



Legislation Text

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CITY of ALBUQUERQUE
TWENTY-FOURTH COUNCIL

COUNCIL BILL NO. F/S R-21-202 ENACTMENT NO. _____

SPONSORED BY: COUNCILORS BENTON AND DAVIS

RESOLUTION

F/S Approving The Petition Of The Regents Of The University Of New Mexico By And Through Lobo Development Corporation, A New Mexico Nonprofit Corporation Formed Under The Research Park And Economic Development Act, And The City Of Albuquerque, New Mexico For Formation Of The South Campus Tax Increment Development District (The "District" Or "TIDD") Pursuant To The Tax Increment For Development Act, Sections 5-15-1 Through 5-15-29, NMSA 1978 And City Council Ordinance, Chapter 4, Article 10; Making Findings In Connection With The Petition And Supporting Documentation Requesting Approval Of The Formation Of The TIDD; Determining The Real Property To Be Included Within The TIDD And The Purposes For Which The TIDD Is Being Formed; Approving The Joint Application, Petition, And Financial Feasibility Study For The TIDD; Ratifying The Tax Increment Development Plan Approved For Consideration In Connection With The Formation Of The TIDD; Dedicating 75% Of The Gross Receipts Tax Increment And 75% Of The Property Tax Increment Generated Within The Boundaries Of The District For The Financing Of Public Improvements For The TIDD, And Related Purposes Under The TIDD Act; Approving Parameters For The Issuance Of Tax Increment Bonds By The TIDD; Providing For Governance Of The TIDD Through The Appointment Of Members Of The Governing Body Of The TIDD; Providing That Tax Increment Bonds Of The TIDD And Other Obligations Of The TIDD Shall Not Be Obligations Of The City Of Albuquerque Or The University Of New Mexico; Ratifying Certain Actions Heretofore Taken; Repealing All Actions Inconsistent With This Resolution (Benton, Davis)

APPROVING THE PETITION OF THE REGENTS OF THE UNIVERSITY OF NEW MEXICO BY

AND THROUGH LOBO DEVELOPMENT CORPORATION, A NEW MEXICO NONPROFIT CORPORATION FORMED UNDER THE RESEARCH PARK AND ECONOMIC DEVELOPMENT ACT, AND THE CITY OF ALBUQUERQUE, NEW MEXICO FOR FORMATION OF THE SOUTH CAMPUS TAX INCREMENT DEVELOPMENT DISTRICT (THE "DISTRICT" OR "TIDD") PURSUANT TO THE TAX INCREMENT FOR DEVELOPMENT ACT, SECTIONS 5-15-1 THROUGH 5-15-29, NMSA 1978 AND CITY COUNCIL ORDINANCE, CHAPTER 4, ARTICLE 10; MAKING FINDINGS IN CONNECTION WITH THE PETITION AND SUPPORTING DOCUMENTATION REQUESTING APPROVAL OF THE FORMATION OF THE TIDD; DETERMINING THE REAL PROPERTY TO BE INCLUDED WITHIN THE TIDD AND THE PURPOSES FOR WHICH THE TIDD IS BEING FORMED; APPROVING THE JOINT APPLICATION, PETITION, AND FINANCIAL FEASIBILITY STUDY FOR THE TIDD; RATIFYING THE TAX INCREMENT DEVELOPMENT PLAN APPROVED FOR CONSIDERATION IN CONNECTION WITH THE FORMATION OF THE TIDD; DEDICATING 75% OF THE GROSS RECEIPTS TAX INCREMENT AND 75% OF THE PROPERTY TAX INCREMENT GENERATED WITHIN THE BOUNDARIES OF THE DISTRICT FOR THE FINANCING OF PUBLIC IMPROVEMENTS FOR THE TIDD, AND RELATED PURPOSES UNDER THE TIDD ACT; APPROVING PARAMETERS FOR THE ISSUANCE OF TAX INCREMENT BONDS BY THE TIDD; PROVIDING FOR GOVERNANCE OF THE TIDD THROUGH THE APPOINTMENT OF MEMBERS OF THE GOVERNING BODY OF THE TIDD; PROVIDING THAT TAX INCREMENT BONDS OF THE TIDD AND OTHER OBLIGATIONS OF THE TIDD SHALL NOT BE OBLIGATIONS OF THE CITY OF ALBUQUERQUE OR THE UNIVERSITY OF NEW MEXICO; RATIFYING CERTAIN ACTIONS HERETOFORE TAKEN; REPEALING ALL ACTIONS INCONSISTENT WITH THIS RESOLUTION.

