

RESOLUTION

Declaring The Intent Of The City Of Albuquerque, New Mexico, Subject To The Satisfaction Of Certain Conditions, To Issue Metropolitan Redevelopment Bonds In An Aggregate Principal Amount Not To Exceed \$10,000,000.00 In Connection With The Acquisition, Construction And Equipping Of The Franz Project For The Purpose Of Inducing 1716 Central Avenue, LLC Or Its Successors And Assigns, To Locate The Project In The City And To Develop The Project In The City As Described In The Project Plan (Benton, by request)

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

WHEREAS, the City of Albuquerque (the “City”), State of New Mexico (the “State”), is a legally and regularly created, established, organized and existing municipal corporation of the State; and

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

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

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

WHEREAS, 1716 Central Avenue, LLC, a New Mexico limited liability company

(together with its successors and assigns, the “Company”) has presented to the City a proposal (the “Project Plan”) whereby, in accordance with the Code, the City will acquire certain land with a specific site address of 1716 Central Avenue SW, all within the City (the “Project Site”), upon which renovation, construction and equipping of the Project Site for the purpose of providing a mixed-use project consisting of multifamily residential and related amenities and office uses will occur (the “Project”) in accordance with the Code; and

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

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

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

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

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

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

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

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

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

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

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

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

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

Section 3. Interest on the Bonds not Federally Tax-exempt. The City 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 the Bond Ordinance. In connection with this Resolution, the Council has been informed that the Company has expressed its understanding that a failure or refusal of the Council, however arising, to adopt the Bond Ordinance will have the effect of voiding any benefits to the Company under the Code.

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

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

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

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

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