



Legislation Text

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**CITY of ALBUQUERQUE**  
**TWENTY FOURTH COUNCIL**

COUNCIL BILL NO. R-21-225 ENACTMENT NO. \_\_\_\_\_

SPONSORED BY: Isaac Benton and Pat Davis, by request

RESOLUTION

Approving A Form Of Master Development Agreement For Implementation Of The South Campus Tax Increment Development District; Repealing All Actions Inconsistent With This Resolution (Benton, Davis by request)

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

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, submitted to the City a Petition and joint application for the formation of the South Campus Tax Increment Development District, 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 and a proposed Master Development Agreement for the District; and

WHEREAS, the City Council considered the Application, the Formation Documents and related submittals by the Applicant, conducted a public hearing as provided by Sections 5-15-6 and 5-15-7 NMSA 1978, and has determined in Resolution Enactment F/S R-21-202, adopted on October 4, 2021 that the formation of the South Campus Tax Increment Development District is consistent with the TIDD Ordinance and promotes the interests, convenience or necessity of the

owners and residents of the District and citizens of the City thus forming the Districts; and

WHEREAS, the City Council determined in the Formation Resolution that the City will dedicate 75% of the gross receipts tax increment revenues of the City's local option gross receipts tax revenues and state-shared gross receipts tax revenues, and 75% of the property tax revenues generated within the Districts for the purpose of securing District Bonds; 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; 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, as provided in the TIDD Act and Ordinance No. F/S O-06-44, Chapter 4, Article 10; 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 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

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, the City Council desires to approve the Master Development Agreement.

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

Section 1. Defined Terms. As used in this 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):

"Act" means Sections 5-15-1 through 5-15-28, NMSA 1978, as supplemented and amended, the Home Rule Powers and all enactments of the City Council, including the TIDD Ordinance and this Resolution.

"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.

"Application" means the Petition for formation of the South Campus Tax Increment Development District and documentation incorporated by reference in the Application and submitted to the City pursuant to the Act and the TIDD Ordinance.

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

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

"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.

"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 Resolution Enactment F/S R-21-202, adopted by the City Council on October 4, 2021 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 in accordance with Section 4(l) of the TIDD Ordinance, which Development Agreement shall be ratified by the District.

"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.

"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 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 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 Resolution, unless otherwise stated.

D. Words importing any gender include the other gender.

E. "Herein," "hereby," "hereunder," "hereof," "hereinbefore" and "hereafter" refer to this Resolution and not solely to the particular portion of this 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, Master Development Agreement and all other relevant information and data, and hereby makes the following findings:

A. As planned and proposed by the Master Development Agreement, the Applicant will construct the TIDD Infrastructure Improvements in multiple phases, in accordance with the estimated construction schedule included in the Application, applicable rules and regulations and the Master Development Agreement. The TIDD Infrastructure Improvements will be constructed to applicable specifications, and will be subject to inspection, approval and acceptance by the applicable governmental entity prior to dedication.

Section 4. Approval of Master Development Agreement. The Master Development Agreement is hereby accepted and approved. The Chief Administrative Officer of the City is authorized and directed to execute the Master Development Agreement on behalf of the City, with such changes as are consistent with the provisions of this Resolution. In the event of a discrepancy in the terms thereof, the Master Development Agreement shall control over the Tax Increment Development Plan.

Section 5. Amendments. This 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 6. Repealer. All ordinances or resolutions, or parts thereof in conflict with the provisions of this Resolution, are hereby repealed to the extent only of such inconsistency. To the extent, if any, that this 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 7. 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 such section, paragraph, clause or provision shall in no manner affect any remaining provisions of this Resolution.