Capitalized terms in the following preamble shall have the meanings assigned in Section 1 of this Formation Resolution, unless the context clearly requires otherwise.

WHEREAS, the TIDD Act provides in part that the owners of real property may petition the governing body of a city in which the real property is located for the formation of a tax increment development district (a "district") to provide gross receipts tax increment financing and property tax increment financing for public infrastructure in order to support economic development and job creation; that the governing body shall hold a hearing to determine whether a district should be formed; and, upon determination that formation of a district is in the interest of the property owners and the citizens of the governing body's jurisdiction, shall order that the district be formed;

and that an election for the formation of the district by owners of real property and residents qualified within the district may be waived and the district formed if the petition was submitted by the owner(s) of 100% of the real property proposed to be included within the district; and

WHEREAS, the Regents of the University of New Mexico by and through Lobo Development Corporation, a New Mexico nonprofit corporation formed under the Research Park and Economic Development Act, owned, controlled and established by the Regents, and the City of Albuquerque, New Mexico (collectively, the "Applicant"), have submitted to the City a petition and joint application for the formation of the South Campus Tax Increment Development District (the "Application"), which includes, without limitation, a Tax Increment Development Plan for the District, a map depicting the boundaries of the District, a study of the feasibility, the financing and the estimated costs of improvements, services and benefits to result from the formation of proposed District (the "Financial Feasibility Study") and a proposed Master Development Agreement for the District (the "Master Development Agreement"); and

WHEREAS, pursuant to the Application and Master Development Agreement, the purpose of the District is to finance public infrastructure to serve, in part, approximately 337 acres of land in the vicinity of the University of New Mexico (the "Project"); and

WHEREAS, the Applicant estimates that the initial cost of public infrastructure, in 2020 dollars, is \$267 million which may be financed with proceeds of Gross Receipts Tax Increment and Property Tax Increment and Tax Increment Bonds issued by the District (the "TIDD Improvements"), as provided in the TIDD Act and Ordinance No. F/S O-06-44, Chapter 4, Article 10 (the "TIDD Ordinance"); and

WHEREAS, the TIDD Act authorizes owners, tax increment for development districts, municipalities and counties to enter into development agreements to establish the obligations of the owner or developer, the municipality and the tax increment development district concerning the zoning, subdivision, improvements, impact fees, financial responsibilities, and other matters relating to the development, improvement and use of real property within the TIDD; and

WHEREAS, pursuant to the TIDD Ordinance, the City has enacted policy guidelines and application procedures for the establishment of tax increment development districts within the City; and

WHEREAS, the Applicant has presented a Petition for formation of the TIDD, and the following documents in support of the Petition, together constituting the Joint Application:

- (i) a description and boundary map of the proposed TIDD, including a legal description of

the TIDD's boundaries, identity and addresses of all persons or entities with any interest in the property, including an analysis of the appropriateness of the TIDD's boundaries;

(ii) a District Illustrative Plan, which designates the intended land uses within the District;

(iii) evidence of the unanimous consent of owners of real property within the proposed TIDD's boundaries;

(iv) a detailed description of the TIDD Improvements financed with proceeds of Tax Increment Bonds to be issued by the TIDD (or other tax increment, including Gross Receipts Tax Increment and Property Tax Increment, as authorized by the TIDD Act), including the estimated construction or acquisition costs, projection of working capital needs, including adequate funds for repair and replacement of infrastructure, annual operation and maintenance costs of the TIDD Improvements and the required governmental approvals and licenses;

(v) a proposed schedule for commencement and completion of the TIDD Improvements, including the Applicant Improvements;

