



Legislation Text

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CITY of ALBUQUERQUE
NINETEENTH COUNCIL

COUNCIL BILL NO. R-11-306 ENACTMENT NO. _____

SPONSORED BY: Dan Lewis, by request

RESOLUTION

Relating To The Proposed Albuquerque, New Mexico Special Assessment District No. 228, Determining The Advisability Of Constructing, And The Type And Character Of, Certain Streets And Associated Storm Drainage Improvements, Sanitary Sewer Improvements, Water Improvements, And Dry Utility Improvements Therein And Directing The City Clerk To Call For Sealed Bids On Such Improvements
(Lewis, by request)

RELATING TO THE PROPOSED ALBUQUERQUE, NEW MEXICO SPECIAL ASSESSMENT DISTRICT NO. 228, DETERMINING THE ADVISABILITY OF CONSTRUCTING, AND THE TYPE AND CHARACTER OF, CERTAIN STREETS AND ASSOCIATED STORM DRAINAGE IMPROVEMENTS, SANITARY SEWER IMPROVEMENTS, WATER IMPROVEMENTS, AND DRY UTILITY IMPROVEMENTS THEREIN AND DIRECTING THE CITY CLERK TO CALL FOR SEALED BIDS ON SUCH IMPROVEMENTS.

WHEREAS, by Resolution No. R-11-243, Enactment No. R-2011-083, adopted and approved on September 7, 2011 (the "Resolution"), the City Council (the "Council") of the City of Albuquerque (the "City"), in the County of Bernalillo and State of New Mexico, provisionally ordered the grading, paving, draining, and otherwise completing of certain streets and parts thereof (the "Street Improvements"), grading, constructing, installing, and otherwise providing certain storm drainage improvements (the "Storm Drainage Improvements"), constructing, installing, and otherwise improving of certain sanitary sewer lines (the "Sanitary Sewer Improvements"), water lines (the "Water

Improvements"), and dry utilities (the "Dry Utility Improvements") in the proposed district, (collectively, the "Improvements"), all pursuant to and in conformity with Section 3-33-1 through 3-33-43, NMSA, 1978, as amended and supplemented; and

WHEREAS, the Council is of the opinion that, in the general interest of the City and in the specific interest of the property within the proposed District (defined below), the addition of the Improvements is necessary and should be made in the proposed District as so directed and that the Improvements should be as hereinafter set forth; and

WHEREAS, the area provisionally ordered to be improved by the Resolution and the benefited property to be assessed to defray the cost of the Improvements is designated "Albuquerque, New Mexico, Special Assessment District No. 228" (the "District"); and

WHEREAS, the Resolution set a time and place at which the owners of the property to be assessed, or any other interested persons, could appear before the Council and be heard as to the propriety and advisability of making the Improvements, as to the estimated cost thereof, as to the manner of payment therefore, and as to the estimated maximum benefit to each individual tract or parcel of land within the District, to-wit, on Wednesday, the 5th day of October, 2011, at 5:00 p.m. at the Council Chambers in the City; and

WHEREAS, in accordance with the laws of the State of New Mexico, not more than thirty days nor less than ten days before the day of the protest hearing, notice was given to the owners of property within the District; such notice being served by mailing a copy of the notice to each of such property owners at his last known address and further notice being given by publication once each week for three consecutive weeks in a newspaper which maintains an office, and is of general circulation in the City, the last publication having been at least one week prior to the day of the protest hearing; and

WHEREAS, at the protest hearing all owners of property to be assessed within the District and all interested persons so desiring were permitted to file a written protest, objection or to appear before the Council and be heard as to the propriety and advisability of making the Improvements, as to the estimated cost thereof, as to the manner of payment therefor, and as to the estimated maximum benefit to each individual tract or parcel of land within the District; and

WHEREAS, the Council has now considered such written protests and objections made at the protest hearing, as to the propriety and advisability of making the Improvements, as to the costs thereof, as to the manner of payment therefor, and as to the estimated maximum benefit to each individual tract or parcel of land within the District, and the Council finds that, except as noted in

