



NEW MEXICO  
**MAINSTREET**<sup>™</sup>

# METROPOLITAN REDEVELOPMENT AREA PLANS **IMPLEMENTATION TOOLKIT**

UPDATED AUGUST 4, 2020





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METROPOLITAN REDEVELOPMENT AREA PLAN  
**IMPLEMENTATION TOOLKIT V2.0**

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UPDATED 8/4/2020

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# Common Questions

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# 1. Introduction

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The Metropolitan Redevelopment Area (MRA) Plan Implementation Toolkit is designed to guide the implementation of the community’s adopted MRA Plan. The toolkit describes the main statutory provisions and incentives under the Redevelopment Code statute ([3-60A-1 to 3-60A-48 NMSA 1978](#)). The toolkit is organized into three main sections: 1) an overview of the Redevelopment Code; 2) an overview of MRA specific tools including public/private partnerships (P3s), development agreements, and Tax Increment Finance (TIF) Districts; and 3) complementary tools to use in conjunction with MRA districts. Case studies from NM MainStreet communities are also provided for each of these tools to provide real world examples. The toolkit assumes that the local governing body (LGB) has already adopted a MRA plan and is ready to implement the projects outlined in its plan.

## IN THIS SECTION



**WHAT IS THE NM  
ANTI-DONATION  
CLAUSE?**



**WHAT IS A  
MRA PLAN?**



**MRA TOOLS  
COMPARISON**

# 1. The Metropolitan Redevelopment Code

NM State Statute (3-60A-1 to 3-60A-48 NMSA 1978) empowers municipalities and counties with additional authorities to rehabilitate and redevelop areas that are deteriorated, blighted or underutilized in order to stimulate economic development and community well-being by establishing it as a Metropolitan Redevelopment Area. The Code provides the local governing body (LGB) with the powers to correct conditions in areas or neighborhoods which “substantially inflict or arrest the sound and orderly development” within the area. These powers are designed to help reverse an area’s decline and stagnation. Designation of a MRA is based on findings of deteriorated or blighted conditions, which include physical as well as economic conditions.



## NM ANTI-DONATION CLAUSE

The Anti-donation Clause of the New Mexico Constitution (Article IX, Section 14) forbids, with a few specific and limited exceptions, all state and local government subsidies: *“neither the state nor any county, school district or municipality, except as otherwise provided in this constitution, shall directly or indirectly lend or pledge its credit or make any donation to or in aid of any person, association or public or private corporation.”*

A literal application of the Anti-donation Clause seems reasonable; that public funds should not benefit private interests. However, this is fundamentally inconsistent with the existence of a mixed economy, where many projects are a collaboration between public and private interests. The NM Redevelopment Code, a current exception to the Anti-donation Clause, provides an example of the procedural safeguards that are employed to protect the public sector’s interests. Under the Code, any subsidies proposed by municipalities or counties must be adopted by a series of ordinances. This means that the public is given notice of the proposed subsidy and is afforded a hearing to object to it.

There are two ways the Code provides relief from the Anti-donation clause. One is the language in the statute stating:

“The powers conferred by the Metropolitan Redevelopment Code [Chapter 3, Article 60A NMSA 1978] regarding the use of public money are for public uses or purposes for which public money may be expended. The individual benefits accruing to persons as the result of the powers conferred by the Metropolitan Redevelopment Code [Chapter 3, Article 60A



NMSA 1978] and projects conducted in accordance with its provisions are found and declared to be incidental to the objectives of that code and are far outweighed by the benefit to the public as a whole. Activities authorized and powers granted by the Metropolitan Redevelopment Code are hereby declared not to result in a donation or aid to any person, association or public or private organization or enterprise. The necessity for these provisions and the power is declared to be in the public interest as a matter of legislative determination.”

This clause allows a LGB to pursue the clearly defined tools in the Redevelopment code (Section 3-60A-10), including selling, leasing, or disposing of public assets; entering into Public Private Partnerships; carrying out MRA projects; investing in MRA project funds; and issuing bonds and/or loans, among other powers. **The Redevelopment Code does not grant a local government the power of eminent domain.**

## FAIR VALUE

In order to provide additional clarity to the means of relief from the Anti-donation Clause, an amendment to the Redevelopment Code was approved by legislature in 2017 providing a definition of Fair Value: *“Fair value means the negotiated price or value of an asset or liability agreed upon by a local government and a private entity (Chapter 3.60.A.4.S).”*

Typically, under state statute, the LGB must sell, lease, or dispose of public assets or resources at appraised or market value. This is a difficult constraint on negotiating P3 agreements since the public asset was often dilapidated or a unique one-of-a kind asset or building, so receiving an appraisal completed by a certified appraiser, which required comparable values of similar assets, was nearly impossible. The fair value definition allows more flexibility in negotiating the value of the public assets with the private sector. But these negotiations are required to be in open public meetings to insure transparency and accountability to the public.

**KEY POINT:** The State Statute does not allow governments to use the power of eminent domain for redevelopment projects, but does provide many other useful tools to support private (re)development.

## LIBERAL INTERPRETATION

The last section in the statute, “3-60A-48. Liberal interpretation”, states “The Metropolitan Redevelopment Code shall be liberally construed to carry out its purposes.” This provision is important as it provides the local governing body the flexibility to implement the Redevelopment Code tools in a creative manner to achieve the specific redevelopment goals and assets in the community. In the revitalization of downtowns, there is not a “one size fits all” solution to the challenges and obstacles that exist in redeveloping these blighted areas. The City of Lovington utilized this section in negotiating the fair value with the Drylands Brewery developer in determining the initial value of the city’s property (see [case study on page 18](#)).



**KEY POINT:** Ongoing promotion and marketing of the plan is essential to show existing and potential property owners that the local government and MainStreet are serious about investing in the District.

## THE MRA PLAN

The MRA Plan defines the community’s vision for the downtown and identify priority catalytic projects to revitalize the downtown area through a community participation process. The MRA Plan examines existing conditions and assets, analyses the downtown economics and market, develops a physical land use plan, indicates specific redevelopment sites and projects, and identifies implementation strategies and funding sources for future physical improvements. The Plan is designed to identify specific redevelopment projects that when implemented will eliminate the blighted conditions and stimulate economic activity. These projects can include land acquisition/assembly, building rehabilitation and adaptive reuse, demolition, site specific zoning standards, transportation improvements, construction of community facilities, cultural facilities, and housing. Through the identification of these projects and strategies, the MRA Plan enacts the specific powers allowed under the Redevelopment Code.

