



Legislation Text

File #: R-20-51, Version: 2

CITY of ALBUQUERQUE TWENTY FOURTH COUNCIL

COUNCIL BILL NO. R-20-51 ENACTMENT NO.

SPONSORED BY: Diane G. Gibson

1 RESOLUTION

2 ..title

3 Approving The First Amendment To The Resolution Approving The Formation Of Winrock
Town Center Tax Increment Development Districts 1 And 2 (The “Districts”), Pursuant To
The Tax Increment For Development Act, Sections 5-15-1 Through 5- 15-29 NMSA 1978,
As Amended By Senate Bill 566 Of The First Session Of The Fifty Fourth Legislature
(Collectively, The “TIDD Act”); Approving The Amended And Restated Development
Agreement By And Among The City Of Albuquerque, New Mexico, Winrock Partners, LLC,
And The Districts, Pursuant To The TIDD Act; Consenting To The Second Amendment To
Tax Increment Development Plan Ratified In Connection With The Formation Of Districts,
Pursuant To The TIDD Act; Ratifying Certain Actions Heretofore Taken; And Repealing All
Actions Inconsistent With This Resolution (Gibson)

4 ..body

5 APPROVING THE FIRST AMENDMENT TO THE RESOLUTION APPROVING

6 THE FORMATION OF WINROCK TOWN CENTER TAX INCREMENT

7 DEVELOPMENT DISTRICTS 1 AND 2 (THE “DISTRICTS”), PURSUANT TO THE

8 TAX INCREMENT FOR DEVELOPMENT ACT, SECTIONS 5-15-1 THROUGH 5-

9 15-29 NMSA 1978, AS AMENDED BY SENATE BILL 566 OF THE FIRST

10 SESSION OF THE FIFTY FOURTH LEGISLATURE (COLLECTIVELY, THE “TIDD

11 ACT”); APPROVING THE AMENDED AND RESTATED DEVELOPMENT

12 AGREEMENT BY AND AMONG THE CITY OF ALBUQUERQUE, NEW MEXICO,
13 WINROCK PARTNERS, LLC, AND THE DISTRICTS, PURSUANT TO THE TIDD
14 ACT; CONSENTING TO THE SECOND AMENDMENT TO TAX INCREMENT
15 DEVELOPMENT PLAN RATIFIED IN CONNECTION WITH THE FORMATION OF
16 DISTRICTS, PURSUANT TO THE TIDD ACT; RATIFYING CERTAIN ACTIONS
17 HERETOFORE TAKEN; AND REPEALING ALL ACTIONS INCONSISTENT WITH
18 THIS RESOLUTION.

19 WHEREAS, on October 6, 2008, the City of Albuquerque, New Mexico (the
20 “City”) adopted Resolution Enactment No. R-2008-120 (the “Formation
21 Resolution”), approving the formation of Winrock Town Center Tax Increment
22 Development Districts 1 and 2 (the “Districts”) and ratifying and approving
23 that in accordance with the Tax Increment for Development Act, NMSA 1978,
24 §§ 5-15-1 to -29, as amended (the “TIDD Act”); and

25 WHEREAS, the Formation Resolution ratifies and approves that certain Tax
26 Increment Development Plan (the “TIDD Plan”) relating to the development of
27 the Districts pursuant to the TIDD Act; and

28 WHEREAS, on January 5, 2009, the City adopted Resolution Enactment No.
29 R-2009-005 approving a form of Master Development Agreement for
1 Implementation of the Winrock Town Center Tax Increment Development
2 Districts 1 and 2, among the City, Winrock Partners, LLC, a Delaware limited
3 liability company (the “Developer”) and the Districts, (the “Development
4 Agreement”); and

5 WHEREAS, on March 16, 2015, the City adopted Resolution Enactment No.
6 R-2015-027 approving certain amendments to the Master Development
7 Agreement and TIDD Plan; and

8 WHEREAS, Senate Bill 566 of the First Session of the Fifty Fourth
9 Legislature (“Senate Bill 566”) amended the TIDD Act to, among other things,
10 clarify that property tax increment revenue and municipal and county gross
11 receipts tax increment revenue may be used by tax increment for development
12 districts to finance and/or reimburse the costs of public infrastructure
13 improvements in tax increment development districts without the issuance of

14 bonds; and

15 WHEREAS, the City Council desires to amend the Formation Resolution
16 and Development Agreement, and to consent to an amendment to the TIDD
17 Plan, each pursuant to this Resolution, as necessary to implement the
18 provisions of the TIDD Act, as amended by Senate Bill 566; and

19 WHEREAS, the City Council finds that this Resolution promotes the
20 interests, convenience or necessity of the owners and residents of the
21 Districts and citizens of the City.