Section 2 below, the written protest and such objections made at the protest hearing are without merit and finds that the same should be overruled and denied; and

WHEREAS, the property in the District is subject to a lawsuit styled, Volcano Cliffs Property Owners Association v. The City of Albuquerque, Bernalillo Case Number CV 2006-8016, which lawsuit is currently stayed in the process of settlement. This lawsuit can be dismissed upon the adoption of this Resolution 3 by the City Council, approval by the Mayor and attestation by the City Clerk.

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

Section 1. That all action heretofore taken (not inconsistent with the provisions of this Resolution) by the City and the officers of the City directed toward the construction of the Improvements within the District and toward provisionally ordering the Improvements, be and the same hereby is ratified, approved and confirmed.

Section 2. That the Council has determined, and does hereby determine, that the protests and objections filed or otherwise made in connection with the District are without merit and that the same be, and hereby are, overruled, denied and finally passed on by the Council.

Section 3. That the Council has approved and does hereby approve the estimated maximum benefit roll (also known as the addendum to the assessment plat) filed with the City Clerk on August 5, 2011, has determined and does hereby determine that it is proper and advisable to construct the Improvements in and along all of the following streets, rights-of-way, and parts thereof, as provisionally ordered (except to the extent inconsistent herewith), and does hereby order that all of the Improvements at the following locations be constructed within the District (except where noted to the contrary) and assessments levied therefor.

PAVING AND STORM DRAINAGE IMPROVEMENTS

Agua Fria Court (Unit 22) - Papagayo Road to a cul-de-sac ending the street.

Aguila Street (Units 18 & 19) - Papagayo Road to south of Azor Lane.

Alderete Court (Unit 22) - Camino Alderete to cul-de-sac ending the street.

Alto Rey Court (Unit 22) - Papagayo Road to a cul-de-sac ending the street.

Azor Lane (Unit 19) - Aguila Street to Vista del Prado.

Calle Nortena (Units 26 & 27) - Paseo del Norte to Rosa Parks Rd.

Camino Alderete (Unit 22) - Kimmick Drive to Petirrojo Road at a curve.

Camino Alto (Unit 22) - Papagayo Road to a corner then easterly to a cul-de-sac ending the

street.

Camino Alto Court (Unit 22) - Camino Alto to a cul-de-sac ending the street.

Camino Del Oeste (Unit 19) - Vista Del Prado to Urraca Street.

Canavio Place (Units 18 & 22) - Papagayo Road to Camino Alderete.

Canoncito Drive (Unit 22) - Kimmick Drive to Canavio Place.

Compass Drive (Units 18 & 19) - Kimmick Drive to 400' South of Petirrojo Road.

Compass Court (Unit 19) - Compass Drive to a cul-de-sac ending the street.

Cuervo Place (Unit 18) - Compass Drive to Aguila Street.

Kimmick Drive; also platted as 81st Street (Units 18, 22, & 26) - Unser Blvd. to 325' East of Camino de Paz and Rosa Parks Rd to Paseo del Norte.

Metro Lane (frontage; Unit 18) - from Sujeto Road (to be platted) to Kimmick Drive

Papagayo Road (Units 18 & 22) - Compass Drive to Camino Alderete to end the street.

Paseo Del Norte - 300' east of Calle Plata to Calle Nortena.

Pato Road (Unit 18) - Papagayo Road to Urraca Street.

Petirrojo Road (Units 18 & 22) - Compass Drive to Camino Alderete.

Picardia Place (Units 18 & 22) - Petirrojo Road to Petirrojo Road.

Rainbow Boulevard - Unser Boulevard to 900' northwest of Universe Boulevard.

Rosa Parks Road (Units 26 & 27) - 300' East of Calle Plata to Kimmick Drive.

