shall bear interest at rates not to exceed  
12 12% per annum.

13 (vii) The maximum aggregate principal amount of District Bonds  
14 issued shall not exceed the estimated cost of the PID Funded Infrastructure  
15 Improvements to be financed by the District, as determined at the time a series of  
16 District Bonds is issued by the District, plus all costs connected with the issuance and  
17 sale of the District Bonds, including, without limitation, formation costs, credit  
18 enhancement and liquidity support fees and costs.

19 C. Prior to the issuance of District Bonds, each Bond Resolution shall  
20 be presented to the City Council for approval as being consistent with the provisions of  
21 Section 5 of this Resolution.

22 D. In addition to any other express or implied authority granted by the  
23 Act and the PID Ordinance, the District may, in its sole discretion and without further  
24 review and approval of the Council, issue Subordinate Obligations pursuant to NMSA  
25 1978, §§ 5-11-10 (2001) and -20 (2013), § 1(G) of the PID Ordinance, the Formation  
26 Documents, and the terms of one or more resolutions of the District Board authorizing  
27 issuance of one or more Subordinate Obligations, for the purpose of memorializing  
28 and/or satisfying the obligation of the District to pay for the value of the PID Funded  
29 Infrastructure Improvements received by the District.

30 Section 6. District Governance.

31 A. The District Board shall initially be composed of the five (5)

1 members:

2 (i) one of whom shall be employed in the Department of  
3 Municipal Development, which member shall initially be [\_\_\_\_];

4 (ii) one of whom shall be a certified public accountant employed  
5 in the Department of Finance and Administration, which member shall initially be [\_\_\_\_];

6 (iii) one of whom shall be employed in the City Planning  
7 Department, which member shall initially be [\_\_\_\_]; and

8 (iv) two members nominated by the Applicants, and consented  
9 to by the City Council, which members shall initially be [\_\_\_\_] and [\_\_\_\_];

10 B. [\_\_\_\_], [\_\_\_\_], and [\_\_\_\_] shall serve 6-year terms.

11 C. [\_\_\_\_] and [\_\_\_\_] shall serve 4-year terms.

12 D. Pursuant to NMSA 1978, § 5-11-6(A) (2019), [\_\_\_\_] is appointed to  
13 be the clerk of the District and [\_\_\_\_] is appointed to be treasurer of the District.

14 E. Pursuant to NMSA 1978, § 5-11-9(B) (2019), at the end of the  
15 appointed directors' initial terms, an election shall be held in conformance with the  
16 Election Code and the Local Election Act as provided in NMSA 1978, § 5-11-7 (2019),  
17 to select a new slate of directors for the District Board.

18 Section 7. Waiver of Additional Hearing and Election. Based on the  
19 information provided by the Applicants in the Application, the Petition has been signed  
20 by and on behalf of the owner of 100% of the Land to be included in the proposed  
21 District, and on that basis the City waives the requirements for posting, publication,  
22 mailing, notice, hearing and owner determination, as authorized by NMSA 1978, § 5-11-  
23 7(F) (2019). Furthermore, the election required to be held pursuant to the Act shall be  
24 canceled, in compliance with § 5-11-7(G) (2019) of the Act, since no persons are  
25 registered to vote within the boundaries of the District within the seventy days  
26 immediately preceding the date hereof as prescribed by NMSA 1978, § 5-11-7(B)  
27 (2019).

28 Section 8. Amendments. This Formation Resolution may be amended or  
29 supplemented by ordinance or resolution adopted by the Council in accordance with the  
30 laws of the City and the State.

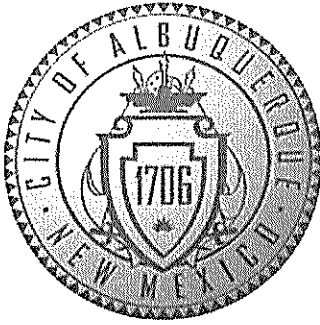
31 Section 9. Repealer. All ordinances or resolutions, or parts thereof in conflict

1 with the provisions of this Formation Resolution, are hereby repealed to the extent only  
2 of such inconsistency. This repealer shall not be construed to revive any ordinance or  
3 resolution, or part thereof, heretofore repealed.

4 Section 10. Severability. If any section, paragraph, clause or provision of this  
5 Formation Resolution shall for any reason be held to be invalid or unenforceable, the  
6 invalidity or unenforceability of such section, paragraph, clause or provision shall in no  
7 manner affect any remaining provisions of this Formation Resolution.

8 Section 11. Notice of Adoption of Formation Resolution. In compliance with  
9 NMSA 1978, § 5-11-8(A) (2017), the Clerk is hereby directed to cause a copy of this  
10 Formation Resolution to be delivered, by certified mail, return receipt requested, to the  
11 Bernalillo County Assessor, Bernalillo County Treasurer, the Bernalillo County Manager,  
12 the Secretary of the New Mexico Taxation and Revenue Department, and the Director  
13 of the Local Government Division of the New Mexico Department of Finance and  
14 Administration.

