



City of Albuquerque

Office of the City Clerk

Richard J. Berry, Mayor

Natalie Y. Howard, City Clerk

Interoffice Memorandum

November 23, 2015

To: CITY COUNCIL

From: NATALIE Y. HOWARD, CITY CLERK

Subject: BILL NO. C/S(3) O-15-48; ENACTMENT NO. O-2015-028

I hereby certify that on November 20, 2015, the Office of the City Clerk received Bill No. C/S(3) O-15-48 as signed by the president of the City Council, Rey Garduño. Enactment No. O-2015-028 was passed at the November 2, 2015 City Council meeting. Mayor Berry did not sign the approved Ordinance within the 10 days allowed for his signature and did not exercise his veto power. Pursuant to the Albuquerque City Charter Article XI, Section 3, this Ordinance is in full effect without Mayor's approval or signature. This memorandum shall be placed in the permanent file for Bill No. C/S(3) O-15-48.

Sincerely,


Natalie Y. Howard
City Clerk

O-2015-028

**CITY OF ALBUQUERQUE
CITY COUNCIL**

INTEROFFICE MEMORANDUM

TO: Richard J. Berry, Mayor

FROM: Jon K. Zaman, Director of Council Services

Jon 11/12/15

SUBJECT: Transmittal of Legislation

Transmitted herewith is Bill No. C/S(3) O-15-48 Amending The Open Space Trust Fund And Land Administration Ordinance (Benton, Sanchez), which was passed at the Council meeting of November 2, 2015 by a vote of 8 FOR AND 0 AGAINST.

Excused: Harris

In accordance with the provisions of the City Charter, your action is respectfully requested.

JKZ:mh
Attachment

**CITY of ALBUQUERQUE
TWENTY-FIRST COUNCIL**

COUNCIL BILL NO. C/S(3) O-15-48 ENACTMENT NO. 0.2015.028

SPONSORED BY: Isaac Benton, Ken Sanchez

1 **ORDINANCE**
2 **AMENDING THE OPEN SPACE TRUST FUND AND LAND ADMINISTRATION**
3 **ORDINANCE.**
4 **BE IT ORDAINED BY THE COUNCIL, THE GOVERNING BODY OF THE CITY OF**
5 **ALBUQUERQUE:**

6 **SECTION 1. The Open Space Trust Fund and Land Administration**
7 **Ordinance is hereby amended as follows:**

8 **“§ 4-2-3-1 SHORT TITLE.**

9 **Sections 4-2-3-1 et seq. shall be known and may be cited as the "Open**
10 **Space Trust Fund and Land Administration Ordinance."**

11 **§ 4-2-3-2 OPEN SPACE TRUST FUND.**

12 **All balances in the Permanent Fund created by Resolution No. 41-1982, as**
13 **amended by Resolution No. 73-1986, are hereby perpetuated in §§ 4-2-3-1 et**
14 **seq., but the fund shall now be called the "Open Space Trust Fund."**

15 **§ 4-2-3-3 SOURCE OF OPEN SPACE TRUST FUND MONEY.**

16 **(A) Some land within the Elena Gallegos Grant acquired by the city was**
17 **traded by the city to the United States for inclusion in the Cibola National**
18 **Forest and the lands acquired in exchange (the "Open Space Exchange**
19 **Lands") shall be sold, leased, or exchanged. The cash proceeds from any**
20 **sales, leases, or exchanges of Open Space Exchange Lands will be placed in**
21 **the Open Space Trust Fund perpetuated by §§ 4-2-3-1 et seq. PROCEEDS shall**
22 **mean the net purchase price paid to the City of Albuquerque for the land after**
23 **deduction of all costs incurred in the marketing or sale of the land. Income**
24 **derived from the proceeds and other consideration not included in proceeds**
25 **shall be utilized as provided for other income in § 4-2-3-4.**

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1 (B) If Open Space Exchange Lands are traded for land which is not Major
2 Public Open Space as defined by adopted city plans, but is intended for
3 ultimate sale or other disposal, no proceeds will be required to be deposited
4 into the Open Space Trust Fund or payment made to the Albuquerque
5 Academy pursuant to the purchase agreement approved by the City Council
6 on March 15, 1982. To the extent that cash proceeds are received by the city
7 as part of such an exchange, the cash proceeds will be deposited into the
8 Open Space Trust Fund. When the land is ultimately sold, leased, or
9 exchanged for Major Public Open Space, the operative portions of §§ 4-2-3-1 et
10 seq. and the Academy Agreement regarding disposition of proceeds will take
11 effect.

