



County of Los Alamos

Los Alamos, NM 87544
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Minutes

County Council – Regular Session

*Denise Derkacs, Council Chair, Theresa Cull, Council Vice-Chair,
Melanee Hand, Suzie Havemann, Keith Lepsch, David Reagor, and Randall Ryti*
Councilors

Tuesday, May 2, 2023

6:00 PM

Council Chambers – 1000 Central Avenue
TELEVISED

1. OPENING/ROLL CALL

The Council Chair, Denise Derkacs, called the meeting to order at 6:00 p.m.

Council Chair Derkacs made opening remarks regarding the procedure of the meeting.

Ms. Anne Laurent, Deputy County Manager, listed the county employees in attendance via zoom.

The following Councilors were in attendance:

Present: 6 - Councilor Derkacs, Councilor Cull, Councilor Hand, Councilor Havemann,
Councilor Reagor, and Councilor Ryti

Absent: 1 - Councilor Lepsch

2. PLEDGE OF ALLEGIANCE

Led by: All.

3. PUBLIC COMMENT

Mr. Aaron Walker commented on the placement of agenda items.

4. APPROVAL OF AGENDA

A motion was made by Councilor Cull, seconded by Councilor Ryti, that Council approve the agenda as presented.

The motion passed with the following vote:

Yes: 6 - Councilor Derkacs, Councilor Cull, Councilor Hand, Councilor Havemann,
Councilor Reagor, and Councilor Ryti

Absent: 1 - Councilor Lepsch

5. PRESENTATIONS, PROCLAMATIONS, AND RECOGNITIONS

A. Proclamation Declaring the Month of May as "Bike Month" and May 17th as "Bike to Work Day"

Councilor Havemann read and presented the proclamation to Juan Rael, Public Works Director and Eric Ulibarri, County Engineer.

Mr. Juan Rael, Public Works Director, spoke.

Mr. Keith Wilson, Project Manager, spoke.

B. Proclamation declaring the Month of May as "Motorcycle Awareness Month" in Los Alamos County

Councilor Hand read and presented the proclamation to Richard Sturgeon.

Mr. Richard Sturgeon, spoke.

C. Recognition of the Government Finance Officers Association Triple Crown Honor in Awards for the FY2022 Budget, FY2021 ACFR, FY2021 PAFR

Ms. Helen Perraglio, Chief Financial Officer, presented.

D. Proclamation Declaring the Month of May 2023 as "Older Americans Month" and marking the 25th Birthday of the Betty Ehart Center

Councilor Cull read and presented the proclamation to Tom McLaughlin, Board President of the Los Alamos Retired Seniors Organization.

Mr. Tom McLaughlin, Board President of the Los Alamos Retired Seniors Organization, spoke.

6. PUBLIC COMMENT FOR ITEMS ON CONSENT AGENDA

None.

7. CONSENT AGENDA

Consent Motion:

A motion was made by Councilor Ryti, seconded by Councilor Cull, that Council approve the items on the Consent Agenda as presented and that the motions in the staff report be included for the record.

A. Approval of Services Agreement No. AGR23-06 with Allied 360 Construction, LLC in the Amount of \$1,000,000.00 plus Applicable Gross Receipts Tax, for the Purpose of On-Call Utility Systems Locate, Mark, and Repair Services

I move that the Council approve Services Agreement No. AGR23-06 with Allied360, LLC in the amount of \$1,000,000.00, plus applicable gross receipts tax, for the purpose of On-Call Utility Systems Locate, Mark, and Repair Services.

B. Approval of Amendment No. 1 to Services Agreement AGR 19-18 between the Incorporated County of Los Alamos and Transmission & Distribution Services, LLC, for On-Call Services for Utility Power Distribution Electrical Engineering

I move that County Council approve Amendment No. 1 to Services Agreement No. AGR19-18 with Transmission & Distribution Services, LLC, to increase the agreement by \$50,000 to a not to exceed amount of \$250,000 plus applicable gross receipts tax, for the purpose of On Call Electrical Engineering Services as described in AGR19-18.

- C. Approval of Agreements AGR 23-52a to Bohannon Huston, Inc., AGR 23-52b to Huitt-Zollars, Inc., AGR 23-52c to Miller Engineers, Inc. dba Souder Miller and Associates, AGR 23-52d to Stantec Consulting Services, Inc., and AGR 23-52e to Wilson and Company, Inc. Engineers and Architects for On-Call Engineering Services in an Amount Not to Exceed \$5,000,000 Combined for all five Agreements Plus Applicable Gross Receipts Tax Over a Seven Year Period

I move that Council approve Agreements AGR 23-52a to Bohannon Huston, Inc., AGR 23-52b to Huitt-Zollars, Inc., AGR 23-52c to Miller Engineers, Inc. dba Souder Miller and Associates, AGR 23-52d to Stantec Consulting Services, Inc., and AGR 23-52e to Wilson and Company, Inc. Engineers and Architects for On-Call Engineering Services in an Amount Not to Exceed \$5,000,000 combined for all five Agreements Plus Applicable Gross Receipts Tax Over a Seven Year Period.

- D. Approval of Agreement AGR23-58 for the Purpose of On-Call Utilities Construction Services with Parker Construction

I move that Council approve the award of Agreement AGR23-58 for the Purpose of On-Call Utilities Construction Services with Parker Construction in the Amount of \$800,000, plus Applicable Gross Receipts Tax, in a form acceptable to the County Attorney.

- E. Approval of Task Order No. 3 under Services Agreement No. AGR 23-928 with J3 Systems in the Amount of \$247,214.00 plus Applicable Gross Receipts Tax for Fire Station 3 Apparatus Bay Roof Replacement

I move that Council approve Task Order No. 3 under Services Agreement No. AGR 23-928 with J3 Systems in the Amount of \$247,214.00 plus Applicable Gross Receipts Tax for Fire Station 3 Apparatus Bay Roof Replacement.