**Ongoing promotion and marketing of the plan is essential to show existing and potential property owners that the local government and MainStreet are serious about investing in the District and supporting long-term redevelopment projects.** It is also important to align the goals and strategies in the MRA Plan with any Economic Transformation Strategies of the MainStreet or Arts and Cultural District (ACD) programs.

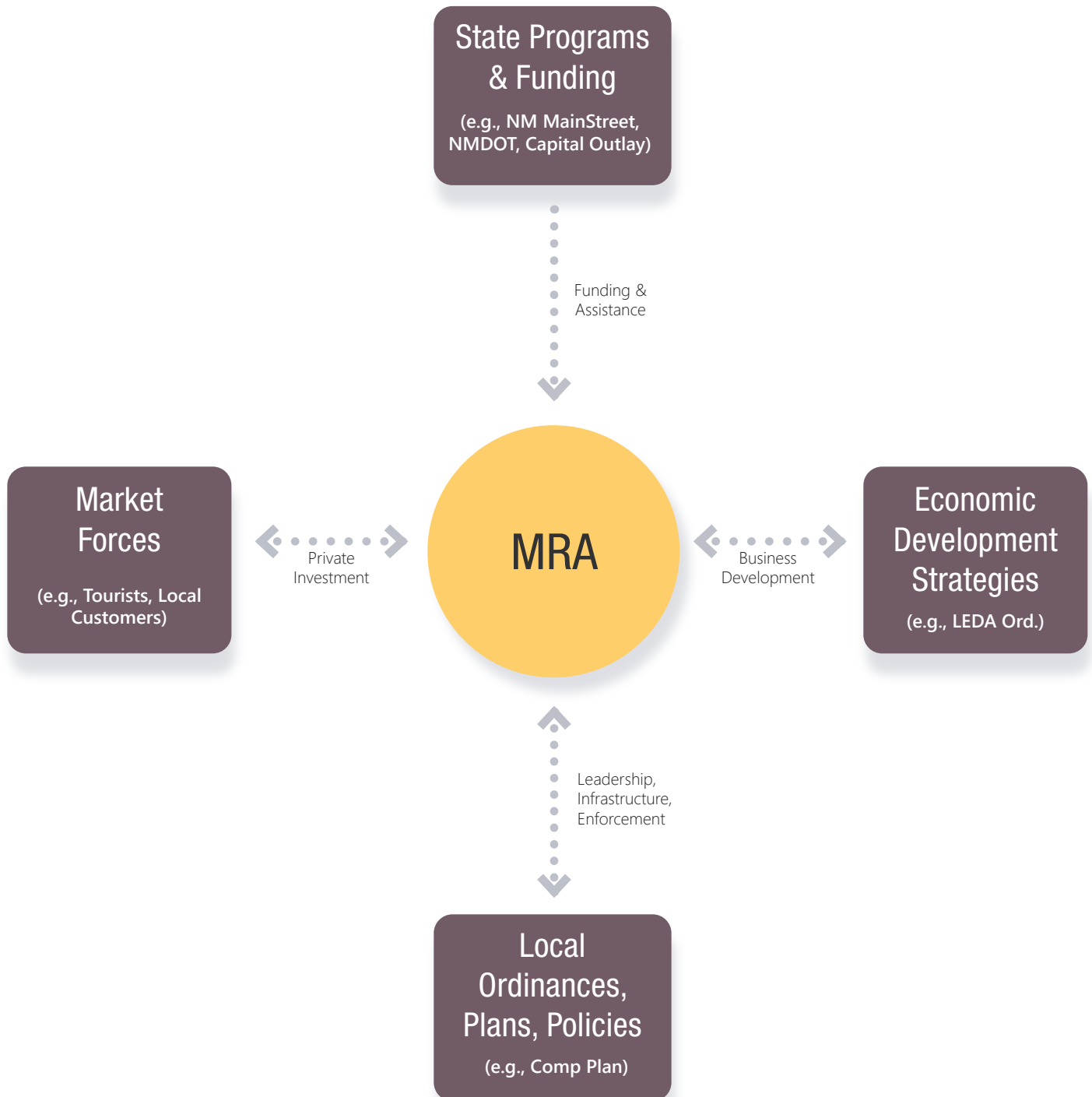


## COMPARISON OF MRA TOOLS

Although the MRA Plan and Redevelopment Code provide the foundational tools for physical redevelopment, they work in combination with other complementary tools available to local governments. The following is a list of MRA specific tools and complementary tools that can be utilized in combination with the MRA plan. Each of these is discussed in more detail in the following chapters.

MRA TOOLS	COMPLEMENTARY TOOLS
P3s	LEDA Ordinances & Plans
Tax Increment Financing Districts	Zoning Code Changes
Loans & Grants	Inventories and Benchmarking
Direct Contribution of City Assets	Vacant Building Ordinance
MRA Board/Commission	Business Improvement Districts
MRA Fund	IRBs

Figure 1. How MRAs fit within ecosystem of redevelopment and business development





# 2. MRA Tools

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This section describes the primary MRA implementation tools that can be utilized to implement MRA projects. The process behind each tool is outlined, along with a set of considerations to keep in mind when using one of these tools. Following the description and process for implementation are case studies from NM MainStreet communities that have utilized these tools.

## IN THIS SECTION

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**PUBLIC/PRIVATE  
PARTNERSHIPS**



**TAX INCREMENT  
FINANCING**



**ADDITIONAL TOOLS**



## 2.1. Public Private Partnerships (P3s)

A public/private partnership (P3) is a cooperative and mutually beneficial agreement between two or more public and private sectors, typically of a long-term nature. The private sector includes both the not-for-profit organizations as well as the for-private companies. The establishment of P3s is the primary focus of the Redevelopment Code because P3s are the principal means of successful revitalization of the downtowns. Experience has shown that the public sector or the private sector cannot do it alone. In blighted areas, where the infrastructure is often in disrepair or inadequate, and the buildings are not in conformance with updated building codes, the costs and risks are too high for either sector to take on projects individually. P3 projects in downtowns can be complicated and difficult in the best of situations, but in New Mexico it is particularly challenging without the flexibility enabled by the Redevelopment Code.

