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1 alternative financing procedures to promote the installation of the  
2 improvements; and

3 WHEREAS, the Renewable Energy Financing District Act, NMSA § 5-18-1  
4 et seq., (the "Act"), authorizes New Mexico municipalities to form renewable  
5 energy financing districts; and

6 WHEREAS, pursuant to the Act, a district will be considered a political  
7 subdivision of the state of New Mexico, separate and apart from a  
8 municipality; and

9 WHEREAS, as required by the Act, the City Council of the City of  
10 Albuquerque, New Mexico (the "Council") has duly passed a Resolution  
11 authorizing a public hearing on the formation of a renewable energy financing  
12 district, to be known as the Albuquerque Renewable Energy Financing District  
13 (the "District"); and

14 WHEREAS, the Council, has held a public hearing to consider the  
15 formation of the District for the purpose of encouraging, accommodating and  
16 financing renewable energy improvements within the District, and an  
17 ordinance ordering the formation of the District; and

18 WHEREAS, because concurrent improvements to the energy efficiency  
19 of buildings and structures often enable renewable energy generation  
20 improvements to be more cost-effective, the costs of energy efficiency  
21 improvements that are performed in conjunction with, and designed for the  
22 benefit of, the installation of a renewable energy improvement to be financed  
23 through the District should be included in amounts financed pursuant to this  
24 ordinance.

25 BE IT ORDAINED BY THE COUNCIL, THE GOVERNING BODY OF THE CITY OF  
26 ALBUQUERQUE:

27 A new Article XI, Renewable Energy Financing Districts, shall be created  
28 in Chapter 4 of the Code of the City of Albuquerque, as follows:

29 Section 4-11-1. Title.

30 This ordinance may be referred to as the Renewable Energy Financing  
31 District Ordinance.

32 Section 4-11-2. Definitions.

33 As used in the Renewable Energy Financing District Ordinance:

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1           **Act** means the Renewable Energy Financing District Act, NMSA § 5-18-1  
2 *et seq.*

3           **District** means the Albuquerque Renewable Energy Financing District,  
4 formed pursuant to the Ordinance.

5           **Owner or Property Owner** means the person who is listed as the owner  
6 of real property in the district on the current property tax assessment roll, and  
7 who is in fact the legal owner of said real property.

8           **Renewable Energy Improvement** means an eligible photovoltaic, solar  
9 thermal, battery storage, geothermal or wind energy system permanently  
10 installed on real property.

11           **Section 4-11- 3. Formation of District.**

12           **Commercial Property** means all privately-owned property that is  
13 nonresidential within the meaning of NMSA § 7-35-2(G), and also residential  
14 property that is an Apartment House under §14-3-1-4 of Albuquerque  
15 ordinances with 10 or more units, but shall not include residential property  
16 that is a condominium.

17           A renewable energy financing district, to be known as the Albuquerque  
18 Renewable Energy Financing District, is formed in the City of Albuquerque  
19 with the powers provided for such a district in the Act, except as specifically  
20 limited by this ordinance.

21           The District shall serve the purpose of encouraging, accommodating  
22 and financing renewable energy improvements pursuant to the Act and this  
23 ordinance.

24           **Section 4-11-4. Inclusion of Property within District.**

25           The District shall include only commercial property located within the  
26 City for which the Owner thereof has submitted an application to the District  
27 and has agreed to the inclusion of such real property in the District, and for  
28 which the owner has submitted documentation, in a format approved by the  
29 District, evidencing the written consent of each person holding a first  
30 mortgage lien on the property. An owner may apply for and enter into  
31 agreements for the inclusion of real property, as provided in Section 4-11-4.  
32 Inclusion of property in the District may occur at any time subsequent to the

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1 formation of the district. Real property shall be included in and assessed by  
2 the District as described in Section 4-11-6.

3 **Section 4-11-4. Agreement to Include Real Property within District.**

4 An Owner wishing to have real property included in the District shall  
5 submit an agreement for the inclusion of real property in the District, to the  
6 District.