- F. Board/Commission Appointment(s) - DWI Planning Council

I move that Council re-appoint Judith Lovejoy and Juanita McNiel to the DWI Planning Council Board for a term beginning on May 1, 2023 and ending on April 30, 2025; and appoint Rachel Mohr-Richards to the DWI Planning Council Board for a term beginning on May 1, 2023 and ending on April 30, 2025.

- G. Award of Bid No. IFB 2023-27 for the Purpose of Bayo Booster Non-Potable Water Tank Project - Phase 2, with TLC Company, Inc.

I move that Council approve the Award of Bid No. IFB 2023-27 for the Purpose of Bayo Booster Non-Potable Water Tank Project - Phase 2, with TLC Company, Inc. in the Amount of \$2,205,850, and a contingency in the amount of \$220,585, for a total of \$2,426,435, plus Applicable Gross Receipts Tax.

- H. Amendment No. 3 to Agreement DE-RE32-98AL79408 with the DOE/NNSA Authorizing Construction of a New Water Tank as part of the Jemez Mountain Fire Protection System

I move the Council Approve Amendment No. 3 to Agreement DE-RE32-98AL79408 with the DOE/NNSA Authorizing Construction of a New Water Tank as part of the Jemez Mountain Fire Protection System.

- I. Grant of Utility Easement by the DOE/NNSA to the Incorporated County of Los Alamos for Construction of a Waterline and Electric Line Associated with the Jemez Mountain Fire Protection System

I move that Council Approve the Grant of Utility Easement as presented.

- J. Approval of Assignment and Assumption of Ground Lease between Los Alamos Retirement Community, Inc. and 1011 Sombrillo Court NM LLC

I move that Council approve the Assignment and Assumption of Ground Lease and authorize the County Manager to execute the Assignment and Assumption of Ground Lease in a form substantially the same as Attachment A.

- K. Approval of Budget Revision 2023-39 for the NM Crime Victims Reparations Commission Grant Program and the New Mexico Homeland Security Grant Program

I move that Council approve Budget Revision 2023-39 as summarized on Attachment A and that the attachment be made a part of the minutes of this meeting.

Approval of Consent Agenda:

The motion passed with the following vote:

Yes: 6 – Councilor Derkacs, Councilor Cull, Councilor Hand, Councilor Havemann, Councilor Reagor, and Councilor Ryti

Absent: 1 - Councilor Lepsch

8. INTRODUCTION OF ORDINANCE(S)

- A. Incorporated County of Los Alamos Code Ordinance No. 02-344 A Code Ordinance Amending Chapter 38, Article II, Division 3, Section 38-92 (Traffic Code)

Councilor Havemann introduced, without prejudice, Incorporated County of Los Alamos Code Ordinance No. 02-344 and asked the staff to assure that it is published as provided in the County Charter.

- B. Incorporated County of Los Alamos Ordinance No. 723, An Ordinance Terminating the Economic Development Project for Public Support From the State of New Mexico for the Benefit of UbiQD, Inc. A Delaware Corporation

Councilor Cull introduced, without prejudice, Incorporated County of Los Alamos Ordinance No. 723 UbiQD, an ordinance terminating the Economic Development Project of UbiQD, Inc., and asked staff to assure that it is published as provided in the County Charter.

- C. Incorporated County of Los Alamos Code Ordinance No. 02-345; an Ordinance Amending Chapter 32, Section 32-18, Refuse Recycling and Solid Waste Facility Fees

Councilor Hand introduced, without prejudice, Incorporated County of Los Alamos Code Ordinance No. 02-345; An ordinance amending Chapter 32, Section 32-18, Refuse Recycling and Solid Waste Facility Fees and asked staff to ensure that it is published as provided in the County Charter.

9. PUBLIC HEARING(S)

- A. Incorporated County of Los Alamos Resolution No. 23-14. A Resolution Increasing Pick-Up for PERA Contributions Previously Established by Resolution No. 22-24, By Authorizing the Incorporated County of Los Alamos to Pick-Up 5.12% for FY24, and 5.27% for FY25, of PERA Member Contributions for Members Covered Under Municipal Fire Plan 5

Mr. Steven Lynne, County Manager, spoke.

Public comment:
None.

A motion was made by Councilor Havemann, seconded by Councilor Cull, that Council adopt Incorporated County of Los Alamos Resolution No. 23-14, a Resolution increasing pick-up for PERA contributions previously established by Resolution No. 22-24, by Authorizing the Incorporated County of Los Alamos to pick-up 5.12% for FY24 and 5.27% for FY25, of PERA member contributions for members covered under Municipal Fire Plan 5.

The motion passed with the following vote:

Yes: 6 – Councilor Derkacs, Councilor Cull, Councilor Hand, Councilor Havemann,
Councilor Reagor, and Councilor Ryti

Absent: 1 - Councilor Lepsch

- B. Incorporated County of Los Alamos Resolution No. 23-15. A Resolution Increasing Pick-Up for PERA Contributions Previously Established by Resolution No. 22-23, By Authorizing the Incorporated County of Los Alamos to Pick-up 5.17% for FY24 of PERA Member Contributions for Members Covered Under Municipal Police Plan 5

Mr. Steven Lynne, County Manager, spoke.

Public Comment:
None.

A motion was made by Councilor Cull, seconded by Councilor Ryti, that Council adopt Incorporated County of Los Alamos Resolution No. 23-15, a Resolution increasing pick-up for PERA contributions previously established by Resolution No. 22-23, by Authorizing the Incorporated County of Los Alamos to pick-up 5.17% for FY24 of PERA member contributions for members covered under Municipal Police Plan 5.