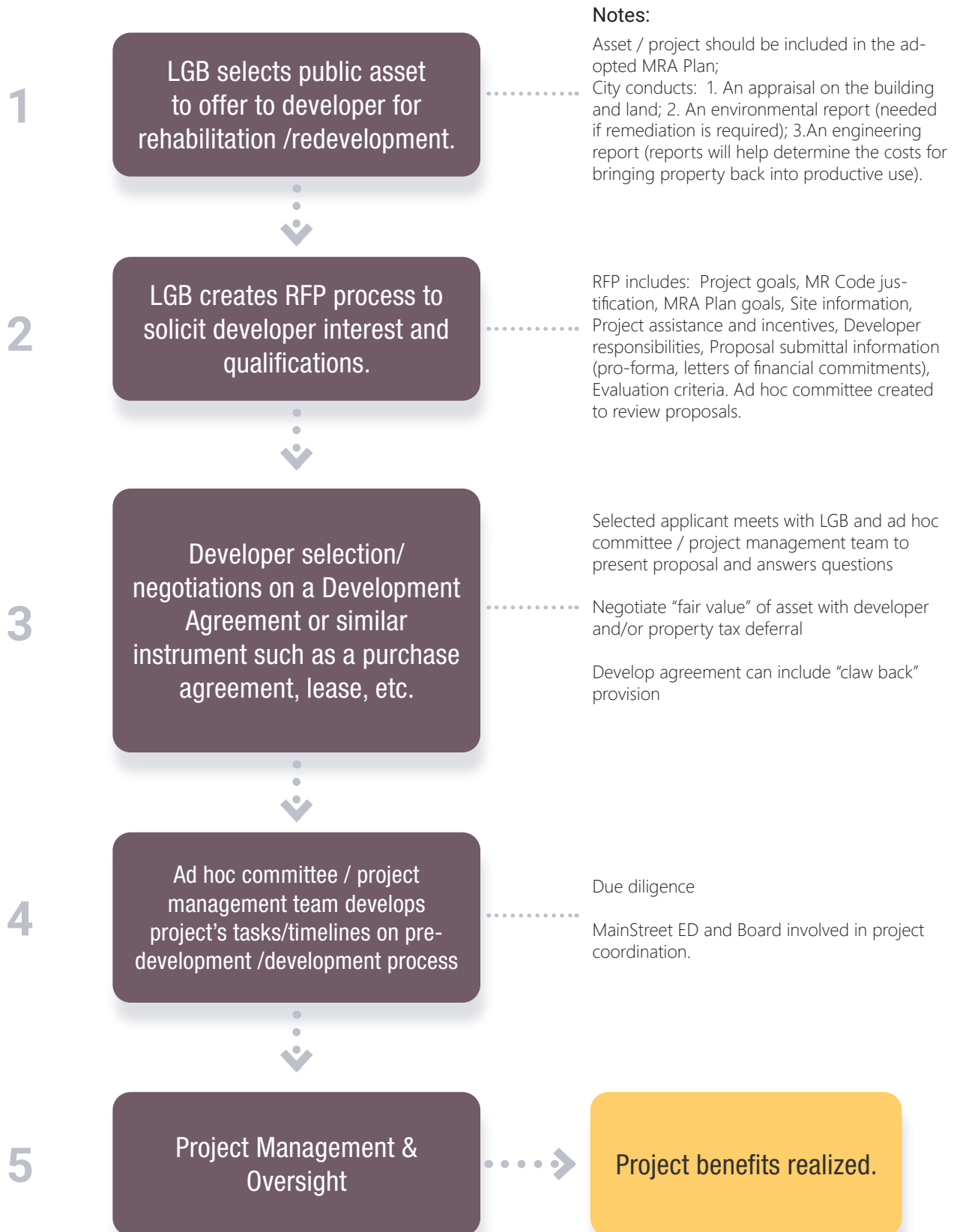
### DEVELOPMENT AGREEMENTS

Development agreements are contracts approved by the LGB and a developer to expressly define a development project's rules, regulations, commitments, and policies for a specific period of time. The purpose is to strengthen the public planning process by encouraging private participation in the achievement of downtown revitalization according to the MRA Plan and reducing the economic costs of development. A development agreement reduces the risks associated with development, thereby enhancing the City's ability to obtain public benefits beyond those achievable through existing funding and regulations.

There can be different purposes to Development Agreements. They involve the voluntary contractual agreements between a developer/landowner and the City concerning provisions of infrastructure, public spaces, and amenities. The different types of development agreements include:

- **Purchase Agreement**, which is a contract between a developer and the City that involves the sale of City-owned land to the developer.
- **Lease Agreements**, as a contract between a developer and the City that involves the lease of City-owned land or property to the developer.
- **Owner Participation Agreements**, which involve a contract between a property owner/developer and the City to allow for development of property owned by an entity other than the City, generally the owner/developer.

Figure 2. Simplified steps in a typical public/private partnership process.



**KEY POINT:** Some MRA tools are complicated and require sufficient local capacity to implement effectively. NMMS is here to help with more in-depth questions about these tools.

## COMMUNITY BENEFITS

In all cases, it is important that the development agreement specify which party is responsible for each aspect of the site redevelopment and there are specific performance measures on the timing of each step in the development process, up to and including occupancy of the building, and job creation. Penalties or reversion clauses are used to enforce the performance measures. Overall, these agreements should ensure that the community benefits from the public/private partnership arrangement, and promotes goals identified in the MRA Plan or other policy documents.

## PROPERTY TAX EXEMPTIONS FOR PUBLIC/PRIVATE PROJECTS

In some cases, private entities may have a financial interest in the public property or project as a developer, lessee, or other interested party. In this case, local governments may pass on specific property tax exemptions allowed under the Redevelopment Code (3-60A-13) to private project partners (3-60A-13.1). In these cases, the private party only receives a tax exemption for the property tax increment of the years following acquisition of the property by the local government. In other words, the private entity must still pay property taxes as assessed at the value of the property immediately prior to purchase by the local government, and only receives an exemption for an increase in property values after this period. This exemption may only be granted for up to 7 years.