15  
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Mayor Tim Keller

# CITY OF ALBUQUERQUE


Albuquerque, New Mexico

Office of the Mayor

## INTER-OFFICE MEMORANDUM

**DATE:** June 1, 2021

**TO:** Cynthia D. Borrego, President - City Council

**FROM:** Tim Keller, Mayor 

**SUBJECT:** Resolution: Authorizes Formation of the Aspire Public Improvement District.

The attached Resolution would authorize formation of the Aspire PID pursuant to the New Mexico Public Improvement District Act, NMSA 1978, §§ 5-11-1 to -27.


Formation of the Aspire PID would enable the development of between 482 and 506 single-family detached homes on approximately 83 acres in southwest Albuquerque. The land encompassing the proposed Aspire PID is owned entirely by the applicant for formation. The Aspire PID would impose a special levy on the owners of homes within the PID to finance eligible infrastructure improvements.

The attached proposed resolution is hereby forwarded to the Council for its consideration and action.

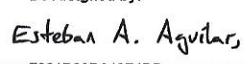


Resolution: Authorizes Formation of the Aspire Public Improvement District

Approved:

  
\_\_\_\_\_  
Sarita Nair Date  
Chief Administrative Officer

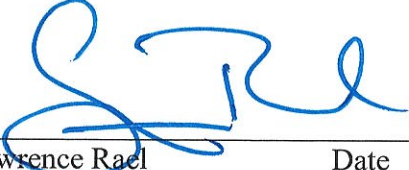
Approved as to Legal Form:

DocuSigned by:  
  
\_\_\_\_\_  
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Esteban A. Aguilar, Jr. Date  
City Attorney


Recommended:

  
\_\_\_\_\_  
Sanjay M. Bhakta Date  
Chief Financial Officer

Recommended:

  
\_\_\_\_\_  
Lawrence Rael Date  
Chief Operating Officer

DocuSigned by:

  
\_\_\_\_\_  
03FCD26AD26748C  
Renee Martinez  
DFAS Director

DS  
OK as to legal form

## **Cover Analysis**

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

The attached Resolution would authorize formation of the Aspire Public Improvement District (the "Aspire PID").

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

The attached Resolution would authorize formation of the Aspire PID pursuant to the New Mexico Public Improvement District Act, NMSA 1978, §§ 5-11-1 to -27.

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

Formation of the Aspire PID would enable the development of between 482 and 506 single-family detached homes on approximately 83 acres in southwest Albuquerque. The land encompassing the proposed Aspire PID is owned entirely by the applicant for formation. The Aspire PID would impose a special levy on the owners of homes within the PID to finance eligible infrastructure improvements.

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

There is no cost to the City associated with forming the Aspire PID.

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

N/A

**FISCAL IMPACT ANALYSIS**

TITLE: APPROVING THE APPLICATION AND PETITION OF SUCCESS LAND HOLDINGS LLC AND HERITAGE TRAILS DEVELOPMENT I, LLC FOR FORMATION OF THE ASPIRE PUBLIC IMPROVEMENT DISTRICT (PID)

R: xxxx O:  
 FUND: xxxx  
 DEPT: xxxx

No measurable fiscal impact is anticipated, i.e., no impact on fund balance over and above existing appropriations.

(If Applicable) The estimated fiscal impact (defined as impact over and above existing appropriations) of this legislation is as follows:

		Fiscal Years			Total
		2021	2022	2023	
Base Salary/Wages					-
Fringe Benefits	35.54%	-	-	-	-
Subtotal Personnel		-	-	-	-
Operating Expenses			-		-
Debt Service					-
Property			-		-
Indirect Costs	2.50%	-	-	-	-
Total Expenses		\$ -	\$ -	\$ -	\$ -
<input type="checkbox"/> Estimated revenues not affected					
<input checked="" type="checkbox"/> Estimated revenue impact					
Revenue from Fund 405		0	-	\$ -	-
Amount of Grant					-
City Cash Match -Fund 405					-
City In-kind Match					-
City IDOH					-
Total Revenue		\$ -	\$ -	\$ -	\$ -

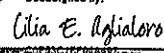
These estimates do not include any adjustment for inflation.  
 \* Range if not easily quantifiable.

Number of Positions created

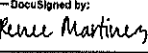
COMMENTS: There is no fiscal impact for forming the Aspire PID. The City is not responsible for the debt service on PIDs. The Aspire PID is a separate entity and has its own governing board.

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

PREPARED BY:

DocuSigned by:  
  
 6/1/2021 | 3:52 PM MDT  
 FISCAL ANALYST

APPROVED:

DocuSigned by:  
  
 6/1/2021 | 4:13 PM PDT  
 DIRECTOR (date)

REVIEWED BY:

DocuSigned by:  
  
 6/2/2021 | 12:54 PM MDT  
 EXECUTIVE BUDGET ANALYST

DocuSigned by:  
  
 6/2/2021 | 12:54 PM MDT  
 BUDGET OFFICER (date)

DocuSigned by:  
  
 6/2/2021 | 1:39 PM MDT  
 CITY ECONOMIST