



Legislation Text

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**CITY of ALBUQUERQUE**  
**TWENTY FIFTH COUNCIL**

COUNCIL BILL NO. R-23-107

ENACTMENT NO. \_\_\_\_\_

SPONSORED BY: Isaac Benton by request

RESOLUTION

Relating To The Redevelopment, Leasing And Sale Of A Metropolitan Redevelopment Project Within The Downtown 2025 Metropolitan Redevelopment Area Consistent With The Terms Of The Downtown 2025 Metropolitan Redevelopment Plan; Approving The Metropolitan Redevelopment Application Entitled "The Downtowner Redevelopment Tax Abatement Application"; Authorizing The Acquisition Of Land And Existing Improvements And Construction Of A Building Within The Downtown 2025 Metropolitan Redevelopment Area; Authorizing The Disposition By Lease And Sale Of The City's Interest In Such Project To Alb. Downtowner, LLC, Its Successors And Assigns; Authorizing The Execution And Delivery Of A Lease Agreement, In Form, And Other Documents In Connection With The Project; Making Certain Determinations And Findings Relating To The Project; Ratifying Certain Actions Taken Previously; And Repealing All Actions Inconsistent With This Resolution (Benton by request)

RELATING TO THE REDEVELOPMENT, LEASING AND SALE OF A METROPOLITAN REDEVELOPMENT PROJECT WITHIN THE DOWNTOWN 2025 METROPOLITAN REDEVELOPMENT AREA CONSISTENT WITH THE TERMS OF THE DOWNTOWN 2025 METROPOLITAN REDEVELOPMENT PLAN; APPROVING THE METROPOLITAN REDEVELOPMENT APPLICATION ENTITLED "THE DOWNTOWNER REDEVELOPMENT TAX ABATEMENT APPLICATION"; AUTHORIZING THE ACQUISITION OF LAND AND EXISTING IMPROVEMENTS AND CONSTRUCTION OF A BUILDING WITHIN THE DOWNTOWN 2025 METROPOLITAN REDEVELOPMENT AREA; AUTHORIZING THE DISPOSITION BY LEASE

AND SALE OF THE CITY'S INTEREST IN SUCH PROJECT TO ALB. DOWNTOWNER, LLC, ITS SUCCESSORS AND ASSIGNS; AUTHORIZING THE EXECUTION AND DELIVERY OF A LEASE AGREEMENT, IN FORM, AND OTHER DOCUMENTS IN CONNECTION WITH THE PROJECT; MAKING CERTAIN DETERMINATIONS AND FINDINGS RELATING TO THE PROJECT; RATIFYING CERTAIN ACTIONS TAKEN PREVIOUSLY; AND REPEALING ALL ACTIONS INCONSISTENT WITH THIS RESOLUTION.

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

WHEREAS, the City desires to promote redevelopment in areas designated as blighted areas so as to promote neighborhood stabilization by providing affordable housing, convenient services, creating new jobs, upgrading area buildings, infrastructure and housing for such areas and to promote public health welfare, safety convenience and prosperity; and

WHEREAS, pursuant to the Metropolitan Redevelopment Code, Sections 3-60A-1 through 3-60A-13 and Sections 3-60A-14 through 3-60A-48, New Mexico Statutes Annotated, 1978 Compilation, as amended (the "Act"), the City is authorized to acquire, whether by construction, purchase, gift or lease, and to finance, sell, lease, or otherwise dispose of, projects as defined in the Act; and

WHEREAS, the City Council (the "Council") has adopted an ordinance establishing the Albuquerque Development Commission (the "Development Commission") to review metropolitan redevelopment projects proposed to be owned and leased by the City pursuant to City Resolution No. 16-1985, as amended; and

WHEREAS, Alb. Downtowner, LLC, a New Mexico limited liability company (together with its successors and assigns, the "Company") has presented to the Development Commission and the Council a proposed metropolitan redevelopment project application (the "Plan") whereby the City will, pursuant to the Act, acquire from the Company land and existing improvements located within the City and within the Downtown 2025 Metropolitan Redevelopment Area for redevelopment by the lessee/purchaser thereof for a multi-family project (the "Project") consistent with the Downtown 2025 Metropolitan Redevelopment Plan and the Act; and