Because the Redevelopment Code does not explicitly outline the procedures to set up or manage property tax exemptions for public-private projects, Albuquerque is currently the only City that has set up a process for developers to apply to receive this benefit by applying for **Metropolitan Redevelopment Bonds**. These bonds are a mechanism that allows a developer to deed a property to the City (the Bond issuer), whereby the City simultaneously leases the project back to the developer for the term of the bond, with the developer being obligated to purchase the project at the bond maturity date.

Since the project property is owned by a governmental entity during the bond term, the developer acquires the state and local tax status of a governmental body with respect to that property. This process is similar to **Industrial Revenue Bonds**, which allow tax exemptions for up to 20 years in some cases. Due to the complexity of these mechanisms, the local government needs to have sufficient capacity to manage the project, including access to a bonding attorney.





Elevate ABQ - a mixed use P3 project in Albuquerque that utilizes multiple tools allowed by the MRA Code, including tax exemptions.

## PRINCIPLES FOR SUCCESSFUL P3s

To ensure that P3s are implemented successfully, the Urban Land Institute (ULI) recommends following 10 key principles. Each of these is described in more detail in the ULI's [Ten Principles for Successful Public/Private Partnerships](#).

1. Prepare Properly for Public/Private Partnerships
2. Create a Shared Vision
3. Understand Your Partners and Key Players
4. Be Clear on the Risks and Rewards for All Parties
5. Establish a Clear and Rational Decision-Making Process
6. Make Sure All Parties Do Their Homework
7. Secure Consistent and Coordinated Leadership
8. Communicate Early and Often
9. Negotiate a Fair Deal Structure
10. Build Trust as a Core Value

## ADDITIONAL RESOURCES

Additional information on development agreements is available through the Urban Land Institute (ULI):

- [Ten Principles for Successful Public/Private Partnerships](#)
- [Successful Public/Private Partnerships from Principles to Practices](#)



## CASE STUDIES & EXAMPLES

### LOVINGTON DRYLANDS BREWERY P3

Drylands Brewing Company restaurant, tap house and canning facility opened in 2017 in the Lovington MainStreet District. The city owned a 2 acre vacant lot that they sold to Drylands Brewing on the fair value of \$100. In exchange, the developer built the Brew pub and obligated to creating 10 manufacturing jobs and 20 service jobs supported by the new brewing and canning operation. A vibrant entertainment and night life was one of the key economic development strategies of the Lovington Metropolitan Redevelopment Area Plan (MRA). The MRA process engaged community members in prioritizing increased business opportunities in the Lovington MainStreet District. A local entrepreneur hearing of the public/private sector commitment by the city and the Lovington MainStreet board asked for assistance.

A true public/private partnership, NMMS engaged the city in a vacant lot they wanted to develop. NMMS developed a conceptual site plan, a project implementation plan, and business plan with the entrepreneurs to build a pizzeria and brewpub. Additional development planning was provided through funding from the New Mexico Resiliency Alliance. Drylands received \$100,000 in state LEDA funds for the expansion, in addition to local LEDA funding. This Development agreement/project participation agreement is included in Appendix C.

### SANTA ROSA ILFELD WAREHOUSE ADAPTIVE REUSE P3

The historic Ilfeld Warehouse owned by the city will be repurposed to include uses such as the Santa Rosa Visitor Center, Route 66 Museum, and Business Incubator. Uses will be accomplished through a public/private partnership using a development agreement with private entities such as non-profit corporations, retail users, or developers. The city negotiated with the Guadalupe County Development Corporation (GCDC) to employ an Economic Development Director/Coordinator to coordinate the following:

- Visitor Center/Business Incubator
- Implement Affordable Housing project
- Administer City's LEDA Ordinance
- Sublease available space in the Ilfeld Warehouse to prospective businesses

In turn, the City will provide the Ilfeld Warehouse, and funds annually to employ the Economic Development Director/Coordinator. Since the GCDC goals and mission is to work with business and the community to improve economic development, rehabilitation, redevelopment, downtown revital-



Drylands Brewing,  
Lovington, NM

ization and conservation purposes it seems suitable to lease this office space. The city agrees to allow the GCDC to sublease a portion of the Ilfeld Warehouse. Using the fair value definition, the city provides to the GCDC, for the first twelve months only, a rent fee for the building of \$1 per month upon occupying the building. Subsequent to the twelfth month, both parties agree to meet to discuss the new rate fee with consideration of potential revenue sharing. This lease agreement is included in Appendix D.

### **OLD ALBUQUERQUE HIGH SCHOOL LOFTS**

One of the historic landmarks in Albuquerque, the Old Albuquerque High School was closed in 1974 by Albuquerque Public Schools and fell into disrepair. The City of Albuquerque began planning for redevelopment of the area in 1983 and completed a MRA plan in 1983. The City subsequently purchased the property in 1996 after it had sat vacant for 22 years. The City then received funding from State and EPA for clean up of the site as a brownfield and entered into a Development Agreement with private developer in 2001.

This development agreement help transform the site into a mixed-use, creative reuse project, with apartments, condominiums, retail and offices space-- including the "Fatpipe" co-working space.

Although the project took over 25 years to come to fruition, it is now part of a larger "innovation district" (i.e., redevelopment area) in Albuquerque, which catalyzed development of additional mixed-use buildings to the north and the adjacent UNM Rainforest/Innovate ABQ campus.



## 2.2. Tax Increment Financing (TIF) Districts

A Tax Increment Finance District (TIF) can be used as a funding tool of blighted sites. The LGB can target a blighted area for redevelopment projects that will raise the assessed property values within the TIF district. The new “increment” rise in property taxes is then captured by the LGB and designated for reinvestment in public/private projects and infrastructure within the district. Some general guidelines about TIF districts:

**KEY POINT:** TIF Districts do not raise taxes! They are a way to keep existing and future tax revenue within a specified area!