12 (C) Money from sources such as grants, donations, and appropriations
13 may be placed in the Open Space Trust Fund created by §§ 4-2-3-1 et seq.

14 (D) If Open Space Exchange Lands are exchanged for land designated
15 as Major Public Open Space by the Albuquerque/Bernalillo County
16 Comprehensive Plan or other adopted city plans, no proceeds will be required
17 to be deposited into the Open Space Trust Fund. Any payment to the
18 Academy necessitated by such an exchange may be paid from the Open
19 Space Trust Fund or from other available funds.

20 **§ 4-2-3-4 USE AND ADMINISTRATION OF THE OPEN SPACE TRUST FUND**
21 **INCOME.**

22 The principal of the Open Space Trust Fund shall be maintained intact and
23 interest earned thereon and other income will be utilized for the following
24 purposes:

25 (A) Up to 90% of the annual earnings generated by investments may be
26 used for the acquisition of land designated for Major Public Open Space or for
27 public easement or rights by the Albuquerque/Bernalillo County
28 Comprehensive Plan or other adopted city plans, and/or may be reinvested as
29 part of the principal of the Open Space Trust fund, subject to the approval of
30 the City Council upon recommendation by the Open Space Advisory Board.
31 The remaining 10% of the earnings shall be added to the principal of the trust
32 fund and reinvested.

33 **§ 4-2-3-5 DISPOSITION OF OPEN SPACE EXCHANGE LANDS.**

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1 Pursuant to the powers granted to the city under Article X, Section 6, of the
2 New Mexico Constitution and the Charter of the city, the Council hereby
3 adopts the following procedure specifically for the disposition of the Open
4 Space Exchange Lands. The method set out herein is intended to be an
5 alternative to the provisions governing disposition provided for in § 5-2-1 et
6 seq., or any other laws or ordinances governing disposition of real property by
7 the city.

8 (A) Methods of Disposition.

9 (1) The city may sell, lease, or exchange the Open Space
10 Exchange Lands by any reasonable means, including, but not limited to, the
11 use of competitive bidding, request for proposals or negotiation. The Mayor
12 shall not make or consider offers to dispose of land under this section until he
13 has advertised his offer to dispose or his willingness to consider offers in a
14 public notice in a daily newspaper of general circulation in the city, or if the
15 land is not located within Albuquerque, then in the county in which the land is
16 located; such notice shall give relevant information as to the city's offer or the
17 types of offers which would be acceptable to the City. Open Space Exchange
18 Lands may be exchanged by private exchange:

19 (a) For lands designated as Major Public Open Space by the
20 Albuquerque/Bernalillo County Comprehensive Plan or other adopted City
21 plans; or

22 (b) For land that the city wishes to acquire for subsequent
23 sale or exchange for lands designated as Major Public Open Space by the
24 Albuquerque/Bernalillo County Comprehensive Plan or other adopted City
25 plans.

26 (2) Land acquired by exchange for subsequent sale shall be
27 deemed to be Open Space Exchange Land subject to §§ 4-2-3-1 et seq. and the
28 Agreement with the Albuquerque Academy. The Mayor shall obtain appraisals
29 of each parcel of land to be acquired, traded or sold before making or
30 considering offers for disposal. Appropriate fees will be paid to any outside
31 professional service utilized to affect the disposition of land under this
32 section; such service includes, but is not limited to, title insurance,
33 engineering, surveying, legal, brokerage, and appraisal.

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1 (B) Report by the Mayor and Approval by the Council or Its Designee.