7 A. Application. The District shall accept as an application for inclusion  
8 of real property in the District, a form of Agreement to be established by the  
9 district. Copies of the agreement to include real property within the District  
10 may be obtained from the offices of the District, or as otherwise specified by  
11 the District. Completed agreements, in the form specified by the District, shall  
12 be submitted to the District at such location as the District may specify from  
13 time to time. The District may provide for agreements to be submitted or  
14 acknowledged by electronic means.

15 B. Agreement. To include real property within the District, each Owner  
16 must submit an Agreement in a form prescribed by the District from time to  
17 time, whereby such owner shall agree to the following:

- 18 (1) Inclusion of real property within the District.
- 19 (2) Imposition of a special assessment on real property to pay for  
20 the renewable energy improvements (including any lease thereof) and related  
21 costs, including installation, financing, administrative costs, program fees,  
22 and capitalized interest.
- 23 (3) Recording of the lien of the special assessment upon the real  
24 property to be included in the District.
- 25 (4) Waiver of any claims against the City, the District, and their  
26 agents arising from inclusion of real property within the District.

27 **Section 4-11-5. Eligible Renewable Energy Improvements.**

28 A. The following types of renewable energy improvements (including  
29 any lease thereof) are eligible for financing under the Act and ordinance when  
30 permanently installed on real property within the District:

- 31 (1) Photovoltaic Systems;
- 32 (2) Solar Thermal Systems;
- 33 (3) Battery Storage;

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- 1 (4) Geothermal Systems; and
- 2 (5) Wind Energy Systems.

3 The financed systems may include the cost of labor, materials,  
4 accessories, framing, and items necessary or incidental to the installation of  
5 the systems.

6 B. The costs of energy efficiency improvements (including any lease  
7 thereof) that are permanently installed on or affixed to property, which are  
8 designed to reduce energy consumption, or energy related operating costs,  
9 and installed or affixed to a property in conjunction with an eligible renewable  
10 energy improvement for the purpose of making the renewable energy  
11 improvement more cost effective, shall be eligible for financing through the  
12 District as part of the costs of the renewable energy improvement, so long as  
13 the costs of all improvements ancillary to the renewable energy improvement  
14 shall not exceed 49% of the total amount financed. The District may  
15 promulgate policies to further identify eligible energy efficiency  
16 improvements.

17 C. The District shall only finance renewable energy improvements  
18 (including any lease thereof) for which the reasonably estimated economic  
19 benefits, including, but not limited to, energy cost savings, maintenance cost  
20 savings, and other property operating savings expected from the  
21 improvements, including efficiency improvements pursuant to subsection 4-  
22 11-5B, during the financing period, is equal to or greater than the incremental  
23 principal cost of the improvement.

24 **Section 4-11-6. Special Assessments; Assessment Resolution.**

25 A. Inclusion of real property in the District will result in the imposition of  
26 special assessments on such real property in amounts necessary to pay the  
27 costs of permanently installing the approved renewable energy improvements  
28 and ancillary costs, including permit and inspection fees, and other ancillary  
29 costs required for an eligible improvement, the costs of financing, interest,  
30 and administrative fees charged by the District, the City, or their agents. The  
31 costs of such improvements will be amortized over a period of time as  
32 determined by the District, not to exceed a maximum term of 20 years.

1           **B. At the request or election of the owner, the amount of the special**  
2 **assessment may be less than the total cost for the renewable energy**  
3 **improvements, as determined pursuant to subsection A of this Section;**  
4 **however, the renewable energy improvements shall still be required to meet all**  
5 **of the relevant criteria in this ordinance based on the total system costs. The**  
6 **District shall not perfect a special assessment for a renewable energy**  
7 **improvements that is requested to be partially financed and paid for by a**  
8 **means other than a special assessment until it receives a certification that the**  
9 **renewable energy improvements have been fully constructed and installed.**

10           **C. Each Owner shall acknowledge and consent to the assessment**  
11 **amount and amortization schedule as a condition of inclusion of the real**  
12 **property in the District.**