The motion passed with the following vote:

Yes: 6 – Councilor Derkacs, Councilor Cull, Councilor Hand, Councilor Havemann,
Councilor Reagor, and Councilor Ryti

Absent: 1 - Councilor Lepsch

- C. Incorporated County of Los Alamos Resolution No. 23-16. A Resolution Increasing Pick-Up for PERA Contributions Previously Established by Resolution No. 22-21 By Authorizing the Incorporated County of Los Alamos to Pick-up 5.29% for FY24, and 5.42% for FY25, and 5.55% for FY26 of PERA Member Contributions for Members Covered Under Municipal Detention Officer Plan 1

Mr. Steven Lynne, County Manager, spoke.

Public Comment:
None.

A motion was made by Councilor Ryti, seconded by Councilor Reagor, that Council adopt Incorporated County of Los Alamos Resolution No. 23-16. A Resolution increasing pick-up for PERA contributions previously established by Resolution No. 22-21 by authorizing the Incorporated County of Los Alamos to pick-up 5.29% for FY24, and 5.42% for FY25, and 5.55% for FY26 of PERA member contributions for members covered under Municipal Detention Officer Plan 1.

The motion passed with the following vote:

Yes: 6 – Councilor Derkacs, Councilor Cull, Councilor Hand, Councilor Havemann, Councilor Reagor, and Councilor Ryti

Absent: 1 - Councilor Lepsch

- D. Incorporated County of Los Alamos Resolution No. 23-17. A Resolution Increasing Pick-up for Public Employees Retirement Association (PERA) Contributions Previously Established by Resolution No. 19-13 and by Resolution No. 22-22, by Authorizing the Incorporated County of Los Alamos to Pick-up 5.36% for FY24, 5.66% for FY25, and 5.96% for FY26, and thereafter, of PERA member contributions for specifically identified Contract employees

Mr. Steven Lynne, County Manager, spoke.

Public Comment:
None.

A motion was made by Councilor Hand, seconded by Councilor Cull, that Council adopt Incorporated County of Los Alamos Resolution No. 23-17, a Resolution Increasing Pick-up for (PERA) Contributions Previously Established by Resolution No. 19-13 and by Resolution No. 22-22, by Authorizing the Incorporated County of Los Alamos to Pick-up 5.36% for FY24, 5.66% for FY25, and 5.96% for FY26, and thereafter, of PERA member contributions for specifically identified Contract employees.

The motion passed with the following vote:

Yes: 6 – Councilor Derkacs, Councilor Cull, Councilor Hand, Councilor Havemann, Councilor Reagor, and Councilor Ryti

Absent: 1 - Councilor Lepsch

- E. Incorporated County of Los Alamos Resolution No. 23-18, A Resolution Increasing Pick-Up for Public Employee Retirement Association (PERA) Contributions Previously Established by Resolution No. 22-25, by Authorizing the Incorporated County of Los Alamos to Pick-Up 5.07% for FY24, 5.17% For FY25 and 5.27% for FY26, and thereafter, of PERA Member Contributions for United Association of Plumbers and Pipefitters, Local Union No. 412 ("UAPP) Bargaining Unit Employees ("BUEs") covered Under Municipal General Plan 3

Mr. Steven Lynne, County Manager, spoke.

Public Comment:
None.

A motion was made by Councilor Havemann, seconded by Councilor Cull, that Council adopt Incorporated County of Los Alamos Resolution No. 23-18, A Resolution Increasing Pick-Up for Public Employee Retirement Association (PERA) Contributions Previously Established by Resolution No. 22-25, by Authorizing the Incorporated County of Los Alamos to Pick-Up 5.07 percent for FY24, 5.17 percent for FY25 and 5.27 percent for FY26, and thereafter, of PERA Member Contributions for UAPP BUEs covered Under Municipal General Plan 3.

The motion passed with the following vote:

Yes: 6 – Councilor Derkacs, Councilor Cull, Councilor Hand, Councilor Havemann, Councilor Reagor, and Councilor Ryti

Absent: 1 - Councilor Lepsch

- F. Incorporated County of Los Alamos Resolution No. 23-19, A Resolution Increasing Pick-Up for Public Employee Retirement Association (PERA) Contributions Previously Established by Resolution No. 22-25, by Authorizing the Incorporated County of Los Alamos to Pick-Up 5.07% for FY24 and 5.17% For FY25 of PERA Member Contributions for the International Brotherhood of Electrical Workers, Local Union No. 611, ("IBEW") Bargaining Unit Employees ("BUEs") covered Under Municipal General Plan 3

Mr. Steven Lynne, County Manager, spoke.

Public Comment:
None.

A motion was made by Councilor Cull, seconded by Councilor Ryti, that Council adopt Incorporated County of Los Alamos Resolution No. 23-19, A Resolution Increasing Pick-Up for Public Employee Retirement Association (PERA) Contributions Previously Established by Resolution No. 22-25, by Authorizing the Incorporated County of Los Alamos to Pick-Up 5.07 percent for FY24 and 5.17 percent for FY25 of PERA Member Contributions for IBEW BUEs covered Under Municipal General Plan 3.

The motion passed with the following vote:

Yes: 6 – Councilor Derkacs, Councilor Cull, Councilor Hand, Councilor Havemann, Councilor Reagor, and Councilor Ryti

Absent: 1 - Councilor Lepsch

- G. Incorporated County of Los Alamos Resolution No. 23-13. A Resolution Increasing Pick-Up for PERA Contributions Previously Established by Resolution No. 22-25 By Authorizing the Incorporated County of Los Alamos to Pick-up 5.07% for FY24, and 5.17% for FY25, and 5.27% for FY26 of PERA Member Contributions for Members Covered Under Municipal General Plan 3, Excluding Those Bargaining Unit Employees ("BUEs") Otherwise Covered by Resolution Numbers 23-18 and 23-19

Mr. Steven Lynne, County Manager, spoke.

Public Comment:
None.

A motion was made by Councilor Ryti, seconded by Councilor Reagor, that Council adopt Incorporated County of Los Alamos Resolution No. 23-13. A Resolution increasing pick-up for PERA contributions previously established by Resolution No. 22-25 by authorizing the Incorporated County of Los Alamos to pick-up 5.07% for FY24, and 5.17% for FY25, and 5.27% for FY26 of PERA member contributions for members covered under Municipal General Plan 3, excluding those Bargaining Unit Employees ("BUEs") otherwise covered by Resolution Numbers 23-18 and 23-19.