2 (1) The Mayor shall report any final decision to dispose of any of
3 the Open Space Exchange Lands to the City Council for its approval, and no
4 sale, lease, exchange or other disposition of any of the Open Space Exchange
5 Lands shall occur without the notification of and an opportunity to comment
6 by the Open Space Advisory Board prior to final approval of the City Council.

7 (2) All proposals which are submitted to the Council in
8 accordance with the requirements of this section shall be supported by a
9 message setting out the circumstances, benefits, responsibilities and
10 advantages relative thereto.

11 (3) All offers and related documentation received by the City as
12 part of the disposal of each parcel of the Exchange Lands shall be transmitted
13 to the Council along with the proposal.

14 (4) The Council's approval power is delegated to the Open Space
15 Advisory Board in the following cases: any license, easement, grant of right-
16 of-way or leasehold interest of less than ten years in duration, including any
17 lease extensions or renewals, granted to any entity authorized to exercise the
18 power of eminent domain in the state, provided the value of the land so
19 encumbered does not exceed \$100,000. An aggrieved person shall have the
20 right to appeal such decision to the City Council within 15 days of the
21 decision.

22 § 4-2-3-6 EXPIRATION.

23 Section 4-2-3-4 shall expire upon acceptance by the City Council of a final
24 report from the Mayor to be submitted after the disposition of all Open Space
25 Exchange Lands has been completed.

26 § 4-2-3-7 ADMINISTRATION OF THE TRUST FUND.

27 (A) The Mayor with the advice of the City of Albuquerque Investment
28 Committee ("Investment Committee") is authorized and directed to convey any
29 funds appropriated to the Open Space Trust Fund to the City Treasurer or a
30 trustee, with instructions to administer such fund as the Open Space Trust
31 Fund for the uses and purposes set forth in this Article. The trust fund shall
32 be permanent and irrevocable. Funds appropriated to the Open Space Trust
33 Fund shall be invested in securities permitted by § 4-1-10 and subject to the

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1 city's investment policy in effect at the time of adoption of this section or as
2 may be amended from time to time, and according to the recommendations
3 and oversight of the Investment Committee.

4 (B) If a trustee is selected, it shall be a qualified, responsible financial
5 institution which shall be selected by the Mayor, subject to Council approval,
6 for a term of up to five years after publication of a request for sealed bid
7 proposals.

8 (C) The administration of the trust fund shall be evaluated at least
9 annually by the Investment Committee to determine whether the
10 administration of the trust fund shall be undertaken by the City Treasurer, or a
11 new trustee, who shall be selected as provided in division (B).

12 (D) The fiscal year for the trust fund shall end on June 30 of each year.
13 Within 30 days after the end of each fiscal year, the City Treasurer shall
14 present a report of all investment activity of the past year in connection with
15 the administration of the trust fund to the Open Space Advisory Board for its
16 review and comment. The Treasurer shall then furnish the report and any
17 comments from the Open Space Advisory Board to the Mayor and the City
18 Council.

19 (E) In investing the principal of the trust fund, the trustee shall be
20 subject to the restrictions imposed on investment of city funds under § 4-1-9.

21 (F) The City Attorney shall prepare detailed instructions to the trustee
22 consistent with the terms of this Article.”

23 SECTION 2. SEVERABILITY CLAUSE. If any section, paragraph,
24 sentence, clause, word or phrase of this ordinance is for any reason held to be
25 invalid or unenforceable by any court of competent jurisdiction, such decision
26 shall not affect the validity of the remaining provisions of this ordinance. The
27 Council hereby declares that it would have passed this ordinance and each
28 section, paragraph, sentence, clause, word or phrase thereof irrespective of
29 any provisions being declared unconstitutional or otherwise invalid.

30 SECTION 3. COMPILATION. This ordinance shall be incorporated in and
31 made part of the Revised Ordinances of Albuquerque, New Mexico, 1994.