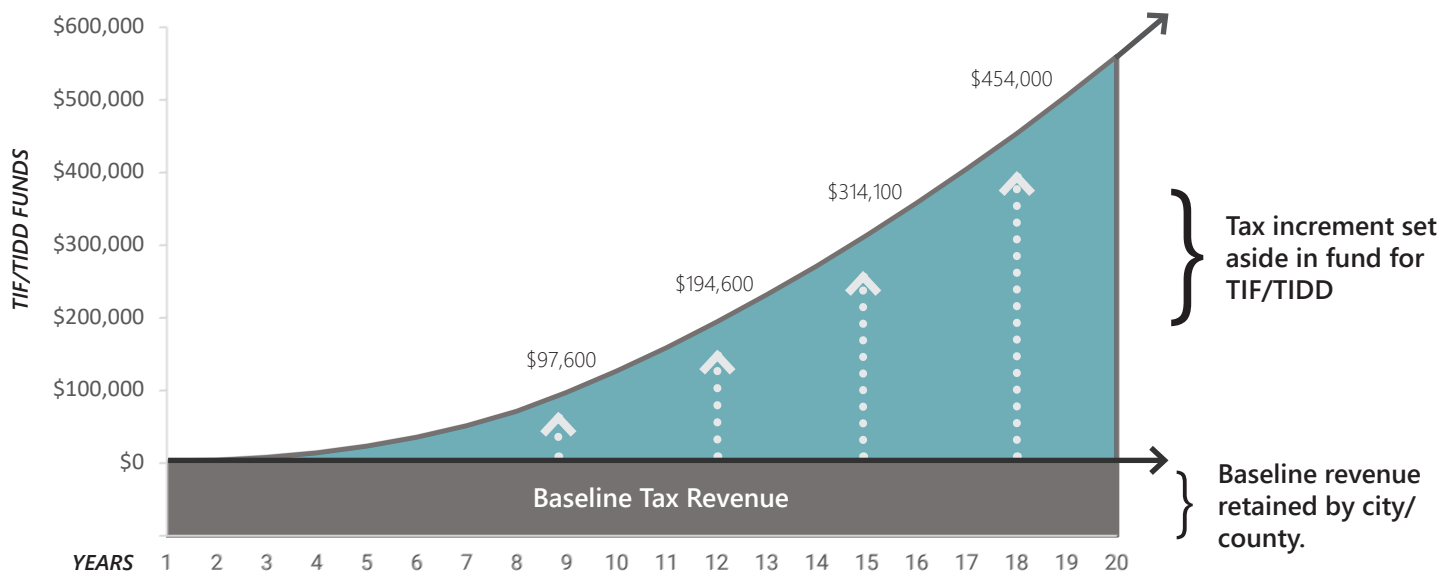
- Established by resolution by the local governing body (see sample resolution Appendix A). Typically, the TIF district boundary is the same as the MRA boundary.
- Uses the existing property tax for the increment - not a new tax or tax increase. The TIF revenue can also include the County’s increment with the Board of County Commissioner’s approval. This is accomplished with a letter from the City Council to the County Commissioners requesting their participation.
- TIF funds generated in the district are spent in the district. The projects that receive TIF funding should be projects approved in the adopted MRA Plan. TIF funds can also be used for administrative/operational purposes.
- The revitalization projects result in increased GRT and property tax revenues for the local governments, which in turn can be used to pay for future redevelopment projects or public improvements.

### FORMATION

TIF districts have been established in nine NM MainStreet communities and are active in five communities; Albuquerque (Bernalillo County), Lovington (Lea County), Silver City (Grant County), Farmington (San Juan County), Gallup (McKinley County) and Historic Bridge/South Valley (Bernalillo County). Since TIF districts in rural NM communities are a relatively recent activity (the City of Albuquerque has had them for over 20 years), there are a few issues that have been encountered in their establishment.

As per the Redevelopment Code (NMSA 3-60A-21) upon receipt of the letter from the local governing body (Appendix B), the County Treasurer and Assessor “...shall certify...the base value of the property tax revenues.” This is not an elective option by the Assessor and Treasurer; the Redevelopment Code requires they establish the baseline and perform the increment collection upon request by the local governing body.

Figure 3. Tax Increment Finance Revenue Generation Model.



In the collection of the increment, for each succeeding year after the baseline is established, the increment is always that revenue that has accumulated from the baseline to the present year. For example, when the baseline value is established, the year 5 increment is the revenue increase above the baseline year, not the increase from the previous year 4. This is why the TIF revenue begins relatively small the first few years, but increases substantially over time, because the present year increment is always calculated from the baseline year.

During the course of property tax collected on individual parcels within the district, there are instances where the tax collected may decrease for a few years on a parcel. This decrease in tax (which is a negative number below the baseline) is not included in the total district increment revenue for that year.

## TIDDs

In 2008, the NM legislature passed new legislation that allowed for Tax Increment Development Districts (TIDD) (NM Statutes Chapter 5-15-3 to 5-15-28). Although a form of a TIF, this legislation has differences from the MRA TIF districts.

**KEY POINT:** TIDDs allow for the collection of GRT revenue in addition to property taxes, but also require a majority of property owners in the district to agree to formation.