Scenic Road - Rainbow Boulevard to 250' southwest of Rainbow Boulevard.

Sujeto Road (Unit 18) - Unser Blvd. to Aguila Street.

Universe Boulevard - Rainbow Boulevard to 450' northeast of Rainbow Boulevard.

Unser Boulevard - Compass Drive to Kimmick Drive.

Urraca Street (Units 18-22) - Kimmick Drive to Camino del Oeste.

Valiente Road (Units 26 & 27) - Kimmick Drive to Calle Nortena.

Vista del Prado (Unit 19) - Azor Lane to Urraca Street.

Vista del Prado Court (Unit 19) - Vista del Prado to a cul-de-sac ending the street.

SANITARY SEWER IMPROVEMENTS

Agua Fria Court (Unit 22) - Papagayo Road to a cul-de-sac ending the street.

Aguilar Street (Units 18 & 19) - Papagayo Road to south of Azor Lane.

Alderete Court (Unit 22) - Camino Alderete to cul-de-sac ending the street.

Alto Rey Court (Unit 22) - Papagayo Road to a cul-de-sac ending the street.

Azor Lane (Unit 19) - Aguila Street to Vista del Prado.

Calle Nortena (Units 26 & 27) - Paseo del Norte to Rosa Parks Rd.

Camino Alderete (Unit 22) - Kimmick Drive to Petirrojo Road at a curve.

Camino Alto (Unit 22) - Papagayo Road to a corner then easterly to a cul-de-sac ending the street.

Camino Alto Court (Unit 22) - Camino Alto to a cul-de-sac ending the street.

Camino Del Oeste (unit 19) - Vista Del Prado to Urraca Street.

Canavio Place (Units 18 & 22) - Papagayo Road to Camino Alderete.

Canoncito Drive (Unit 22) -Kimmick Drive to Canavio Place.

Compass Drive (Units 18 & 19) - Kimmick Drive to 400' South of Petirrojo Road.

Compass Court (Unit 19) - Compass Drive to a cul-de-sac ending the street.

Cuervo Place (Unit 18) - Compass Drive to Aguila Street.

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Metro Lane (frontage; Unit 18) - from Sujeto Road (to be platted) to Kimmick Drive

Papagayo Road (Units 18 & 22) - Compass Drive to Camino Alderete to end the street.

Pato Road (Unit 18) - Papagayo Road to Urraca Street.

Petirrojo Road (Units 18 & 22) - Compass Drive to Camino Alderete.

Picardia Place (Units 18 & 22) - Petirrojo Road to Petirrojo Road.

Rainbow Boulevard - Unser Boulevard to 900' northwest of Universe Boulevard.

Rosa Parks Road (Units 26 & 27) - 300' East of Calle Plata to Kimmick Drive.

Scenic Road - Rainbow Boulevard to 250' southwest of Rainbow Boulevard.

Sujeto Road (Unit 18) - Unser Blvd. to Aguila Street.

Universe Boulevard - Rainbow Boulevard to 450' northeast of Rainbow Boulevard.

Urraca Street (Units 18-22) - Kimmick Drive to Camino del Oeste.

Valiente Road (Units 26 & 27) - Kimmick Drive to Calle Nortena.

Vista del Prado (Unit 19) - Azor Lane to Urraca Street.

Vista del Prado Court (Unit 19) - Vista del Prado to a cul-de-sac ending the street.

WATER IMPROVEMENTS

Agua Fria Court (Unit 22) - Papagayo Road to a cul-de-sac ending the street.

Aguila Street (Units 18 & 19) - Papagayo Road to south of Azor Lane.

Alderete Court (Unit 22) - Camino Alderete to cul-de-sac ending the street.

Alto Rey Court (Unit 22) - Papagayo Road to a cul-de-sac ending the street.

Azor Lane (Unit 19) - Aguila Street to Vista del Prado.

Calle Nortena (Units 26 & 27) - Paseo del Norte to Rosa Parks Rd.

