

**CITY of ALBUQUERQUE  
TWENTY FIFTH COUNCIL**

COUNCIL BILL NO. R-23-191

ENACTMENT NO. R-2023-107

SPONSORED BY: Pat Davis, by request

**RESOLUTION**

1  
2 **RELATING TO THE REDEVELOPMENT, LEASING AND SALE OF A**  
3 **METROPOLITAN REDEVELOPMENT PROJECT WITHIN THE**  
4 **CENTRAL/HIGHLAND/UPPER NOB HILL METROPOLITAN REDEVELOPMENT**  
5 **AREA CONSISTENT WITH THE TERMS OF THE CENTRAL/HIGHLAND/UPPER**  
6 **NOB HILL METROPOLITAN REDEVELOPMENT PLAN; APPROVING THE**  
7 **METROPOLITAN REDEVELOPMENT APPLICATION ENTITLED "THE SIXTY-SIX**  
8 **REDEVELOPMENT TAX ABATEMENT APPLICATION"; AUTHORIZING THE**  
9 **ACQUISITION OF LAND AND EXISTING IMPROVEMENTS AND**  
10 **CONSTRUCTION OF A BUILDING WITHIN THE CENTRAL/HIGHLAND/UPPER**  
11 **NOB HILL METROPOLITAN REDEVELOPMENT AREA; AUTHORIZING THE**  
12 **DISPOSITION BY LEASE AND SALE OF THE CITY'S INTEREST IN SUCH**  
13 **PROJECT TO FUNDERO DEVELOPMENT, INC., ITS SUCCESSORS AND**  
14 **ASSIGNS; AUTHORIZING THE EXECUTION AND DELIVERY OF A LEASE**  
15 **AGREEMENT, IN FORM, AND OTHER DOCUMENTS IN CONNECTION WITH**  
16 **THE PROJECT; MAKING CERTAIN DETERMINATIONS AND FINDINGS**  
17 **RELATING TO THE PROJECT; RATIFYING CERTAIN ACTIONS TAKEN**  
18 **PREVIOUSLY; AND REPEALING ALL ACTIONS INCONSISTENT WITH THIS**  
19 **RESOLUTION.**

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

23 **WHEREAS, the City desires to promote redevelopment in areas designated**  
24 **as blighted areas so as to promote neighborhood stabilization by providing**  
25 **affordable housing, convenient services, creating new jobs, upgrading area**

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1 buildings, infrastructure and housing for such areas and to promote public  
2 health welfare, safety convenience and prosperity; and

3 WHEREAS, pursuant to the Metropolitan Redevelopment Code, Sections 3-  
4 60A-1 through 3-60A-13 and Sections 3-60A-14 through 3-60A-48, New Mexico  
5 Statutes Annotated, 1978 Compilation, as amended (the "Act"), the City is  
6 authorized to acquire, whether by construction, purchase, gift or lease, and to  
7 finance, sell, lease, or otherwise dispose of, projects as defined in the Act; and

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

13 WHEREAS, Fundero Development, Inc., a New Mexico limited liability  
14 company (together with its successors and assigns, the "Company") has  
15 presented to the Development Commission and the Council a proposed  
16 metropolitan redevelopment project application (the "Plan") whereby the City  
17 will, pursuant to the Act, acquire from the Company land and existing  
18 improvements located within the City and within the Central/Highland/Upper  
19 Nob Hill Metropolitan Redevelopment Area for redevelopment by the  
20 lessee/purchaser thereof for a multi-family project (the "Project") consistent  
21 with the Central/Highland/Upper Nob Hill Metropolitan Redevelopment Plan  
22 and the Act; and

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

26 WHEREAS, under the Company's proposal, after the City's acquisition of  
27 the Property through a special warranty deed or quitclaim deed (the "Deed"),  
28 the City and the Company will enter into a Lease Agreement (the "Lease"),  
29 pursuant to which the Company will lease and agree to purchase the land and  
30 improvements comprising the Project from the City, and the Company shall  
31 comply with the obligations incurred pursuant to the provisions of the Lease  
32 and this Resolution; and

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1       **WHEREAS, the Albuquerque Development Commission has reviewed the**  
2 **Plan, has held a public hearing on the Project, as amended, and has**  
3 **recommended approval of the Plan and Project by the Council; and**

4       **WHEREAS, the Plan and Project meets the objectives of the Act and will**  
5 **benefit the City's efforts to revitalize the Central/Highland/Upper Nob Hill**  
6 **Metropolitan Redevelopment Area of the City; and**

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

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

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

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

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

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

22       **Section 1. RATIFICATION. All actions not inconsistent with the provisions**  
23 **of this Resolution previously taken by the Council and the officials of the City**  
24 **directed toward approval of the Plan and the Project should be approved and**  
25 **the same hereby are ratified, approved and confirmed.**

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

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- 1       **(1) The Plan and the proposed activities under the Plan aid in the**  
2 **elimination or prevention of slum or blight;**
- 3       **(2) The Plan conforms to the general plan for the City as a whole and the**  
4 **terms of the Central/Highland/Upper Nob Hill Metropolitan Redevelopment**  
5 **Plan;**
- 6       **(3) The Plan affords maximum opportunity consistent with the needs of**  
7 **the community for the rehabilitation or redevelopment of the area by private**  
8 **enterprise or persons, and the objectives of the Plan justify the proposed**  
9 **activities as public purposes and needs;**
- 10       **(4) The developer of the Project property is the Company; and**
- 11       **(5) The Project property comprises of 96-unit multi-family development**  
12 **on approximately 1.6 acres located on the northeast corner of Central and**  
13 **Adams in Albuquerque, New Mexico, all within the Central/Highland/Upper**  
14 **Nob Hill Metropolitan Redevelopment Area.**