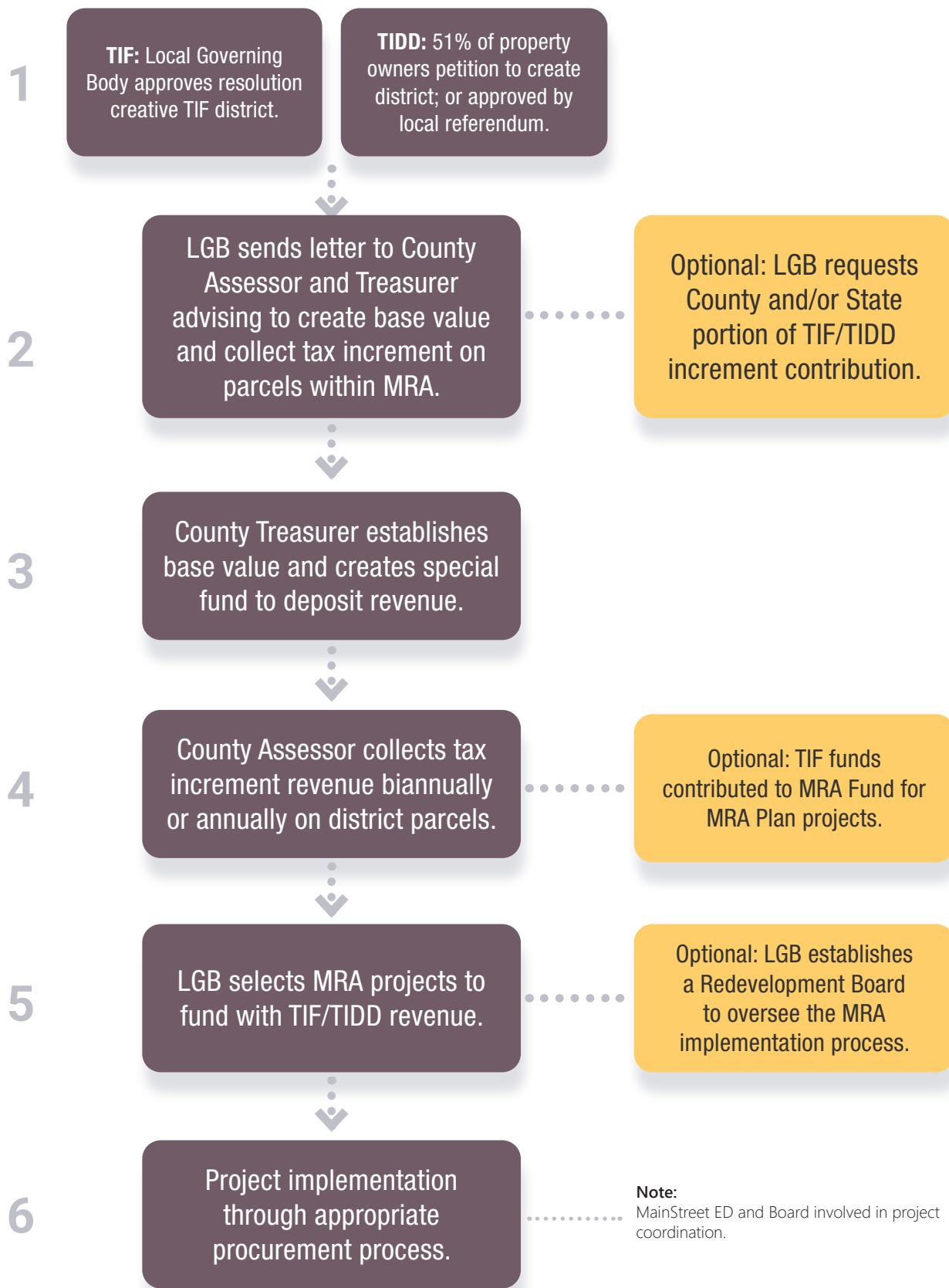
- TIDDs can be used in any areas including greenfield development as well as downtowns. The designation of a blighted area is not required for a TIDD.
- TIDDs use Gross Receipt Tax (GRT) increment as the revenue stream, which can have advantages over an increment based in property taxes, which may rise more slowly than new GRT revenue. In addition, for downtowns or MRA districts that have a lot of public buildings or land that do not generate property taxes, TIDDs provide another way to generate revenue for development projects if there is adequate revenue generated by MRA businesses.
- A TIDD is adopted by petition of 51% of the property owners or by referendum. A TIF is adopted by resolution by the LGB.

The City of Albuquerque has several TIDDs, as well as Downtown Las Cruces. Additional information on TIDDs can be found at the [New Mexico Taxation and Revenue Department website](#).

## TIF BONDING

The Redevelopment Code allows TIF bonds to be issued to pay for MRA projects, based on the bonding capacity created by TIF revenue and secured by property taxes (3-60A-23.1). Local governments with TIF Districts, and MRA Funds, should explore this option to help finance public improvements.

Figure 4. Formation of a TIF/TIDD





## CASE STUDIES & EXAMPLES

### SILVER CITY DOWNTOWN TIF

In 2016 the Town of Silver City approved the TIF district for their entire MRA Plan area. The TIF district is comprised of 350 commercial parcels. The baseline was established in 2016 by the Grant County Treasurer and the Grant County Assessor determined the first-year increment to be \$1,800. The second-year value was \$2,300 and the third-year increment was \$3,800, bringing the total TIF revenue to \$7,900. The TIF is expected to generate approximately \$500,000 over the course of its 20-year term. Although a small amount of funds generated may seem low, the funds will potentially provide the matching and “gap” funding needed to finance smaller-scale improvement projects in the District.

### LAS CRUCES DOWNTOWN TIDD

Las Cruces established a TIDD in the Downtown/MRA District in 2009, using the increment provided by property taxes and gross receipts revenue (GRT). The TIDD was approved by a majority of property owners in the district, with projects first identified in the 2006 Downtown MRA Plan. In addition, the City negotiated with the State of New Mexico to receive its portion of the increment revenue, along with Doña Ana County’s increment.

The projects first identified in the MRA Plan have subsequently been approved for funding by the Las Cruces City Council and overseen by City staff. Since formation, the TIDD has provided funding for streetscape improvements on Main Street, reconversion of the one-way street couplet (the “Racetrack”) around Downtown, funds to construct the new downtown plaza, and funds to construct the new Amador Restaurant and entertainment complex.

Overall, the TIDD has generated more revenue for the District than originally projected, with more than half of revenue coming from the GRT increment (in contrast to the property tax increment). The addition of the State and County’s portions have contributed greatly to the revenue generated by the TIDD and have created a larger pool of redevelopment funds that can be utilized for projects Downtown. The success of the TIDD can be attributed to the construction of larger-scale redevelopment/TIDD projects that have led to a significant increase in assessed property values and increased GRT revenue.





Downtown Las Cruces Master Plan overview, showing the area included in the Downtown TIDD and proposed projects.

### **SOUTH VALLEY MAINSTREET TIF**

The Bridge/Isleta Revitalization Plan (MRA Plan) recommended the formation of a TIF District for the South Valley Main Street/MRA District. The TIF was created in December of 2016 and includes \$1.3 million in eligible projects, including: South Valley Economic Development Center (SVEDC) property and buildings; streetscape projects; historic preservation and agricultural preservation projects; and Dolores Huerta Gateway Park and West-side Community Center improvements. In addition, funds have been used for several redevelopment projects:

- Property acquisition
- Roadway realignment
- Utilities relocation
- Mixed use retail/ housing projects
- Public parking



## 2.3. Additional MRA Tools

This section outlines several additional tools and incentives that are allowed under the Redevelopment Code to provide benefits to individual property owners/business owners who redevelop consistent with the MRA Plan goals, guidelines and projects. These benefits do not violate the NM anti-donation clause when implemented within the MRA.

**It is important to note that each of these tools works best together as an integrated set of solutions that should be implemented as a whole, rather than in an ad-hoc manner.** For example MRA Funds should be established should be overseen by formal MRA Boards that have the authority to allocate these funds and manage projects.