Camino Alderete (Unit 22) - Kimmick Drive to Petirrojo Road at a curve.

Camino Alto (Unit 22) - Papagayo Road to a corner then easterly to a cul-de-sac ending the street.

Camino Alto Court (Unit 22) - Camino Alto to a cul-de-sac ending the street.

Camino Del Oeste (Unit 19) - Vista Del Prado to Urraca Street.

Canavio Place (Units 18 & 22) - Papagayo Road to Camino Alderete.

Canoncito Drive (Unit 22) - Kimmick Drive to Canavio Place.

Compass Drive (Units 18 & 19) - Kimmick Drive to 400' South of Petirrojo Road.

Compass Court (Unit 19) - Compass Drive to a cul-de-sac ending the street.

Cuervo Place (Unit 18) - Compass Drive to Aguila Street.

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Pato Road (Unit 18) - Papagayo Road to Urraca Street.

Petirrojo Road (Units 18 & 22) - Compass Drive to Camino Alderete.

Picardia Place (Units 18 & 22) - Petirrojo Road to Petirrojo Road.

Rainbow Boulevard - Unser Boulevard to 900' northwest of Universe Boulevard.

Rosa Parks Road (Units 26 & 27) - 300' East of Calle Plata to Kimmick Drive.

Scenic Road - Rainbow Boulevard to 250' southwest of Rainbow Boulevard.

Sujeto Road (Unit 18) - Unser Blvd. to Aguila Street.

Universe Boulevard - Rainbow Boulevard to 450' northeast of Rainbow Boulevard.

Urraca Street (Units 18-22) - Kimmick Drive to Camino del Oeste.

Valiente Road (Units 26 & 27) - Kimmick Drive to Calle Nortena.

Vista del Prado (Unit 19) - Azor Lane to Urraca Street.

Vista del Prado Court (Unit 19) - Vista del Prado to a cul-de-sac ending the street.

DRY UTILITY IMPROVEMENTS

Agua Fria Court (Unit 22) - Papagayo Road to a cul-de-sac ending the street.

Aguila Street (Units 18 & 19) - Papagayo Road to south of Azor Lane.

Alderete Court (Unit 22) - Camino Alderete to cul-de-sac ending the street.

Alto Rey Court (Unit 22) - Papagayo Road to a cul-de-sac ending the street.

Azor Lane (Unit 19) - Aguila Street to Vista del Prado.

Calle Nortena (Units 26 & 27) - Paseo del Norte to Rosa Parks Rd.

Camino Alderete (Unit 22) - Kimmick Drive to Petirrojo Road at a curve.

Camino Alto (Unit 22) - Papagayo Road to a corner then easterly to a cul-de-sac ending the street.

Camino Alto Court (Unit 22) - Camino Alto to a cul-de-sac ending the street.

Camino Del Oeste (unit 19) - Vista Del Prado to Urraca Street.

Canavio Place (Units 18 & 22) - Papagayo Road to Camino Alderete.

Canoncito Drive (Unit 22) - Kimmick Drive to Canavio Place.

Compass Drive (Units 18 & 19) - Kimmick Drive to 400' South of Petirrojo Road.

Compass Court (Unit 19) - Compass Drive to a cul-de-sac ending the street.

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Urraca Street (Units 18-22) - Kimmick Drive to Camino del Oeste.

Valiente Road (Units 26 & 27) - Kimmick Drive to Calle Nortena.

Vista del Prado (Unit 19) - Azor Lane to Urraca Street.

Vista del Prado Court (Unit 19) - Vista del Prado to a cul-de-sac ending the street.
ALL IN THE CITY OF ALBUQUERQUE, BERNALILLO COUNTY, NEW MEXICO.

Section 4. The Council does hereby determine that all Water Improvements, Sanitary Sewer Improvements, Storm Drainage Improvements, Street Improvements, and Dry Utility Improvements which are not specified in Section 3 of this Resolution shall be deleted from the District.