The motion passed with the following vote:

Yes: 6 – Councilor Derkacs, Councilor Cull, Councilor Hand, Councilor Havemann, Councilor Reagor, and Councilor Ryti

Absent: 1 - Councilor Lepsch

- H. Incorporated County of Los Alamos Code Ordinance No. No. 02-342, An Ordinance Amending the Text of Chapter 16, "County of Los Alamos Development Code", ARTICLE II DIVISION 2. SECTION 16-6(c) TABLE 16 AND DIVISION 3. TABLE 24 TO INCREASE THE BUILDING HEIGHT SOUTH OF TRINITY DRIVE IN DOWNTOWN LOS ALAMOS (DTLA) ZONE DISTRICT, with revisions related to the building height south of Trinity Drive

Ms. Sobia Sayeda, Planning Manager, spoke.

Ms. Jessica Lawlis, Dekker/Perich/Sabatini (D/P/S), Urban Planner, presented.

Ms. Rachel Adler, Chair of Planning & Zoning, spoke.

Mr. Paul Andrus, Community Development Director, spoke.

Mr. Will Gleason, Dekker/Perich/Sabatini (D/P/S), Principal Urban Planner, spoke.

Mr. Eric Martinez, Deputy Public Works Director, spoke.

Mr. Alvin Leaphart, County Attorney, spoke.

Public Comment:

Mr. Eduardo Santiago spoke.

Mr. Philip Gursky spoke.

Ms. Rebecca White spoke.

Ms. Stephanie Nakhleh spoke.

Ms. Karen Easton spoke.

Ms. Ryn Hermann spoke.

Ms. Sarah Mason spoke.

Mr. Taber West spoke.

Ms. Laura Mullane spoke.

Mr. Aaron Walker spoke.

Ms. Cat Ozment spoke.

Ms. Christine Olds spoke.

A motion was made by Councilor Havemann, seconded by Councilor Hand, that Council adopt Incorporated County of Los Alamos Code Ordinance No. 02-342; and asked staff to assure that it is published in summary form.

Councilor Ryti offered the following Friendly Amendment to the motion: ask staff to ask planning and zoning for recommendations regarding setback requirements for the DTLA zone along the Los Alamos Canyon edge. It was accepted.

The motion passed with the following vote:

Yes: 6 – Councilor Derkacs, Councilor Cull, Councilor Hand, Councilor Havemann, Councilor Reagor, and Councilor Ryti

Absent: 1 - Councilor Lepsch

RECESS

Councilor Derkacs called for a recess at 8:31 p.m. The meeting reconvened at 8:45 p.m.

- I. Incorporated County of Los Alamos Code Ordinance No. No. 02-343 an Ordinance amending the Text of Chapter 16, "County of Los Alamos Development Code", AN ORDINANCE AMENDING THE TEXT OF CHAPTER 16, ARTICLE II DIVISION 1. SECTION 16-6(b)(3)c 1., SECTION 16-6(c)(3)d 1., ARTICLE IV DIVISION 3. SECTION 16-28(c) TABLE 27, SECTION 16-30(a)(1) TABLE 29 TO REVISE THE REQUIRED AMOUNT OF OFF-STREET PARKING IN DOWNTOWN LOS ALAMOS (DTLA) AND WHITE ROCK TOWN CENTER (WRTC) ZONE DISTRICTS; AND SECTION 16-30(b) TO CLARIFY ADDITIONAL PARKING REDUCTIONS IN ALL ZONE DISTRICTS, with revisions related to Alternative Parking Regulations and Reduction Allowances in Downtown Los Alamos (DTLA) and White Rock Town Center (WRTC) Zone Districts

Ms. Jessica Lawlis, Dekker/Perich/Sabatini (D/P/S), Urban Planner, presented.

Mr. Will Gleason, Dekker/Perich/Sabatini (D/P/S), Principal Urban Planner, spoke.

Ms. Sobia Sayeda, Planning Manager, spoke.

Ms. Stephanie Nakhleh, Planning & Zoning Board Member, spoke.

Mr. Paul Andrus, Community Development Director, spoke.

Mr. Alvin Leaphart, County Attorney, spoke.

Public Comment:

Mr. George Chandler spoke.

Ms. Rebecca White spoke.

Mr. Eduardo Santiago spoke.

Mr. Aaron Walker spoke.

Ms. Cat Ozment spoke.

Ms. Rachel Adler spoke.

A motion was made by Councilor Ryti, seconded by Councilor Havemann, that Council adopt Incorporated County of Los Alamos Code Ordinance No. 02-343; and asked staff to assure that it is published in summary form.

Councilor Derkacs offered the following Friendly Amendment to the motion: that council amend the Incorporated County of Los Alamos Code Ordinance No. 02-343 as amended in revision two with the additional clarification of language in 16-30.A and 16-30.B to specify mixed use and commercial zones. It was not accepted.

The motion failed with the following vote:

Yes: 2 – Councilor Reagor and Councilor Ryti

No: 4 - Councilor Derkacs, Councilor Cull, Councilor Hand, and Councilor Havemann

Absent: 1 - Councilor Lepsch

A SUBSTITUTE motion was made by Councilor Cull, seconded by Councilor Hand, that Council amend Incorporated County of Los Alamos Code Ordinance No. 02-343 as shown in revision two, and in addition, clarify the other zoning areas as stated earlier by Councilor Derkacs and to be considered and voted upon at the May 23rd Council Meeting.

The SUBSTITUTE motion passed with the following vote:

Yes: 6 – Councilor Derkacs, Councilor Cull, Councilor Hand, Councilor Havemann, Councilor Reagor, and Councilor Ryti

Absent: 1 - Councilor Lepsch

10. COUNCIL BUSINESS

A. General Council Business

None.