(vi) the Tax Increment Development Plan setting forth the information required by the TIDD Ordinance and the TIDD Act, which has been approved by the City Council pursuant to Section 5-15-4(A), subject to further proceedings and additional necessary approvals of the City Council concerning the formation of the TIDD and which is on file with the City Clerk;

(vii) a Financial Feasibility Study for the TIDD setting forth the required information required by the TIDD Ordinance;

(viii) a description of the Applicant's equity contribution toward the initial costs of public improvements to serve the real property within the TIDD, and the timing and sources of the contribution;

(ix) a description of Applicant's development experience and financial ability to complete the TIDD Improvements and the redevelopment of the Project, including the Applicant Improvements;

(x) an operating plan for the TIDD Improvements and redevelopment of the Project, including the Applicant Improvements;

(xi) a description of the consistency of the TIDD Improvements and the Project with the City's development policies and objectives;

(xii) a proposed Master Development Agreement to be entered into by the Applicant, the City, and the TIDD; and

(xiii) a proposed form of Formation Resolution.

WHEREAS, following formation of the TIDD, the TIDD Improvements will be constructed in accordance with the estimated construction schedule included in the Application and pursuant to the Master Development Agreement; and

WHEREAS, pursuant to the Application and as provided for in the TIDD Act, the Applicant anticipates that the TIDD Improvements will be financed, in part through the issuance by the District of a series of bonds secured by the portion of Gross Receipts Tax Increment and Property Tax Increment generated within the District and dedicated by the City, and the City will have no direct responsibility for construction of the TIDD Improvements, payment of the Tax Increment Bonds, or other financial obligations of the District; and

WHEREAS, pursuant to the Master Development Agreement, the TIDD Improvements are to be (i) designed and constructed according to all applicable standards, (ii) suitable for dedication to state and local public bodies, including the City and the University of New Mexico upon completion, and (iii) owned and operated by state and local governmental entities, including the City and the University of New Mexico; and

WHEREAS, pursuant to Sections 5-15-15(E) and 5-15-16(H) of the TIDD Act, the Applicant requests the dedication of seventy-five percent (75%) of the City's eligible local option gross receipts tax increment and seventy-five percent (75%) of the City's property tax increment generated within the TIDD; and

WHEREAS, the Applicant certifies that it owns or controls 100% of the property located within the District, and that no qualified electors reside on the property located within the District and that, consequently, no formation election is required pursuant to Section 5-15-8 of the TIDD Act; and

WHEREAS, the potential TIDD further presents a unique opportunity for the City and the University of New Mexico to enter a symbiotic partnership wherein all TIDD revenue generated will benefit the public interests of both the City and the University of New Mexico; and

WHEREAS, the City Council has considered the Application and related submittals by the Applicant, has conducted a public hearing as provided by Sections 5-15-6 and 5-15-7 NMSA 1978, and has determined that the formation of the TIDD is consistent with the TIDD Ordinance and promotes the interests, convenience or necessity of the owners and residents of the TIDD and citizens of the City.

NOW THEREFORE, BE IT RESOLVED BY THE COUNCIL, THE GOVERNING BODY OF

THE CITY OF ALBUQUERQUE:

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

"Applicant" means, collectively, the University of New Mexico by and through Lobo Development Corporation, a New Mexico nonprofit corporation formed under the Research Park and Economic Development Act, owned, controlled and established by the Regents and the City of Albuquerque, New Mexico.

"Applicant Improvements" means the public infrastructure improvements to be constructed by the Applicant, through financing or resources other than the proceeds of TIDD Bonds or Gross Receipts Tax Increment or Property Tax Increment, as described in and according to the construction schedule provided in the Application and as described, and in the approximate locations shown in the Tax Increment Development Plan.

"Bond Resolution" means a resolution authorizing issuance of District Bonds in an aggregate principal amount not to exceed the costs of Public Improvements serving the District, for the purpose of financing the TIDD Improvements and containing certain provisions set forth in Section 6 of this Formation Resolution.

"Bonds" or "TIDD Bonds" means Tax Increment Bonds issued by the District, collectively or individually.

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

"Clerk" means the City Clerk.

"District" or "TIDD" means, the South Campus Tax Increment Development District.