Section 5. The Council does hereby determine that the type and character of the Improvements shall be substantially as follows:

A. The Street Improvements shall include excavation, embankment and paving consisting of compacted subgrade, base course, and asphalt-concrete surface; drainage structures; concrete curbs, gutters and sidewalks, street lighting, street signals and necessary conduits and/or crossings for future dry utility extensions. The curb and gutters shall be adjacent to the edge of the pavement.

B. The Storm Drainage Improvements shall include excavation, grading, trenching, removal and replacement of any obstacles, pipe laying; box culverts, head walls, manholes, backfilling, rip-rap, concrete-lined channels, concrete aprons, and concrete run down. All storm drain pipe shall be reinforced concrete. All Storm Drainage Improvements shall be located within the street right-of-way or drainage right-of-way.

C. The Sanitary Sewer Improvements shall include excavation, trenching, pipe-laying, and backfilling; removal and replacement of any paving and other obstacles; collection lines shall be polyvinyl chloride pipe, or where necessary, ductile iron pipe; manholes shall be located in street intersection or as required pump station and force main. Main stubs shall be provided at locations where future intersections or extensions are anticipated. Collection lines shall generally be located along the centerline of the rights-of-way. Service stubs shall be 4-inch diameter cast iron soil pipe for residential services.

D. The Water Improvements shall include excavation, trenching, pipe-laying, valves, pump station, pressure reducing valves, fire hydrants, and backfilling; removal and replacement of any paving and other obstacles; distribution lines; service lines shall be installed per current design standards.

E. The Dry Utility Improvements shall include the trenching and backfill by the District Contractor, and the furnishing and installing of the utility lines and appurtenances by the utility companies.

Section 6. The estimated total construction and installation cost of the Improvements, including engineering, legal, financing, and all necessary and incidental expenses is \$24,650,000 of which it is estimated that \$-0 - will be defrayed from sources other than special assessments, and \$24,650,000 will be assessed against those tracts or parcels of land in the District as hereinafter provided. For assessments based on a front foot basis, the amount of frontage of any particular tract or parcel of land specifically benefited by the Improvements will be computed by determining the distance along the boundaries of such tract or parcel which abut any street, right-of-way, easement, or any combination thereof, in which and through which a particular improvement is placed, and the amount to be assessed will be apportioned to each such tract or parcel in proportion to the amount of footage of all benefited tracts or parcels. For assessments based on a service unit basis, an equal share of the amount to be assessed will be apportioned to each of the parcels specifically benefited by the Improvements. For assessments based on an area basis, the amount of area of any tract or parcel of land specifically benefited by the Improvement will be computed by determining the acreage of such tract or parcel and the amount to be assessed will be apportioned to each such tract or parcel in proportion to the total amount of area of all the benefited tracts or parcels. For assessments based on a contribution basis, the amount of contribution of any tract or parcel of land specifically benefited by the Improvements will be determined from master plans, management plans, or engineering analysis, and the amount to be assessed will be apportioned to each such tract or parcel in proportion to the amount of contribution of each such tract or parcel to the total amount of contribution of all benefited tracts or parcels. The estimated cost to be assessed and the basis of assessment for each type of improvement is as follows:

A. For Street Improvements and Storm Drainage Improvements, the estimated total assessments are \$13,000,000. The assessments for street and intersection improvements will be levied either on a front foot, area, or service unit basis against those tracts or parcels of land in the District that abut the streets being improved and also assessed against the tracts of land in the District that are specifically benefited by the street and intersection improvements.

B. For Storm Drainage Improvements, assessments will be levied against those tracts or parcels of land situated wholly or partially within the drainage basins in which and through which the Storm Drainage Improvements and Street Improvements are being placed and also assessed against the tracts of land in the District that are specifically benefited by the storm drain system improvements. Assessments will be levied equally against each tract or parcel of land

on a contribution, area, front foot, or service unit basis to each of those tracts or parcels of land contributing to the total basin flow and for the flood protection received by and the elimination of potential flooding of the access to each tract or parcel of land due to the construction of the Storm Drainage Improvements and Street Improvements and the diversion of drainage flow by the platted street system.