15       **Section 3. THE PROJECT. The City shall acquire the Project for the**  
16 **purposes hereinabove described, and the Project shall be located at all times**  
17 **within the corporate limits of the City and within the Central/Highland/Upper**  
18 **Nob Hill Metropolitan Redevelopment Area.**

19       **Section 4. PLAN APPROVAL.**

- 20           **A. The Plan in the form on deposit in the office of the City Clerk is**  
21 **hereby approved in all respects.**
- 22           **B. Prior to execution of the Project Documents, the Company**  
23 **shall provide the City all documentation required to ensure conformance with**  
24 **the conditions for approval as recommended by the Albuquerque**  
25 **Development Commission.**

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

- 28           **A. The form, terms and provisions of the Project Documents in the form**  
29 **on deposit in the office of the City Clerk are in all respects approved,**  
30 **authorized and confirmed.**
- 31           **B. The Mayor or Chief Administrative Officer of the City is authorized to**  
32 **execute and deliver in the name and on behalf of the City, and the City Clerk or**  
33 **Deputy City Clerk is hereby authorized to attest, as necessary, the Project**

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1 Documents with such changes therein as are not inconsistent with this  
2 Resolution.

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

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

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

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

18 Section 7. INTENTIONALLY DELETED.

19 Section 8. FINDINGS REGARDING PROPERTY TAX ABATEMENT AND  
20 OTHER MATTERS. The Council makes the following determinations and  
21 findings:

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

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

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

30 D. In accordance with Section 7-36-3.1, NMSA 1978, as amended and  
31 supplemented, the Project property shall be exempt from property taxation on  
32 the improvements to the Project for the shorter of the period of time in which

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1 the City owns the Project or December 31 of the year in which the seventh  
2 anniversary of the acquisition of the Project property by the City will occur.

3 Section 9. LIMITED OBLIGATIONS. Nothing contained in the Resolution or  
4 in the Project Documents or any other instrument shall be construed as  
5 obligating the City (except with respect to the Project property as provided in  
6 the Project Documents), nor as incurring a pecuniary liability or a charge upon  
7 the general credit of the City or against its taxing power, nor shall the breach  
8 of any agreement contained in this Resolution, the Project Documents or any  
9 other instrument be construed as obligating the City (except with respect to  
10 the Project property as provided in the Project Documents), nor as incurring a  
11 pecuniary liability or a charge upon the general credit of the City or against its  
12 taxing power, the City having no power to pay out of its general funds, or  
13 otherwise contribute any part of the costs of constructing or furnishing the  
14 Project property.

15 Section 10. APPROVAL OF INDEMNIFICATION. The Council specifically  
16 approves the provisions of the Lease relating to indemnification which provide  
17 that the Company shall indemnify and hold harmless the City and its City  
18 Councilors, officials, members, officers, employees and agents against  
19 liability to the Company, or to any third parties that may be asserted against  
20 the City or its City Councilors, officials, members, officers, employees or  
21 agents with respect to the City's ownership of the Project property and arising  
22 from the condition of the Project property or the acquisition, construction and  
23 operation of the Project property by the Company, except to the extent Section  
24 56-7-1, New Mexico Statutes Annotated, 1978 Compilation, applies, and except  
25 claims for any loss or damage arising out of or resulting from the gross  
26 negligence or willful misconduct of the City or any member, officer, employee  
27 or agent of the City.

28 Section 11. REPEALER. All bylaws, orders, resolutions and ordinances, or  
29 parts thereof, inconsistent with this Resolution are repealed by this Resolution  
30 but only to the extent of that inconsistency. This repealer shall not be  
31 construed to revive any bylaw, order, resolution or ordinance, or part thereof,  
32 previously repealed.

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**Section 12. 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 13. COMPILATION.** Sections 1 through 11 shall be incorporated in and made part of the City of Albuquerque, New Mexico Code of Resolutions in Chapter 1 Article 9.

**Section 14. EFFECTIVE DATE.** This Resolution shall take effect five days after publication by title and general summary.

1 PASSED AND ADOPTED THIS 4<sup>th</sup> DAY OF December, 2023  
2 BY A VOTE OF: 8 FOR 0 AGAINST.

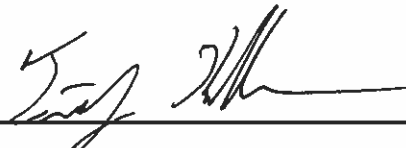
3  
4 For: Bassan, Benton, Davis, Fiebelkorn, Grout, Lewis, Peña, Sanchez  
5 Excused: Jones

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10 Pat Davis, President  
11 City Council

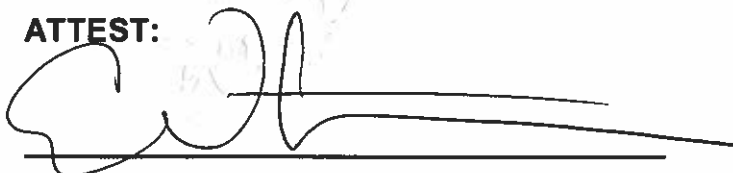
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14 APPROVED THIS 20 DAY OF December, 2023

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18 Bill No. R-23-191

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22 Timothy M. Keller, Mayor  
23 City of Albuquerque

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27 ATTEST:

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30 Ethan Watson, City Clerk

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