B. Appointments

None.

C. Board, Commission, and Committee Vacancy Report

1) Board, Commission and Committee Vacancy Report

No report.

D. Board, Commission and Committee Liaison Reports

No report.

E. County Manager's Report

1) County Managers Report for March 2023

No report.

2) **Brush Pickup for Fire Mitigation**

No report.

3) **Grant Award for Light Replacement**

No report.

F. **Council Chair Report**

No report.

G. **Approval of Councilor Expenses**

None.

H. **Preview of Upcoming Agenda Items**

1) **Tickler Report of Upcoming Agenda Items**

No report.

11. **COUNCILOR COMMENTS**

Councilor Ryti commented on the Betty Ehart Senior Center Birthday.

Councilor Cull commented on the time frame for agenda items and asked staff to better inform the public of the time frames.

12. **PUBLIC COMMENT**

Mr. Aaron Walker commented on the placement and time frame of agenda items.

Ms. Cat Ozment commented on item 9.I.

13. **ADJOURNMENT**

The meeting adjourned at 10:29 p.m.

INCORPORATED COUNTY OF LOS ALAMOS

Denise Derkacs, Council Chair

Attest:

Naomi D. Maestas, County Clerk

Meeting Transcribed by: Victoria Montoya, Sr. Deputy Clerk

Recording Requested By
and
When Recorded Mail To:

Sternshein Legal Group, LLP
5316 E. Chapman Ave.
Orange, CA 92869
Attention: Jennifer Sternshein, Esq.

Above Space For Recorder's Use Only

ASSIGNMENT AND ASSUMPTION OF GROUND LEASE

THIS ASSIGNMENT AND ASSUMPTION OF GROUND LEASE (“Assignment”) is made and entered into as of the ____ day of _____, 2023 (the “Effective Date”), by and between Los Alamos Retirement Community, Inc., a New Mexico nonprofit corporation (“Assignor”), and 1011 Sombrillo Court NM LLC, a Delaware limited liability company (“Assignee”).

RECITALS

A. Assignor and Assignee are parties to a Purchase and Sale Agreement (the “PSA”) dated as of December 16, 2022, as amended by that certain First Amendment to Purchase and Sale Agreement, dated as of January 13, 2023 (the “PSA”), the terms of which PSA are incorporated into this Assignment as if fully rewritten herein (terms defined therein having the same meaning when used herein).

B. The Incorporated County of Los Alamos, New Mexico, a incorporated county and political subdivision of the State of New Mexico (the “County”), as landlord, and Assignor, as tenant, entered into that certain Amended and Restated Ground Lease Agreement dated as of August 14, 2014 (the “Ground Lease”), recorded on August 13, 2014 in Book 167, page 31, records of Los Alamos County, New Mexico, by which Assignor leases certain real property more particularly described on the attached Exhibit A (the “Property”).

C. It is a condition to the Closing under the PSA that Assignor assign all of its right, title and interest in, to, and under the Ground Lease to Assignee, and that Assignee assume Assignor's obligations with respect to such Ground Lease arising after the Effective Date.

D. Assignor desires to assign to Assignee, and Assignee desires to acquire from Assignor all Assignor's right, title and interest in, to and under the Ground Lease.

NOW, THEREFORE, in consideration of the premises and mutual covenants and promises of the parties and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the undersigned parties do hereby agree as follows:

1. Assignment of Lease. Assignor hereby assigns all of its right, title and interest in and to the Ground Lease to Assignee. Assignor remains responsible for all liabilities and obligations of Assignor relating to the Ground Lease which accrued prior to the Effective Date.
2. Assumption by Assignee. Assignee hereby agrees to assume and perform all of the obligations, liabilities and responsibilities of the Assignor under the Ground Lease which shall arise or be incurred, or which are required to be performed, on and after the Effective Date.
3. Purchase Agreement. Nothing contained in this Assignment will be deemed or construed as relieving Assignor or Assignee of any of their respective duties and obligations under the PSA.
4. Further Assurances. Assignor agrees from time to time, upon the reasonable request and at the costs and expense of Assignee, to execute, acknowledge and deliver such further documentation as may be necessary or desirable in Assignee's discretion to accomplish fully and properly evidence the assignment of the Ground Lease from Assignor to Assignee.
5. Binding Effect. This Agreement shall bind and inure to the benefit of the parties hereto, their respective heirs, successors and assigns.
6. Consent of County. The County joins this Assignment solely to consent to the assignment of the Ground Lease from Assignor to Assignee, pursuant to the terms of the Ground Lease, and for no other purpose.

[Remainder of Page Intentionally Left Blank. Signature Pages follow]

IN WITNESS WHEREOF, the Assignor has executed this Assignment and Assumption Agreement as of the date and year first above written.

ASSIGNOR:

LOS ALAMOS RETIREMENT COMMUNITY, INC.

By: _____
Name:
Title:

ACKNOWLEDGMENT

STATE OF _____

COUNTY OF _____

The foregoing instrument was acknowledged before me this ____ day of _____, 2023, by _____, as _____ of _____, a New Mexico limited liability company, on behalf of the company. He/She is personally known to me or has produced _____ as identification.

(NOTARY SEAL)

Notary Public Signature

(Name typed, printed or stamped)

ASSIGNEE:

1011 SOMBRILLO COURT NM LLC

By: _____
Name: Elizabeth Hagins
Title: Authorized Representative

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA
COUNTY OF _____

On _____, 2023, before me, _____,

Notary Public, personally appeared Elizabeth Hagins, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ Notary Public

Commission No.: _____
Expiration Date: _____

(This area for official notarial seal)

CONSENT

The undersigned hereby consents to the terms of the foregoing Assignment.