32 SECTION 4. EFFECTIVE DATE. This ordinance shall take effect five
33 days after publication by title and general summary

1 PASSED AND ADOPTED THIS 2nd DAY OF November, 2015
2 BY A VOTE OF: 8 FOR 0 AGAINST.

3
4 Excused: Harris

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7 _____
8 Rey Garduño, President
9 City Council

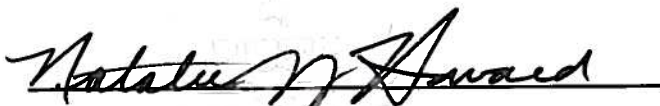
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13 APPROVED THIS _____ DAY OF _____, 2015

18 Bill No. C/S(3) O-15-48

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21 _____
22 Richard J. Berry, Mayor
23 City of Albuquerque
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28 ATTEST:

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31 Natalie Y. Howard, City Clerk
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Health City Sun

AFFIDAVIT OF PUBLICATION

CITY of ALBUQUERQUE
TWENTY-FIRST COUNCIL
COUNCIL BILL NO. C/S(3)
O-15-48
ENACTMENT NO. O-2015-028
SPONSORED BY: Isaac
Benton, Ken Sanchez
ORDINANCE
AMENDING THE OPEN
SPACE TRUST FUND AND
LAND ADMINISTRATION
ORDINANCE.
BE IT ORDAINED BY
THE COUNCIL, THE
GOVERNING BODY OF THE
CITY OF ALBUQUERQUE:
HCS Pub. November 27, 2015


State of New Mexico)
) SS
County of Bernalillo)

David Rivord, being duly sworn declares and says he is the **Publisher** of the Health City Sun, a weekly newspaper published and having a general paid circulation in the State of New Mexico; that the said Health City Sun was entered in the post office at Albuquerque as second class mail matter on September 5, 1930, and has met all requirements of a legal newspaper under the laws of the State of New Mexico.

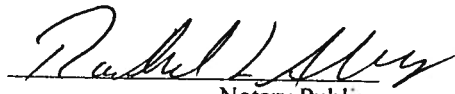
Affiant further states that this newspaper is duly qualified to publish Legal Notices or advertisements within the meaning of Section 14-11-4 of the New Mexico Statutes annotated (1978).

Affiant further states that the publication, a copy of which is hereto attached, was published in said paper in the regular and entire issue of each number of the paper, during the period and time of publication, and that the notice was published in the newspaper proper and not in a supplement thereof for 1 week, the first publication being in the issue of the 27th day of November, 2015, and the last publication being in the issue of the 27th day of November, 2015.

Affiant further states that the costs of publishing said legal notice have been paid, or have been assessed as court costs in the case numbered.


David Rivord, Publisher

Subscribed and sworn to before me, a Notary Public in and for said County and State, this 27th day of November, 2015.


Notary Public

My Commission Expires 2/18/2019



Health City Sun

AFFIDAVIT OF PUBLICATION

CIUDAD de ALBUQUERQUE
VIGÉSIMO PRIMER CONCEJO
PROYECTO DE LEY
MUNICIPAL NÚM. C/S(3)
O-15-48
PROMULGACIÓN NÚM.
O-2015-028
PATROCINADO POR: Isaac
Benton, Ken Sanchez
ORDENANZA
PARA ENMENDAR LA
ORDENANZA RELATIVA
AL FONDO FIDUCIARIO
PARA ESPACIOS ABIERTOS
Y LA ADMINISTRACIÓN
DE TIERRAS.
ASÍ LO RESUELVE EL
CONCEJO, ÓRGANO
GOBERNANTE DE LA
CIUDAD DE ALBUQUERQUE:
HCS Pub. November 27, 2015


State of New Mexico)
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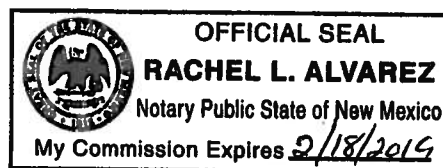
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David Rivord, Publisher

Subscribed and sworn to before me, a Notary Public in and for said County and State, this 27th day of November, 2015.


Rachel L. Alvarez
Notary Public

My Commission Expires 2/18/2019



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Phone: 505-242-3010/Fax: 505-842-5464