WHEREAS, under the Company's proposal, the City will effectuate the transfer and sale of real property with the Company related to the Project, as authorized under this Resolution (this "Resolution"); and

WHEREAS, under the Company's proposal, after the City's acquisition of the Property through

a special warranty deed or quitclaim deed (the "Deed"), the City and the Company will enter into a Lease Agreement (the "Lease"), pursuant to which the Company will lease and agree to purchase the land and improvements comprising the Project from the City, and the Company shall comply with the obligations incurred pursuant to the provisions of the Lease and this Resolution; and

WHEREAS, the Albuquerque Development Commission has reviewed the Plan, has held a public hearing on the Plan and Project, has determined that the Company has complied with Resolution No. 16-1985, as amended, and has recommended approval of the Plan and Project by the Council based on the following findings:

1. The Project removes blighted conditions and meets the goals of the Downtown 2025 Metropolitan Redevelopment Area Plan by adding more housing, renovating a blighted property, and contributing to a walkable and vibrant atmosphere in the Downtown core; and

2. The Project meets the design criteria by creating an aesthetically pleasing project that provides variation in color, texture, and scale, and modulates the building elevation and facade; and

3. The Applicant has demonstrated sufficient experience to reasonably complete the Project; and

WHEREAS, the Plan and Project meets the objectives of the Act and will benefit the City's efforts to revitalize the Downtown 2025 Metropolitan Redevelopment Area of the City; and

WHEREAS, the Plan has been filed with the City Clerk and presented to the Council; and

WHEREAS, the Council has held a public hearing on the Plan and the Project; and

WHEREAS, the form of the Lease has been filed with the City Clerk and presented to the Council (the Lease and Deed are collectively referred to in the Resolution as the "Project Documents"); and

WHEREAS, the Council has determined that it is in the best interest of the City to approve the Project and to execute and deliver the Project Documents, and other documents related thereto; and

WHEREAS, the City is authorized to execute the Project Documents, in form, under the Act and this Resolution, and has concluded that it is desirable at this time to approve the Project which constitutes a valid public purpose.

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

Section 1. RATIFICATION. All actions not inconsistent with the provisions of this Resolution

previously taken by the Council and the officials of the City directed toward approval of the Plan and the Project should be approved and the same hereby are ratified, approved and confirmed.

Section 2. FINDINGS. The Council, after a public hearing, hereby declares that it has considered all relevant information presented to it relating to the Plan and the Project and hereby finds and determines that approval of the Plan and the Project, and the execution of the Project Documents, pursuant to this Resolution are necessary and advisable and in the interest of and will promote the public health, safety, morals, convenience, education, economy and welfare of the City and the residents of the City. The Council finds that:

- (1) The Plan and the proposed activities under the Plan aid in the elimination or prevention of slum or blight;
- (2) The Plan conforms to the general plan for the City as a whole and the terms of the Downtown 2025 Metropolitan Redevelopment Plan;
- (3) The Plan affords maximum opportunity consistent with the needs of the community for the rehabilitation or redevelopment of the area by private enterprise or persons, and the objectives of the Plan justify the proposed activities as public purposes and needs;
- (4) The developer of the Project property is the Company; and
- (5) The Project property comprises of 207-unit multi-family mixed use community on 0.8 acres located near First and Silver SW in central Albuquerque, New Mexico, all within the Downtown 2025 Metropolitan Redevelopment Area.

Section 3. THE PROJECT. The City shall acquire the Project for the purposes hereinabove described, and the Project shall be located at all times within the corporate limits of the City and within the Downtown 2025 Metropolitan Redevelopment Area.

Section 4. PLAN APPROVAL.

A. The Plan in the form on deposit in the office of the City Clerk is hereby approved in all respects.

The Company shall comply with provisions outlined in the Downtowner Development & Disposition Agreement, as approved by City Council.

Section 5. AUTHORIZATION OF OFFICERS; APPROVAL OF DOCUMENTS; ACTIONS TO BE TAKEN.