13           **D. Following acknowledgement and consent by the Owner of the real**  
14 **property to be included in the District and satisfaction of the other**  
15 **requirements of the Act, this ordinance, and any policies or procedures**  
16 **promulgated by the District, the District Board shall adopt a resolution that**  
17 **includes the real property in the District and imposes the special assessment**  
18 **(the "Assessment Resolution"). An Assessment Resolution may include one**  
19 **or multiple parcels with separate ownership interests. That an Assessment**  
20 **Resolution may be enacted subsequent to the filing of a Special Assessment**  
21 **lien shall not invalidate such lien.**

22           **Section 4-11-7. Calculation and Collection of Special Assessments.**

23           **The amount of Special Assessments shall be calculated pursuant to**  
24 **Section 4-11-6. District special assessments which have been financed by**  
25 **direct financing shall be collected by the approved financing institution**  
26 **providing such financing, in accordance with the terms of the financing**  
27 **agreement agreed to by the Property Owner, and subject to any policies and**  
28 **procedures established by the District Board. Special assessments may be**  
29 **prepaid pursuant to procedures established by the District Board and**  
30 **identified in the Assessment Resolutions.**

31           **Section 4-11-8. Standards for Renewable Energy Improvements.**

32           **The District Board shall set standards and requirements for the**  
33 **permanent installation of renewable energy improvements on real property**

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1 within the District. Such standards and requirements shall be identified in a  
2 subsequent resolution of the District Board and shall, at minimum, include  
3 compliance with otherwise applicable state and local permitting requirements.

4 **Section 4-11-9. Priority of Lien Created.**

5 **A. A Special Assessment shall constitute a lien on the property, which**  
6 **shall be effective during the period in which the assessment is imposed and**  
7 **shall have priority over all other liens except liens for ad valorem property**  
8 **taxes; provided that only the delinquent portion of such special assessment**  
9 **shall have priority to liens for a first lien mortgage, as provided in subsection**  
10 **4-11-9B.**

11 **B. In the event a scheduled payment of the special assessment is not**  
12 **paid when due, the amount of the scheduled payment, late fees, and collection**  
13 **costs for the payment, and only those amounts, shall have priority over a first**  
14 **lien mortgage. Payment of an obligation created under the Renewable Energy**  
15 **Financing District Act shall not accelerate for any reason, including late**  
16 **payments, and the property shall not be subject to an enforceable accelerated**  
17 **claim or lien superior to a first lien mortgage for the any portion of the**  
18 **obligation not yet scheduled to be due and payable, except as provided in**  
19 **subsection 4-11-9C. In the event of a foreclosure, only the amount of due and**  
20 **unpaid scheduled payments, late fees, and collection costs for the due and**  
21 **unpaid payment shall have priority, and the remaining balance of the special**  
22 **assessment with all remaining interest and fees shall remain to be paid by**  
23 **future assessments until paid in full. Future payment obligations associated**  
24 **with a renewable energy improvement special assessment shall survive**  
25 **foreclosure by a first lien holder or junior lien holder if the proceeds from such**  
26 **foreclosure do not satisfy such future obligations. The amount of the**  
27 **scheduled payment may be changed to provide for full collection of all**  
28 **amounts within the term originally agreed upon.**

29 **C. Notwithstanding anything to the contrary in subsection 4-11-9A and**  
30 **B of this Section 4-11-9, in the event that a property encumbered by a special**  
31 **assessment is condemned in whole or part for public purposes, or be**  
32 **substantially damaged or destroyed by fire or other casualty, or should the**  
33 **renewable energy improvements be substantially damaged or destroyed by**

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1 fire or other casualty, the remaining unpaid balance of the special  
2 assessment, including interest accrued to date, shall be due and payable.

3 D. There shall be no terms or conditions in the special assessment that  
4 limit the right of the owner to transfer property encumbered by a special  
5 assessment; provided, however, that property shall remain encumbered by the  
6 special assessment until such time as the obligation related to the special  
7 assessment is paid in full.

8 Section 4-11-10. Special Assessment Bonds.

9 A. The District may obtain funds to finance eligible improvements by  
10 means of borrowing from the City or from a private lender, or through the  
11 issuance of bonds. The District may also provide for direct private financing  
12 to finance eligible improvements, pursuant to Section 4-11-11.