"District Boundary Map" means the map attached as Exhibit 1 to the Tax Increment Development Plan.

"Financial Feasibility Study" means the study of the estimated costs and financing methods of the TIDD Improvements submitted by the Applicant in connection with its Petition for formation of the District.

"Formation Documents" means the Application and such other documents as are required by the TIDD Act and the TIDD Ordinance to be submitted by an applicant in connection with a petition for the formation, implementation and governance of the TIDD.

"Formation Resolution" means this resolution adopted by the City in connection with its approval of the formation of the TIDD.

"Gross Receipts Tax Increment" means the gross receipts taxes collected within the TIDD in excess of the base gross receipts taxes, collected for the duration of the existence of the TIDD and distributed to the TIDD in the same manner as distributions are made under the provisions of the State Tax Administration Act.

"Lobo Development Corporation" means a New Mexico nonprofit corporation formed under the Research Park and Economic Development Act, owned, controlled and established by the Regents.

"Master Development Agreement" means the master development agreement by and among the District, Lobo Development Corporation and the City. The Master Development Agreement shall be approved in a subsequent resolution of the City Council and ratified by the TIDD and approved by the Regents.

"Petition" means the petition for formation of the District and documentation incorporated by reference in the Application submitted to the City pursuant to the TIDD Act and the TIDD Ordinance.

"Property Tax Increment" means all property tax collected on real property within a TIDD that is in excess of the base property tax until termination of that TIDD and distributed to that TIDD in the same manner as distributions are made under the provisions of the Property Tax Act.

"Real Property" means the real property described in the District Boundary Map.

"Regents" means the Board of Regents of the University of New Mexico.

"State" means the State of New Mexico.

"Tax Increment Bonds" means bonds issued by a TIDD in accordance with the TIDD Act and secured by up to 75% of the revenues of the Gross Receipts Tax Increment, and/or up to 75% of the revenues of the Property Tax Increment.

"Tax Increment Development Plan" means the tax increment development plan for the South Campus Tax Increment Development District, including a map depicting the boundaries of the TIDD, as required by the TIDD Ordinance and Section 5-15-5 of the TIDD Act.

"TIDD Act" means the Tax Increment for Development Act, Sections 5-15-1 through 5-15-29 NMSA 1978, as supplemented and amended, and all enactments of the City's Governing Body, including the TIDD Ordinance and this Resolution.

"TIDD Improvements" means the public infrastructure improvements to be financed with proceeds of TIDD Bonds or other tax increment revenue, including Gross Receipts Tax Increment and Property Tax Increment, as authorized by the TIDD Act, as described and in the approximate

locations shown in the Tax Increment Development Plan.

"TIDD Ordinance" means City Ordinance No. F/S O-06-44, Chapter 4, Article 10.

"University" means the University of New Mexico.

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

A. The singular includes the plural and the plural includes the singular.

B. All accounting terms not otherwise defined in this Formation Resolution have the meanings assigned to them in accordance with generally accepted accounting principles in the United States.

C. All references to Sections shall refer to Sections of this Formation Resolution, unless otherwise stated.

D. Words importing any gender include the other gender.

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

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

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

A. The Applicant owns 100% of the real property located within the TIDD.

B. As planned and proposed by the Applicant, the TIDD Improvements will be constructed to appropriate governmental specifications, and will be subject to inspection, approval and acceptance by governmental entities prior to dedication.

C. District Bonds proposed to be issued by the TIDD will be the obligations solely of the TIDD, and will not be backed by the faith, credit, general funds or resources of the City or the University of New Mexico in any manner, and will not impair any outstanding obligations of the City or the University of New Mexico.

D. The Tax Increment Development Plan reasonably protects the interests of the City in meeting its goals to support:

(i) job creation;

(ii) workforce housing; and

(iii) economic development

E. The Tax Increment Development Plan demonstrates elements of innovative planning

techniques, including mixed-use transit-oriented development, traditional neighborhood design or sustainable development techniques that are deemed by the City Council to benefit community development.

F. The Tax Increment Development Plan and the District Illustrative Plan incorporate sustainable development considerations.