C. For Water Improvements, the estimated total assessments are \$5,950,000. The assessments will be levied on a front foot, area, or service unit basis against those tracts or parcels of land abutting the streets, rights-of-way, or easements in which and through which the Water Improvements shall be placed and also assessed against the tracts of land in the District that are specifically benefited by the availability of service.

D. For Sanitary Sewer Improvements, the estimated total assessments are \$4,100,000. The assessments will be levied on a front foot, area, or service unit basis against those tracts or parcels of land abutting the streets, rights-of-way, or easements in which and through which the Sanitary Sewer Improvements shall be placed and also assessed against the tracts of land in the District that are specifically benefited by the availability of service.

E. For Dry Utility Improvements, the estimated total assessments are \$1,600,000. Assessments will be levied on a front foot, area, or service unit basis against those tracts or parcels of land abutting the streets, rights-of-way, or easements in which and through which the Dry Utility Improvements shall be placed and also assessed against the tracts of land in the District that are specifically benefited by the availability of service.

Section 7. That there be, and there hereby is created and established the City of Albuquerque Special Assessment District No. 228 for the purpose of constructing the Improvements, all as herein set forth, and for assessing the cost thereof to the property benefited thereby.

Section 8. That any person who filed, and did not withdraw, a written protest or objection protesting the construction of the Improvements pursuant to Section 3-33-13 NMSA 1978 shall have the right, within thirty days from the adoption and approval of this Resolution, to commence an action or suit pursuant to Section 39-3-1.1 in State District Court in Bernalillo County, New Mexico, to correct or set aside the determination of the Council set forth in this resolution.

Section 9. That Wilson & Company, Inc. (the "Engineers"), professional engineers duly licensed under the laws of the State of New Mexico, who are employed by the City in connection with the Improvements, be and they hereby are ordered and directed to modify the preliminary plans, specifications, proposed contract documents, assessment plat, addendum to the assessment plan,

estimates of cost, and other relevant documents in connection with the District to conform to any modification ordered and directed in this Resolution. The Engineers are hereby ordered and directed to mail a copy of this Resolution and a copy of Section 39-3-1.1 NMSA 1978, as amended and supplemented, to all property owners within the District.

Section 10. That the City is hereby authorized and directed, upon modification, if any, being made to the instruments designated in Section 9 of this Resolution, and a set of said instruments being filed in the office of the Clerk, to advertise for bids for doing the work of constructing the Improvements by publication of a notice to contractors at least once each week for two consecutive weeks by insertions in the Albuquerque Journal, a newspaper which maintains an office, or is of general circulation, in the City and the County of Bernalillo, the first of such publications to be made at least 10 days before the date for opening of bids, all pursuant to Sections 3-33-19 and 13-1-102, NMSA 1978, as amended and supplemented, and the ordinances of the City.

Section 11. That the City Clerk is hereby authorized and directed to record in appropriate form the estimated maximum benefit roll in the records of the Bernalillo County Clerk to give constructive notice of the pendency of the District to any owner, purchaser or encumbrancer of all tracts or parcels included in the District as provided by Section 3-33-11 NMSA 1978, as amended and supplemented.

Section 12. That the officers of the City be and they hereby are, authorized and directed to take all action necessary or appropriate to effectuate the provisions of this Resolution.

Section 13. That all resolutions, or parts thereof, in conflict with the provisions of this Resolution are hereby repealed. This repealer shall not be construed to revive any resolution, or part thereof, heretofore repealed.

Section 14. If any section, paragraph, clause, or provision of this Resolution shall for any reason be held to be invalid or unenforceable, the validity of such section, paragraph, clause, or provision shall not affect any of the remaining provisions of this Resolution.

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