13 B. Should the District issue bonds, such issuance shall be in  
14 accordance with the relevant provisions of the Act and state law. No holder of  
15 special assessment bonds issued pursuant to the Act or the City's Ordinance  
16 may compel any exercise of the taxing power of the District or the City to pay  
17 the bonds or the interest on the bonds. Any special assessment bonds issued  
18 pursuant to the Act are not a debt or general obligation of the City, nor is the  
19 payment of special assessment bonds enforceable out of any money other  
20 than the revenue pledged to the payment of the bonds.

21 Section 4-11-11. Direct Lender Financing of Improvements.

22 The District may provide for direct private financing to property owners  
23 for the purpose of financing eligible renewable energy improvements, as  
24 follows.

25 A. Only entities which are certified by the financial institutions division  
26 of the regulation and licensing department as a solar energy improvement  
27 financing institutions shall be eligible to participate as direct lenders under  
28 this Section 4-11-11.

29 B. An entity wishing to participate as a lender under this Section 4-11-11  
30 shall execute an agreement with the District specifying the procedures by  
31 which the parties shall transfer any funds which are to be transferred pursuant  
32 to the Ordinance. The agreement shall specify that neither the District nor the  
33 City is liable in any way for the debt of the property owner, neither is a third



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1 party obligor and neither is pledging or lending its credit to the Owner or the  
2 lender.

3 C. If the District shall provide for direct private financing, an Owner's  
4 application and agreement for property to be included in a Special  
5 Assessment shall specify the private entity lender, and all payment terms.

6 D. Upon the District's approval of an application and agreement for a  
7 Special Assessment with private financing and the lender's payment of any  
8 applicable administrative fees to the District, the lender shall be authorized to  
9 release funds to the property Owner or the vendor of the eligible  
10 improvements. Prior to the release of funds, the lender or District shall cause  
11 to be filed a Special Assessment lien for the benefit of the financing entity and  
12 District. Such lien shall be as otherwise provided in this ordinance, and shall  
13 be released upon the Owner's repayment of all amounts financed, and any  
14 additional interest or charges due to late payments. That the associated  
15 special assessment resolution may be enacted subsequent to the filing of a  
16 Special Assessment lien shall not invalidate such lien.

17 E. The District shall promptly transfer monies received from an Owner's  
18 payments of a Special Assessment which are due to a private lender to that  
19 private lender.

20 Section 4-11-12. District Governance and Administration.

21 A. The District Board shall initially be the City Council.

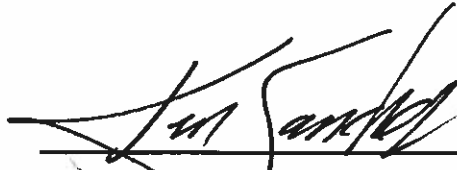
22 B. The District shall promulgate procedures for its operations, and  
23 those policies expressly delegated to it in this ordinance.

24 C. The District may engage the services of a private entity to administer  
25 its functions under the supervision of the District Board, with expenses of  
26 administration to be a cost recovered through fees included in the Special  
27 Assessments.

28 Section 4-11-13. Severability.


29 If any paragraph, clause, or provision of this ordinance shall for any  
30 reason be held to be invalid or unenforceable, the invalidity or  
31 unenforceability of such paragraph, clause or provision shall not affect any of  
32 the remaining provisions of this ordinance.

1 PASSED AND ADOPTED THIS 5th DAY OF November, 2018  
2 BY A VOTE OF: 9 FOR 0 AGAINST.

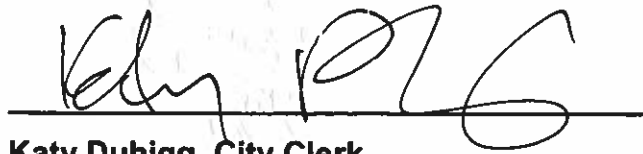
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9 Ken Sanchez, President  
10 City Council

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12 APPROVED THIS 21 DAY OF November, 2018

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17 Bill No. O-18-32

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21 Timothy M. Keller, Mayor  
22 City of Albuquerque

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26 ATTEST:

27   
28 \_\_\_\_\_  
29 Katy Duhigg, City Clerk

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