COUNTY:

ATTEST

INCORPORATED COUNTY OF LOS ALAMOS

NAOMI D. MAESTAS
COUNTY CLERK

BY: _____
STEVEN LYNNE **DATE**
COUNTY MANAGER

ACKNOWLEDGMENT

STATE OF _____

COUNTY OF _____

The foregoing instrument was acknowledged before me this ____ day of _____, 2023, by _____, as _____ of _____, a New Mexico limited liability company, on behalf of the company. He/She is personally known to me or has produced _____ as identification.

(NOTARY SEAL)

Notary Public Signature

(Name typed, printed or stamped)

EXHIBIT A

Legal Description for Ground Lease

Lots 2A and 3A, La Sombra Subdivision, as shown on the Lot Line Adjustment and Lot Split Survey thereof filed for record on November 8, 2001, as Document No. 153067, in Plat Book 9, Page 31, records of Los Alamos County, New Mexico.

Budget Revision 2023-39

Council Date May 2, 2023

[illegible]

May 2, 2023 Los Alamos County Council Regular Session

Agenda Item: 9.I. OR0976-23b Incorporated County of Los Alamos Code Ordinance No. 02-343

There were additional changes and/or corrections to the published ordinance. Code Ordinance No. 02-343 (Revision 2) is attached. If this version of the ordinance is desired, then the "Alternative Action" shown below should be used.

Alternative Action

I move that Council amend Incorporated County of Los Alamos Code Ordinance No. 02-343 as shown in Revision 2 to be considered and voted upon at the May 23rd Council meeting.

REVISION 2

INCORPORATED COUNTY OF LOS ALAMOS CODE ORDINANCE 02-343

AN ORDINANCE AMENDING THE TEXT OF CHAPTER 16, ARTICLE II DIVISION 1. SECTION 16-6(b)(3)c 1., SECTION 16-6(c)(3)d 1., ARTICLE IV DIVISION 3. SECTION 16-28(c) TABLE 27, SECTION 16-30(a)(1) TABLE 29 TO REVISE THE REQUIRED AMOUNT OF OFF-STREET PARKING IN DOWNTOWN LOS ALAMOS (DTLA) AND WHITE ROCK TOWN CENTER (WRTC) ZONE DISTRICTS; AND SECTION 16-30(b) TO CLARIFY ADDITIONAL PARKING REDUCTIONS IN ALL ZONE DISTRICTS.

WHEREAS, the Incorporated County of Los Alamos ("County") is an incorporated county of the State of New Mexico as provided in Section 5, Article 10 of the New Mexico Constitution; and

WHEREAS, County, pursuant to Section 5, Article 10 of the State Constitution, is also granted all powers of a municipality; and

WHEREAS, the New Mexico Legislature, pursuant to Chapters 3, 4, and 5 of the New Mexico Statutes Annotated (*see generally* NMSA 1978, §§ 3-18-1 *et seq.*) has given municipalities and counties the power to regulate land use within their territorial limits; and

WHEREAS, County, in Chapter 16 of the Los Alamos County Code of Ordinances ("Development Code"), has enacted ordinances regulating the zoning, planning, and use of land within its borders; and

WHEREAS, the Development Code was amended with a comprehensive update through Ordinance 02-333, an Ordinance repealing and replacing in its entirety the text of Chapter 16; and

WHEREAS, Ordinance 02-333 was approved by County Council ("Council") on December 13, 2022; and

WHEREAS, Ordinance 02-333 became effective on January 23, 2023; and

WHEREAS, on December 13, 2022, Council requested that County Staff evaluate alternative parking requirements presented at the November 30, 2022, meeting and bring back recommendations on potential parking alternatives in the Downtown Los Alamos ("DTLA"), the White Rock Town Center ("WRTC"), and all Mixed Use Zone Districts; and

WHEREAS, on March 8, 2023, County Staff presented the text amendment to the Planning and Zoning Commission for review and its recommendations to County Council for consideration and adoption; and

WHEREAS, the Planning and Zoning Commission followed a legislative process to recommend approval of the proposed text amendment utilizing the factors described in Section 16-75(d) of the Development Code; and

WHEREAS, Council has considered this text amendment and the Planning and Zoning Commission's recommendation in a public hearing where members of the public had further opportunity to make public comment; and

WHEREAS, Council's approval of the text amendment is based on the review criteria contained in Section 16-75(d) of the Development Code; and

WHEREAS, Council finds that the revisions related to alternative parking regulations and reduction allowances within the DTLA and WRTC Zone Districts in the current Development Code hinder the ability of County's residents, business owners, and community members to implement its vision and goals for the future; and

WHEREAS, Council finds that the text amendments have allowed County and its citizens to more effectively implement the visions and goals for the future described in its Comprehensive Plan and will encourage development within the DTLA and WRTC Zone Districts and suitable design to enhance the public health, safety, welfare, and overall quality of living within Los Alamos County; and

WHEREAS, provide clarifying language for Additional Parking Reductions in all Zone Districts within the County; and

WHEREAS, Council finds that the text amendment affects the area in DTLA and WRTC Zone Districts without singling out particular parcels or uses; and

WHEREAS, Council finds that the comprehensive nature of the text amendments have resulted in parking regulations and reduction allowances in the DTLA and WRTC Zone Districts that are compatible with the District's purpose and can be supported by County's infrastructure.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE INCORPORATED COUNTY OF LOS ALAMOS:

SECTION 1. Paragraph 1 of Section 16-6(b)(3)c, Division 1, Article II of Chapter 16 of the Code of the Incorporated County of Los Alamos is hereby amended as follows:

16-6-(b)(3)c. OFF-STREET PARKING

1. Required off-street parking shall be allowed a 25 percent reduction of the amount required in Table 27 Minimum Off-Street Parking Requirements of the Off-Street Parking, Loading and Queuing Section-, with the exception of multi-family dwelling uses which shall be required to provide no less than 1 parking space per dwelling unit.