### METROPOLITAN REDEVELOPMENT AGENCY AND IMPLEMENTATION BOARDS

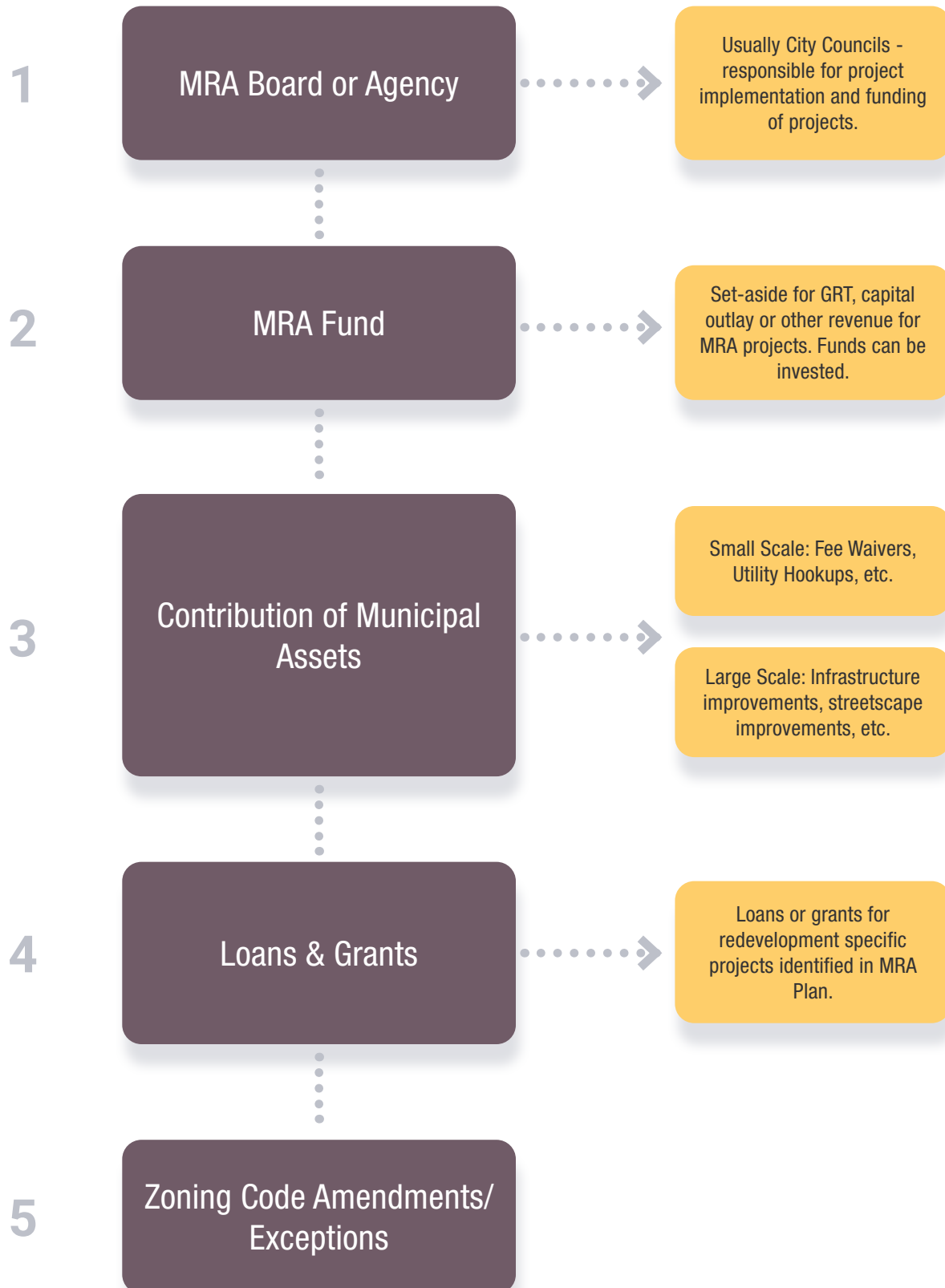
Projects that are identified in the MRA Plan can be implemented directly by the local government or delegated to a **Metropolitan Redevelopment Agency** (3-60A-15), which takes on the power to oversee the implementation of identified projects, seek out and approve funding, and plan for redevelopment of the MRA District. The metropolitan redevelopment agency requires the formation of board of commissioners, consisting of five elected members.

Outside of Albuquerque and Farmington, local governments have not elected to create metropolitan redevelopment agencies and instead oversee implementation of projects directly. In effect, this means that local town or city councils are charged with approving funding, providing support, and guiding the implementation of MRA projects and strategies. Although elected officials are ultimately charged with implementation, in many cases, local government staff act as project champions and manage the day-to-day work required for project implementation. In some cases, there may not be a local champion or staff member charged with overseeing projects, which can lead to MRA plans that go unimplemented.

To prevent projects from falling through the cracks, local governments should establish a **MRA Board** that meets regularly to oversee ongoing redevelopment projects. Such a board can consist of local government staff (such as the Planning Director), the City or Town Manager, the MainStreet Director, MainStreet Board members, and other stakeholders. Although this Board does not have the formal powers of a metropolitan redevelopment agency, the board can champion the implementation of the MRA Plan and recommend actions for approval by the local governing body.

**KEY POINT:** It is crucial to establish an implementation board to oversee MRA projects and secure funding after the MRA plan is completed. This board can work with local groups, including MainStreet to ensure projects benefit the district.

Figure 5. Additional MRA tools allowed by statute



## MRA FUND

The Redevelopment Code allows the local government to form a **Metropolitan Redevelopment Fund** to hold redevelopment funds in reserve until being utilized for project financing, bonding capacity, project planning and design, or investment (3-60A-22). The redevelopment fund can be funded by general fund contributions, TIF funds, capital outlays, grants, or local tax increases (such as the Local Options Gross Receipts Tax [LOGRT]). Establishing a permanent MRA fund is something that each community should consider establishing to ensure that project funds specific to the MRA District remain consistently available regardless of shifting political priorities or budget constraints.



**KEY POINT:** Setting up a MRA Fund for project implementation is crucial, but requires an ongoing revenue source, such as a TIF, general funds, capital outlay, tax revenue (e.g., lodgers taxes), or a grant fund to ensure the sustainability of redevelopment efforts.