G. The Tax Increment Development Plan conforms to general or long-term planning of the City and the University.

H. The financing of the TIDD Improvements is feasible and, based upon the Financial Feasibility Study, will not impose an undue burden on the future owners of property located within the District or served by the TIDD Improvements.

I. The financing of the TIDD Improvements will enable the District to construct or acquire those improvements in a cost-effective manner.

J. The formation of the TIDD and the issuance of TIDD Bonds subject to the requirements and limitations specified in this Formation Resolution are consistent with the requirements of the TIDD Ordinance.

K. The scope of the projects and obligations contemplated within the TIDD are intended to be used only as consistent with the limitations already in place with respect to tax increment for development districts, and shall not be applied to, or have their availability conditioned upon, City projects or interests not directly related to the District.

Section 4. Waiver of Additional Hearing and Election. Based on the information provided by the Applicant in the Application, the Application has been signed by and on behalf of the owners of 100% of the Real Property to be included in the proposed TIDD, and on that basis the City waives the requirements for mailing and owner election concerning the formation of the TIDD, as authorized by Section 5-15-8 of the TIDD Act.

Section 5. Approval of Application and Formation Documents; Formation of the District.

A. Approval of Petition. The Application is hereby accepted and approved, subject to the provisions of this Formation Resolution.

B. Approval of the District pursuant to the Tax Increment Development Plan and Master Development Agreement. The District is hereby ordered, approved and formed to carry out the purposes set forth in, and according to the provisions of, this Formation Resolution.

(i) The Tax Increment Development Plan, previously approved for further proceedings, is hereby ratified for formation of the TIDD. The TIDD shall include the

Real Property as shown in the District Boundary Map attached as Exhibit 1 to the Tax Increment Development Plan and incorporated by reference in this Formation Resolution.

(ii) The District shall have the powers necessary and convenient to finance and construct the TIDD Improvements as provided in the Tax Increment Development Plan, Financial Feasibility Study and Master Development Agreement, as those documents may be amended or modified with the approval of the City. The Applicant, the District, and the City shall be bound by the terms thereof.

C. Purpose of the TIDD. The purpose of the TIDD shall be to provide financing of the TIDD Improvements set forth in the Tax Increment Development Plan and the Master Development Agreement.

D. Amount of Bond Financing. As required by the TIDD Act and TIDD Ordinance, prior to the issuance of a series of TIDD Bonds, the Applicant or its designee shall have contributed at least 20 percent (20%) of the initial cost of the TIDD Improvements to be financed with that series of TIDD Bonds, which contribution may be reimbursed from the proceeds of TIDD Bonds as permitted by the TIDD Act.

E. TIDD to be self-supporting. The TIDD shall be self-supporting, as provided in Section 3 (H) of the TIDD Ordinance.

F. Compliance with City Policies. The District shall comply with existing City policies for development, growth management and conservation subject to the land uses of the Master Development Agreement and the District Illustrative Plan.

G. Tax Increment Financing Requirements. The proposed financing of TIDD Improvements described in the Tax Increment Development Plan and Financial Feasibility Study meets the applicable requirements of Section 3 of the TIDD Ordinance.

H. Additional Documents. The officers, agents and employees of the City are hereby authorized and empowered to take all actions necessary and to execute and deliver all documents relating to or requested by the District to carry out and comply with the provisions of the Formation Documents.

I. District Governing Body Initial Meeting. The governing body of the TIDD shall hold a public meeting within 90 days following the date of adoption of this Formation Resolution. At that meeting, the governing body shall adopt an open meetings policy and by-laws for the TIDD and may take such other action, toward or in connection with the issuance of Bonds by the TIDD, as

authorized by this Formation Resolution.

J. Master Development Agreement. The Master Development Agreement shall be finalized by the parties to the Master Development Agreement and presented to the City Council for review and approval at a subsequent City Council meeting.

Section 6. Authorization of TIDD Bonds. The District is hereby authorized to issue Tax Increment Bonds pursuant to Bond Resolutions in the amounts and subject to the requirements set forth in this Formation Resolution.