SECTION 2. Paragraph 1 of Section 16-6(c)(3)d, Division 1, Article II of Chapter 16 of the Code of the Incorporated County of Los Alamos is hereby amended as follows:

16-6-(c)(3)d. OFF-STREET PARKING

1. Required off-street parking shall be provided at 50 percent the amount required in Table 27 Minimum Off-street parking Requirements of the Off-street parking, Loading and Queuing Section-, with the exception of multi-family dwelling uses which shall be required to provide no less than 1 parking space per dwelling unit.

SECTION 3. Table 27 in Section 16-28(c), Division 3, Article IV, Chapter 16 of the Code of the Incorporated County of Los Alamos is hereby amended as follows:

16-28(c) MINIMUM OFF-STREET PARKING REQUIREMENTS

Unless otherwise noted in this Chapter, minimum off-street parking spaces shall be provided in accordance with *Table 27 Minimum Off-Street Parking Requirements*.

Table 27: MINIMUM OFF-STREET PARKING REQUIREMENTS		
LAND USE		REQUIRED PARKING
RESIDENTIAL		
Household Living	Dwellings, single-family	2 spaces per unit
	Dwelling, co-housing development	1 space per unit Plus .25 guest space per unit
	Dwelling, cottage development	1 space per up to 2-bedroom unit 2 spaces per 3 or more bedroom unit
	Dwelling, duplex	2 spaces per unit
	Dwelling, townhouse. Dwelling, triplex	2 spaces per unit Developments with 10 or more units shall require 1 additional guest parking space per every 10 units.
	Dwelling, fourplex	2 spaces per unit Developments with 10 or more units shall require 1 additional guest parking space per every 10 units.
	Dwelling, townhouse	1 space per up to 2-bedroom unit 2 spaces per 3 or more bedroom unit
	Dwelling, live/work	1 space per unit plus as required for commercial use
	Dwelling, multiple-family	1 space per up to 1 bedroom units 1.5 spaces per 2-bedroom units or more plus 1 guest space per 10 dwelling units
Congregate Living	Assisted Care Facility	1 space per 3 beds
	Dormitory	1 space per bed, plus 2 spaces per owner or manager
	Group Care Facility	1 space per 3 beds
	Group Residential Facility	1 space per 3 beds
INSTITUTIONAL		
Public, Institutional, and Civic Uses	Art gallery, museum, or library	2 spaces per 1,000 sf
	Funeral home or mortuary	1 space per 3 seats
	Institutional and civic buildings	4 spaces per 1,000 sf
	Hospital	2 spaces per 3 beds
	Medical or dental clinic	6 5 spaces per 1,000 sf
	Private club or lodge	1 space per 4 persons design capacity
	Religious institution	1 space per 4 persons design capacity
	Schools, private	2 spaces per classroom, plus 1 space per 300 sf administrative space
	Schools, public	2 spaces per classroom, plus 1 space per 300 sf administrative space

	High school	6 spaces per classroom or 1 seat per 3 seats in main auditorium, whichever is greater, plus 1 per 300 sf administrative space
	Higher education facility	4 spaces per 1000 sf
Table 27: MINIMUM OFF-STREET PARKING REQUIREMENTS		
LAND USE		REQUIRED PARKING
COMMERCIAL		
Recreation & Entertainment	Fish hatchery	1 space per 1,000 sf
	Community garden	No Requirement
	Plant nursery or greenhouse	4 spaces per 1,000 sf
	Adult entertainment	1 space per 4 persons design capacity
	Golf course or country club	1 space per 4 persons design capacity, plus 5 spaces per hole
	Indoor entertainment facility	1 space per 4 persons design capacity
	Outdoor recreation facility	1 space per 1,000 sf of site area where persons circulate, participate, or watch activities.
	Park or playground	1 space per 3 acres
	Sports field	1 space per 1,000 sf of site area where persons circulate, participate, or watch activities.
Lodging	Bed and breakfast	1 space per room, plus 2 staff spaces
	Campground or RV park.	1 space per RV or campsite
	Hotel or motel	1 space per room
Food and Beverage	Bar, lounge, or tavern	10 6 spaces per 1,000 sf
	Microbrewery, distillery, or winery	7 spaces per 1,000 sf
	Restaurant	10 6 spaces per 1,000 sf
Office, Business, and Professional	Office, business or professional	4 spaces per 1,000 sf
	Laboratory	1 space per 1,000 sf
	Research and development	1 space per 1,000 sf
	Financial institution	5 spaces per 1,000 sf
	Adult retail	4 spaces per 1,000 sf
	Retail sales	5 4 spaces per 1,000 sf
	Cannabis retail	4 spaces per 1,000 sf
	Contractor facility or yard	5 spaces per 1,000 sf of enclosed net usable floor area plus 2 spaces per 1,000 sf of display area
Retail Sales and Service	Daycare center	2.5 spaces per 1,000 sf
	Fitness Center	5 spaces per 1,000 sf
	Liquor retail	4 spaces per 1,000 sf
	Nicotine retail	4 spaces per 1,000 sf
	Meeting, banquet, or event facility	1 space per 4 persons design capacity
	Mobile home sales	1 space per 1,000 sf, plus 1 space per 6,000 sf outdoor display area

Personal services	4 spaces per 1,000 sf
Kennel	2.5 spaces per 1,000 sf
Self-service storage facility	1 space per 20 units or 1 space per 1,000 sf, whichever is greater
Veterinary hospital	5 spaces per 1,000 sf