A. The form, terms and provisions of the Project Documents in the form on deposit in the office of the City Clerk are in all respects approved, authorized and confirmed.

B. The Mayor or Chief Administrative Officer of the City is authorized to execute and

deliver in the name and on behalf of the City, and the City Clerk or Deputy City Clerk is hereby authorized to attest, as necessary, the Project Documents with such changes therein as are not inconsistent with this Resolution.

C. The Mayor, Chief Administrative Officer, Treasurer and City Clerk are further authorized to execute, authenticate and deliver such certifications, instruments, documents, letters and other agreements and to do such other acts and things as are necessary or appropriate to consummate the transactions contemplated by the Project Documents and the Plan.

D. The officers of the City shall take such action as is necessary to effectuate the provisions of the Project Documents and shall take such action as is necessary in conformity with the Act for the Project and for carrying out other transactions as contemplated by this Resolution and the Project Documents.

E. The Project Documents shall not be executed until Construction of the Project is complete, as exemplified by a final Certificate of Occupancy, or prior at the sole discretion of the City. The Project Documents must be entered into and effective within three years of the date of this Resolution.

Section 6. LEASE TERM. The Lease term shall not exceed seven years.

Section 7. FINDINGS REGARDING PROPERTY TAX ABATEMENT AND OTHER MATTERS. The Council makes the following determinations and findings:

A. The Company is committed to provide fair consideration under the Lease through planned improvements to the Project pursuant to the Project Documents and the Act and comply with the terms of the Lease.

B. It shall not be necessary to deposit any amount in a controlled account for the maintenance of the Project property.

C. The Lease requires that the Company maintain the Project property in good repair and condition (excepting reasonable wear and tear) and carry all proper insurance with respect to the Project property.

D. In accordance with Section 7-36-3.1, NMSA 1978, as amended and supplemented, the Project property shall be exempt from property taxation on the improvements to the Project for the shorter of the period of time in which the City owns the Project or December 31 of the year in which the seventh anniversary of the acquisition of the Project property by the City will occur.

Section 8. LIMITED OBLIGATIONS. Nothing contained in the Resolution or in the Project Documents or any other instrument shall be construed as obligating the City (except with respect

to the Project property as provided in the Project Documents), nor as incurring a pecuniary liability or a charge upon the general credit of the City or against its taxing power, nor shall the breach of any agreement contained in this Resolution, the Project Documents or any other instrument be construed as obligating the City (except with respect to the Project property as provided in the Project Documents), nor as incurring a pecuniary liability or a charge upon the general credit of the City or against its taxing power, the City having no power to pay out of its general funds, or otherwise contribute any part of the costs of constructing or furnishing the Project property.

Section 9. APPROVAL OF INDEMNIFICATION. The Council specifically approves the provisions of the Lease relating to indemnification which provide that the Company shall indemnify and hold harmless the City and its City Councilors, officials, members, officers, employees and agents against liability to the Company, or to any third parties that may be asserted against the City or its City Councilors, officials, members, officers, employees or agents with respect to the City's ownership of the Project property and arising from the condition of the Project property or the acquisition, construction and operation of the Project property by the Company, except to the extent Section 56-7-1, New Mexico Statutes Annotated, 1978 Compilation, applies, and except claims for any loss or damage arising out of or resulting from the gross negligence or willful misconduct of the City or any member, officer, employee or agent of the City.

Section 10. REPEALER. All bylaws, orders, resolutions and ordinances, or parts thereof, inconsistent with this Resolution are repealed by this Resolution but only to the extent of that inconsistency. This repealer shall not be construed to revive any bylaw, order, resolution or ordinance, or part thereof, previously repealed.

Section 11. SEVERABILITY. 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 that section, paragraph, clause or provision shall not affect any of the remaining provisions of this Resolution.

Section 12. INCORPORATION. Sections 1 through 10 shall be incorporated in and made part of the City of Albuquerque, New Mexico Code of Resolutions in Chapter 1 (Land Use), Article 9 (Land Acquisitions, Exchanges, and Donations).

Section 13. EFFECTIVE DATE. This Resolution shall take effect five days after publication by title and general summary.

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