A. Each Bond Resolution shall be approved by the City's Debt Committee prior to its enactment by the District.

B. Each Bond Resolution shall include, at minimum, provisions (i) through (v) stated below for the protection of owners of the Bonds:

(i) Reasonably Required Reserve Fund. Each Bond Resolution shall provide for the establishment of a debt service reserve fund in an amount, on the date of issuance of the TIDD Bonds, equal to the least of (i) the maximum annual debt service requirements on all outstanding TIDD Bonds; (ii) 125% of the average annual debt service requirements of the Bonds of the related TIDD; or (iii) 10% of the aggregate principal amount of the Bonds of the related TIDD;

(ii) Limited Offering; Minimum Denomination. Each Bond Resolution shall provide that the Bonds issued by the related TIDD shall be sold pursuant to a limited public offering and issued in minimum denominations of at least \$100,000.

(iii) Minimum and Maximum Maturity. The minimum maturity of TIDD Bonds shall be at least one day. The final maturity date for Bonds issued by the TIDD shall not be more than 25 years after the date of issuance of the first series of bonds by the TIDD.

(iv) Appointment of Trustee. Each Bond Resolution shall include provisions for appointment of a trustee pursuant to an indenture of trust or other similar instrument.

(v) Exercise of District Rights and Remedies by Trustee. Each Bond Resolution shall provide that the trustee may exercise the rights and remedies of the related TIDD for the protection of bondholders, including, without limitation, the trustee's appointment of a receiver or other agent to complete the construction of the TIDD Improvements in the event of a default in the payment of debt service on the Bonds issued by that TIDD, which default cannot be cured by either (x) drawing on the debt service reserve fund established for the Bonds issued by that TIDD, (y) through payment pursuant to a letter

of credit or other guaranty provided by or on behalf of the Applicant or (z) through direct payment by the Applicant or its designee of the amount necessary to pay the debt service on the TIDD Bonds then due.

C. Each Bond Resolution shall provide that the issuance of TIDD Bonds, and the dedication of tax increment toward repayment of TIDD Bonds, will not impair any outstanding obligations of the City or the University of New Mexico.

Section 7. Dedication of Gross Receipts Tax and Property Tax Increments. Pursuant to Sections 5-15-15(E) and 5-15-16(H) NMSA 1978, the City hereby dedicates 75% of the City's eligible local option gross receipts tax and 75% of the property tax (which shall not include any property tax intended to pay debt service but shall include 100% of any operating property tax) generated within the District. The Gross Receipts Tax Increment dedicated includes the City's local option gross receipts taxes currently imposed at a rate of 1.5625%, 0.9375% of which is TIDD eligible; provided that Gross Receipts Tax Increment generated through any voter approved gross receipts tax must be used consistent with the authorized purpose. The TIDD is hereby authorized to impose a property tax within the TIDD at a rate not to exceed 5.000 mills.

Section 8. TIDD Governance.

A. The TIDD's governing bodies shall be composed of the following five members:

(i) a representative of Lobo Development Corporation designated by the Regents in a letter to the District Board;

(ii) a representative of the University of New Mexico designated by the Regents in a letter to the District Board;

(iii) a representative of the City Council designated by the City Council in a letter to the District Board;

(iv) a representative of the City Administration designated by the Mayor in a letter to the District Board; and

(v) pursuant to Section 5-11-10 of the TIDD Act, the Secretary of the New Mexico Department of Finance and Administration or the Secretary's designee;

B. The representative of the Lobo Development Corporation and the representative of the City Administration shall serve 6-year terms, or for so long as they act in their respective capacities.

C. The representative of the University of New Mexico and the representative of the City Council shall serve 4-year terms, or for so long as they act in their respective capacities.

D. Pursuant to Section 5-11-6 of the TIDD Act, the representative of the City Administration is appointed to be the clerk of the TIDD and the representative of the Lobo Development Corporation is appointed to be treasurer of the TIDD.

E. At the end of the appointed directors' initial terms, the board shall hold an election of new directors by majority vote of owners and qualified resident electors in accordance with the TIDD Act.

Section 9. Amendments. This Formation Resolution may be amended or supplemented by ordinance or resolution adopted by the City Council in accordance with the laws of the City and the State.