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

24 SECTION 1. DISTRICT DOCUMENT AMENDMENTS. In order to permit the
25 use of property tax increment revenue and City gross receipts tax increment
26 revenue by the Districts to finance and/or reimburse the costs of on site and
27 off site public infrastructure improvements without the issuance of bonds in
28 accordance with the TIDD Act as amended by Senate Bill 566, the Formation
29 Resolution, Development Agreement and TIDD Plan must be amended.

30 SECTION 2. FIRST AMENDMENT TO THE FORMATION RESOLUTION. The
31 definition of the term "TIDD Infrastructure Improvements" contained in the
32 Formation Resolution,

1 "TIDD Infrastructure Improvements" means the public infrastructure
2 improvements to be financed with proceeds of TIDD Bonds as described
3 and in the approximate locations shown in the Tax Increment Development
4 Plan.

5 is hereby deleted and replaced in its entirety with the following:

6 "TIDD Infrastructure Improvements" means the public infrastructure
7 improvements to be financed with proceeds of TIDD Bonds or other tax
8 increment revenues as authorized by the TIDD Act, as described and in the
9 approximate locations shown the Tax Increment Development Plan.

10 Except as provided in this Resolution, all terms and provisions of the
11 Formation Resolution shall remain unchanged and in full force and effect. The
12 Formation Resolution as modified and amended is hereby ratified and

13 confirmed in all respects. From and after the date hereof, all references to the
14 Formation Resolution shall be deemed references to the Formation Resolution
15 as amended hereby.

16 SECTION 3. AMENDED AND RESTATED DEVELOPMENT AGREEMENT.

17 The City hereby approves the Amended and Restated Development
18 Agreement, in substantially the form attached hereto as Exhibit A. From and
19 after the date hereof, all references to the Development Agreement shall be
20 deemed references thereto as amended and restated hereby.

21 SECTION 4. SECOND AMENDMENT TO THE TIDD PLAN. The City hereby
22 consents to the Second Amendment to the TIDD Plan, in substantially the form
23 attached hereto as Exhibit B. Except as provided in the Second Amendment to
24 the TIDD Plan, all terms and provisions of the TIDD Plan shall remain
25 unchanged and in full force and effect. The City's consent to the TIDD Plan as
26 modified and amended is hereby ratified and confirmed in all respects. From
27 and after the date hereof, all references to the TIDD Plan shall be deemed
28 references thereto as amended hereby.

29 SECTION 5. PRIOR CONSISTENT ACTIONS RATIFIED; INCONSISTENT
30 ACTIONS REPEALED. All prior actions of the City or its officers taken in
31 connection with the matters addressed in this Resolution are ratified, except
32 to the extent that such actions are inconsistent with the matters authorized in
1 this Resolution. Prior actions of the City in conflict with this Resolution are
2 hereby repealed, but only to the extent of such inconsistency.

3 SECTION 6. GENERAL AUTHORIZATION. The Chief Administrative Officer
4 of the City or his/her designee are hereby authorized and directed to execute the
5 Amended and Restated Development Agreement and take all action necessary
6 to carry out the amendment to the Formation Resolution, and the consent to
7 the Second Amendment to TIDD Plan, and to perform such obligations of the
8 City and such other actions as, in consultation with Counsel to the District and
9 advisors to the City in connection with the First Amendment to the Formation
10 Resolution, the Amended and Restated Development Agreement or Second
11 Amendment to the TIDD Plan, shall be necessary or advisable in connection

12 with this Resolution. 13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

29

30

31

32 X:\CL\SHARE\CL-Staff_Legislative Staff\Legislation\24 Council\R-51final.docx