



# County of Los Alamos

## Council Meeting Staff Report

January 30, 2018

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**Agenda No.:** A.  
**Indexes (Council Goals):**  
**Presenters:** County Council - Regular Session  
**Legislative File:** 10025-18

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### **Title**

Review Development Agreement for Smith's and Mari-mac Property Status

### **Body**

Councilor O'Leary requested that staff prepare an overview and update of the development agreement with Kroger for the new Smith's development and that Kroger staff be invited to discuss the status of their property development at the old and new Smiths' sites.

### **New Smith's Lease and Development Agreement**

This agreement (The Trinity Site Real Estate Ground Lease and Development Agreement - Attachment A) was initially executed with another developer and then assigned to Kroger (through its development subsidiary Topvalco). It was also amended to include execution of certain utility and road work as well as resetting the effective date to be September 25, 2012.

The agreement requires during the Initial Development Period that the lessee complete development of the anchor store (Smith's), full site development, and at least another 10,000 square feet. This was completed as agreed upon. The lessee is then required during the Subsequent Development Period to develop at least an additional 35,000 square feet within 5 years of the effective date. That benchmark was not met. The County's options under this current circumstance are outlined in Attachment B. The County has chosen to proceed with requesting that Kroger provide the County with an Amended Plan for Completion of the Undeveloped Portion.

### **Fiscal Summary**

Between June 2013 and January 2018, Kroger has paid a total of \$1,874,291.53 on this lease with \$626,285 being County revenue and \$1,248,006.53 being revenue of Los Alamos Public Schools (LAPS). The underlying land being leased is primarily owned by LAPS and is being leased to the County under a master ground lease. That master ground lease between the County and LAPS has established how Kroger lease revenues are allocated between the two entities. A summary of the lease allocations to date is included as Attachment C.

Property taxes for the old Smith's site (the Mari-Mac center) are ~\$63K and taxes for the new Smith's site are ~\$162K.

### **Property Maintenance and Development Opportunities**

Kroger is subject to the same property maintenance obligations and enforcement as all other commercial property owners in Los Alamos as defined in our County code.

Given the relatively large size of the two sites and the various allowed uses available under County

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zoning, there are a wide range of possible development options available across the two sites. The new site is governed by the development agreement as well. If the County desired to incentivize or partner with Kroger in future development there are again a variety of options and tools available. The terms in the existing development agreement on the new site could always be revisited for mutual reconsideration and new development agreements could be considered for the old site. In addition, the State has also enable LEDA to be used for retail projects, although there are some severe limitations imposed.

### **Performance of the New Smith's and Leasing Update**

Steve Sorenson, Vice President Corporate Development, and Nick Tompkins, Corporate Real Estate, from Kroger will provide an overview of how the new Smith's is performing and an update on their leasing efforts at both the old and new sites as well as thoughts about future development opportunities.

#### **Attachments**

- A - Trinity Site Real Estate Ground Lease and Development Agreement
- B - Summary of County Options in the New Smith's Ground Lease
- C - New Smith's Ground Rent Allocation Schedule Summary
- D - Site Maps