Section 10. Waiver. To the extent that any requirement of the TIDD Ordinance has not been satisfied, and subject to Section 11 below, such requirement of the TIDD Ordinance is hereby waived for the formation of the District.

Section 11. Repealer. All ordinances or resolutions, or parts thereof in conflict with the provisions of this Formation Resolution, are hereby repealed to the extent only of such inconsistency. To the extent, if any, that this Formation Resolution conflicts with any provision of the TIDD Ordinance, that provision is waived solely with respect to the formation of and other matters concerning the District, and the TIDD Ordinance shall remain in full force and effect in connection with any other application or project to which the TIDD Ordinance applies or may apply in the future. This repealer shall not be construed to revive any ordinance or resolution, or part thereof, heretofore repealed.

Section 12. Severability. If any section, paragraph, clause or provision of this Formation Resolution shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall in no manner affect any remaining provisions of this Formation Resolution.

Section 13. Publication of Notice of Adoption of Formation Resolution. The Clerk is hereby directed to publish a notice of this Formation Resolution, in substantially the following form:

Notice is hereby given of the title and general summary of the subject matter contained in a resolution duly adopted and approved by the City Council of the City of Albuquerque, New Mexico relating to the approval of the South Campus Tax Increment Development District. Complete copies of the resolution are available for public inspection during the regular business hours of the City Clerk, City of Albuquerque, New Mexico.

The title of the Formation Resolution is as follows:

CITY OF ALBUQUERQUE

RESOLUTION

APPROVING THE PETITION OF THE REGENTS OF THE UNIVERSITY OF NEW MEXICO BY AND THROUGH LOBO DEVELOPMENT CORPORATION, A NEW MEXICO NONPROFIT CORPORATION FORMED UNDER THE RESEARCH PARK AND ECONOMIC DEVELOPMENT ACT, AND THE CITY OF ALBUQUERQUE, NEW MEXICO FOR FORMATION OF THE SOUTH CAMPUS TAX INCREMENT DEVELOPMENT DISTRICT (THE "DISTRICT" OR "TIDD") PURSUANT TO THE TAX INCREMENT FOR DEVELOPMENT ACT, SECTIONS 5-15-1 THROUGH 5-15-29, NMSA 1978 AND CITY COUNCIL ORDINANCE, CHAPTER 4, ARTICLE 10; MAKING FINDINGS IN CONNECTION WITH THE PETITION AND SUPPORTING DOCUMENTATION REQUESTING APPROVAL OF THE FORMATION OF THE TIDD; DETERMINING THE REAL PROPERTY TO BE INCLUDED WITHIN THE TIDD AND THE PURPOSES FOR WHICH THE TIDD IS BEING FORMED; APPROVING THE JOINT APPLICATION, PETITION, AND FINANCIAL FEASIBILITY STUDY FOR THE TIDD; RATIFYING THE TAX INCREMENT DEVELOPMENT PLAN APPROVED FOR CONSIDERATION IN CONNECTION WITH THE FORMATION OF THE TIDD; DEDICATING 75% OF THE GROSS RECEIPTS TAX INCREMENT AND 75% OF THE PROPERTY TAX INCREMENT GENERATED WITHIN THE BOUNDARIES OF THE DISTRICT FOR THE FINANCING OF PUBLIC IMPROVEMENTS FOR THE TIDD, AND RELATED PURPOSES UNDER THE TIDD ACT; APPROVING PARAMETERS FOR THE ISSUANCE OF TAX INCREMENT BONDS BY THE TIDD; PROVIDING FOR GOVERNANCE OF THE TIDD THROUGH THE APPOINTMENT OF MEMBERS OF THE GOVERNING BODY OF THE TIDD; PROVIDING THAT TAX INCREMENT BONDS OF THE TIDD AND OTHER OBLIGATIONS OF THE TIDD SHALL NOT BE OBLIGATIONS OF THE CITY OF ALBUQUERQUE OR THE UNIVERSITY OF NEW MEXICO; RATIFYING CERTAIN ACTIONS HERETOFORE TAKEN; REPEALING ALL ACTIONS INCONSISTENT WITH THIS RESOLUTION.

(End of Form of Summary of Resolution for Publication)

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