Table 27: MINIMUM OFF-STREET PARKING REQUIREMENTS

LAND USE	REQUIRED PARKING
Vehicle and Equipment-Related	Ambulance services
	5 spaces per 1,000 sf
	Light vehicle and equipment sales, rental, and repair
	3 spaces per 1,000 sf office or retail space 3 spaces per service bay
	Heavy vehicle and equipment sales, rental, and repair
	3 spaces per 1,000 sf office or retail space 3 spaces per service bay
Transportation	Vehicle fuel sales
	4 spaces per 1,000 sf
	Vehicle storage
	1 space per 1,000 sf office space
	Vehicle wash
	3 spaces per 1,000 sf
INDUSTRIAL	Airport
	7 spaces per 1000 sf waiting room area 2 spaces per 1000 sf maintenance floor area 5 spaces per 1000 sf office area
	Heliport
	No requirements
	Parking facility
Manufacturing & Warehousing	No requirements
	Transit terminal or station
	Determined by transportation authority
	Truck terminal
	7 spaces per 1000 sf waiting room area 2 spaces per 1000 sf maintenance floor area 5 spaces per 1000 sf office area
	Above-ground storage of fuels
	1 space per 1,000 sf
Utilities & Utility	Artisan manufacturing
	3 spaces per 1,000 sf
	Light manufacturing
	2 spaces per 1,000 sf
	Heavy manufacturing
	1 space per 1,000 sf
	Cannabis cultivation or manufacturing facility
Utilities & Utility	1 space per 1,000 sf
	Distribution, warehouse, or wholesale facility
	1 space per 1,000 sf warehouse/wholesale facility 5 spaces for 1,000 sf office
Utilities & Utility	Natural resource extraction
	No Requirement
	Public utilities
Utilities & Utility	No Requirement
	Radio and TV, studio or station
Utilities & Utility	4 spaces per 1,000 sf
Utilities & Utility	Recycling station
	1 space per 5,000 sf

Salvage yard	1 space per 5,000 sf
Transfer station	1 space per 5,000 sf
Wireless Telecommunications Facility (WTF)	No Requirement

Table 27: MINIMUM OFF-STREET PARKING REQUIREMENTS

LAND USE	REQUIRED PARKING
ACCESSORY USES	
Accessory dwelling	1 space per unit
Caretaker unit	1 space per unit
Daycare home	1 space per employee
Home business	1 space per employee
TEMPORARY USES	
Construction staging area, trailer, or office	4 spaces per 1,000 sf
Dwelling, temporary	2 spaces per unit
Fair, carnival, or circus	4 spaces per 1,000 sf
Open air market	No Requirement
Special event	As determined by Community Development Director

SECTION 4. Paragraph 1 of Section 16-30(a), Division 3, Article IV, Chapter 16 the Code of the Incorporated County of Los Alamos is hereby amended as follows:

16-30(a) SHARED PARKING REDUCTION

(1) Within all zone districts, two or more listed uses with opposite peak parking demand hours may share parking facilities. Table 29 Shared Parking Reduction indicates the percentage of the total off-street parking requirement that may be reduced by shared parking facilities.

Table 29: SHARED PARKING REDUCTION					
	MULTI-FAMILY	PUBLIC, CIVIC, AND INSTITUTIONAL	FOOD & BEVERAGE, AND RECREATION & ENTERTAINMENT	RETAIL SALES	OFFICE, BUSINESS, AND PROFESSIONAL SERVICES
Multi-family	N/A	30%	20%	15% 20%	50%
Public, Civic, and Institutional	30%	N/A	30%	15% 20%	20%
Food & Beverage, and Recreation & Entertainment	20%	30%	N/A	N/A	30%
Retail Sales	20%	20%	N/A	N/A	15%

Office, Business, and Professional Services	50%	20%	30%	15%	N/A
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For example, if uses when Multi-family, Retail Sales, and Food & Beverage uses can feasibly share parking facilities per Table 29, the total off-street parking requirement for the site may be reduced by a maximum of 50 percent in the DTLA zone district and 25 percent in all other districts. A sample parking requirement calculation is shown below.

Use	Size	Parking Standard	Parking Requirement
Multi-family	40, 2 bedroom dwelling units	1-5 1 spaces per 2 or more BR Dwelling Unit Unit plus 1 guest space per 40 dwelling units	64 40 spaces
Retail	10,000 square feet	5 2 spaces per 1,000 sf	50 20 spaces
Restaurant	5,000 square feet	40 3 spaces per 1,000 sf	50 30 spaces
Total required parking prior to allowed reductions			464 90 spaces
Total allowed reduction			25 20% of 464 90 = 44 18 spaces
Total required parking after allowed reduction			164 41 = 123 spaces 90-18 = 72 spaces

SECTION 5. Section 16-30(b), Division 3, Article IV, Chapter 16 of the Code of the Incorporated County of Los Alamos is hereby amended as follows:

16-30(b) ADDITIONAL PARKING REDUCTIONS

- (1) Within all zone districts, Additional parking reductions may be granted for items listed in Table 30 Applicable Off-Street Parking Reductions.

Table 30: APPLICABLE OFF-STREET PARKING REDUCTIONS	
FACTOR	ALLOWED REDUCTION
Proximity to transit	The total number of required parking spaces may be reduced by 20% for developments within 1,320 feet of a public transit stop.
Provisions for bicycle infrastructure	The total number of required parking spaces may be reduced by 10% for developments that provide robust bicycle amenities (i.e., lockers and repair facilities) and additional designated bicycle parking areas in excess of what is required for the project.
Electrical charging stations	1 electrical station may be counted toward 2 required parking spaces.
Solar parking canopies	The total number of required parking spaces may be reduced by 10% for developments that utilize solar parking canopies.

SECTION 6. Effective Date. This Ordinance shall become effective thirty (30) days after notice is published following its adoption.

SECTION 7. Severability. Should any section, paragraph, clause or provision of this ordinance, for any reason, be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this ordinance.

SECTION 8. Repealer. All ordinances or resolutions, or parts thereof, inconsistent herewith are hereby repealed only to the extent of such inconsistency. This repealer shall not be construed to revive any ordinance or resolution, or part thereof, heretofore repealed.

ADOPTED this 2nd day of May 2023.

**COUNCIL OF THE INCORPORATED
COUNTY OF LOS ALAMOS**

**Denise Derkacs,
Council Chair**

ATTEST: (SEAL)

**Naomi D. Maestas,
Los Alamos County Clerk**