### CASE STUDY: FARMINGTON MRA FUND

The Farmington City Council established a MRA Fund and invested a \$250,000 into the account when the MRA District and MRA Commission was first formed in 2015. The Council has committed to contributing \$500,000 to the City's MRA Fund every year that the budget allows such a contribution. However, the City has only been able to fund the MRA for two years, or \$1 million, bringing the total MRA Fund to \$1.25 million. This money was then used for redevelopment projects, including the City's new Main Street design and reconstruction project, which is currently underway and expected to be completed in the summer of 2020. In addition to direct contributions to the MRA Fund, the City has established a TIF District in Downtown and also slightly raised taxes citywide, creating a "Community Transformation and Economic Diversification Fund", which can be used to finance MRA projects and incentives.

## DIRECT CONTRIBUTION OF MUNICIPAL ASSETS

The LGB may provide small scale city assets or infrastructure improvements to individual owners or businesses using the fair value provision without the complexities of a P3 development agreement. Memorandums of Understanding (MOU) or Easement agreements can be utilized to benefit individual property owner/businesses provided that there is also an equal public benefit. Two case studies are described below on these types of tools. The LGB can offer to property owners/businesses a waiver of development fees or permit fees when the development plans are consistent with the MRA Plan's goals and projects. An expedited development plan review can also be offered as an additional incentive. Time and money are important to these owners and businesses and can be a strong incentive for redevelopment.



Farmington Main Street Redesign.  
Funded partially by the City's MRA  
Fund.

### **CASE STUDY: GALLUP ALLEY IMPROVEMENT PROJECT**

The Gallup alley improvement project is an example where the city and private landowners cooperated in improvements to the alley. The alley surface was privately owned but there were several easements for public utilities and infrastructure through the alley. Through the fair value mechanism in an exchange of values, the city acquired surface easements from the property owners (see example lease agreement, Appendix E). The alleyway pedestrian will enhance the existing alleys between Coal and Aztec avenues as well as between Coal Avenue and Highway 66. Improvements will be made to local parking areas, pedestrian and bicycle routes, and access routes to nearby businesses and government offices. Key elements for success include placing utilities underground, specialty paving, lighting, benches, and planters. The estimated cost for the Coal Ave Alley Project is about \$1.15 million.

### **CASE STUDY: FARMINGTON SHARED USE MOU**

The City of Farmington provided two businesses with public parking spaces so that they could use the spaces for dumpster and maintenance purposes associated with the two restaurants. In exchange, the businesses allow public parking in their lots during city events. The MOU that describes this exchange of fair values is included in Appendix F.



**KEY POINT:** Funds used for MRA projects and programs are flexible, but need to be approved by the local MRA Board (usually the same the local government's Governing Body) and issues using a MOU or other formal agreement.

## LOANS AND GRANTS

The Redevelopment Code allows local governments to make loans or grants or authorize the use of the proceeds of bonds issued “for the purpose of repairing, remodeling, modifying or otherwise reconstructing a building or buildings located in a MRA” (3-60A-10.P.9).

This form of direct contribution can take many forms, such as a small-scale fund to match property owner improvements including as façade improvements, placemaking elements, or public art. Such a fund can function as an incentive program, allow property owners with fewer resources and opportunity to reinvest in their properties. Other larger-scale loans, including for utility work or more extensive building improvements can also be considered. Any projects approved for funding must be approved by the governing body or a designated MRA Board.

## ZONING CODE AMENDMENTS/EXCEPTIONS

The NM Redevelopment Code also has a provision to allow the LGB to create zoning code ordinances, amendments, and exceptions that will apply to only the MRA (3-60A-10.I). These ordinances can be tailored specifically to address the needs for revitalization within the area and provide incentives to property and business owners to rehabilitate/improve their properties. These ordinances can include provisions to increase site utilization/productivity such as reduced setbacks, increased building heights, and reduced on-site parking requirements.

Another type can be to create Building Safety/Maintenance ordinances to improve vacant buildings and discourage buildings to be used for storage uses (see [Vacant Building Ordinances](#)).

# 3. Complementary Tools

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In addition to the tools allowed through the Redevelopment Code, there are a number of complementary tools that can also be used to support redevelopment in a Metropolitan Redevelopment Area. These tools are generally available to all municipalities, although like MRA tools, they may not all be utilized fully or benefit one another. Integrating the incentives and benefits of these complementary tools with the benefits offered by the Redevelopment Code is essential to increasing the likelihood for the successful, longer-term implementation of the MRA Plan.

## IN THIS SECTION

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**VACANT BUILDING  
ORDINANCES**



**SUPPORTING ORDINANCES  
AND PLANS**



**IRBs**



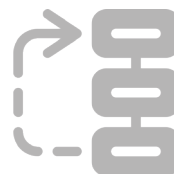
**HISTORIC  
PRESERVATION**



**ZONING CODE  
CHANGES**



**BUSINESS IMPROVEMENT  
DISTRICTS**



**INVENTORIES &  
BENCHMARKS**

## 3. Complementary Tools



### VACANT BUILDING ORDINANCE AND ENFORCEMENT

One common issue in MRA districts is the high number of vacant buildings that are often in disrepair and may pose a public nuisance. Currently, the State of New Mexico does not allow jurisdictions to assess vacant properties at a higher value to penalize abandonment (or incentivize absentee landlords to sell or repair their properties).

However, one tool local governments many consider is a **vacant building ordinance**, which outlines the penalties, inspection procedures, and standards that property owners must follow if they own vacant buildings or lots. This ordinance can be used to support identified MRA strategies and projects, and used in combination with a local **nuisance ordinance** and enforcement procedures (if applicable). Generally, effective vacant building ordinances:

- Enforce registration and maintain a registry of vacant buildings.
- Require annual inspections of vacant buildings.
- Property owners provide an improvement plan before being assessed penalty fees or going through the court system.
- Penalty and registration renewal fees increase over time to incentivize code compliance.
- The ordinance can be phased-in, starting with the MRA District.

MainStreet communities with vacant building ordinances include: Las Vegas, Tucumcari, and Albuquerque. For more information, please view **NM MainStreet's Vacant Building Ordinance White Paper**. Also view the **Center For Community Progress's website resource on tools for dealing with vacant buildings and problem property owners**.

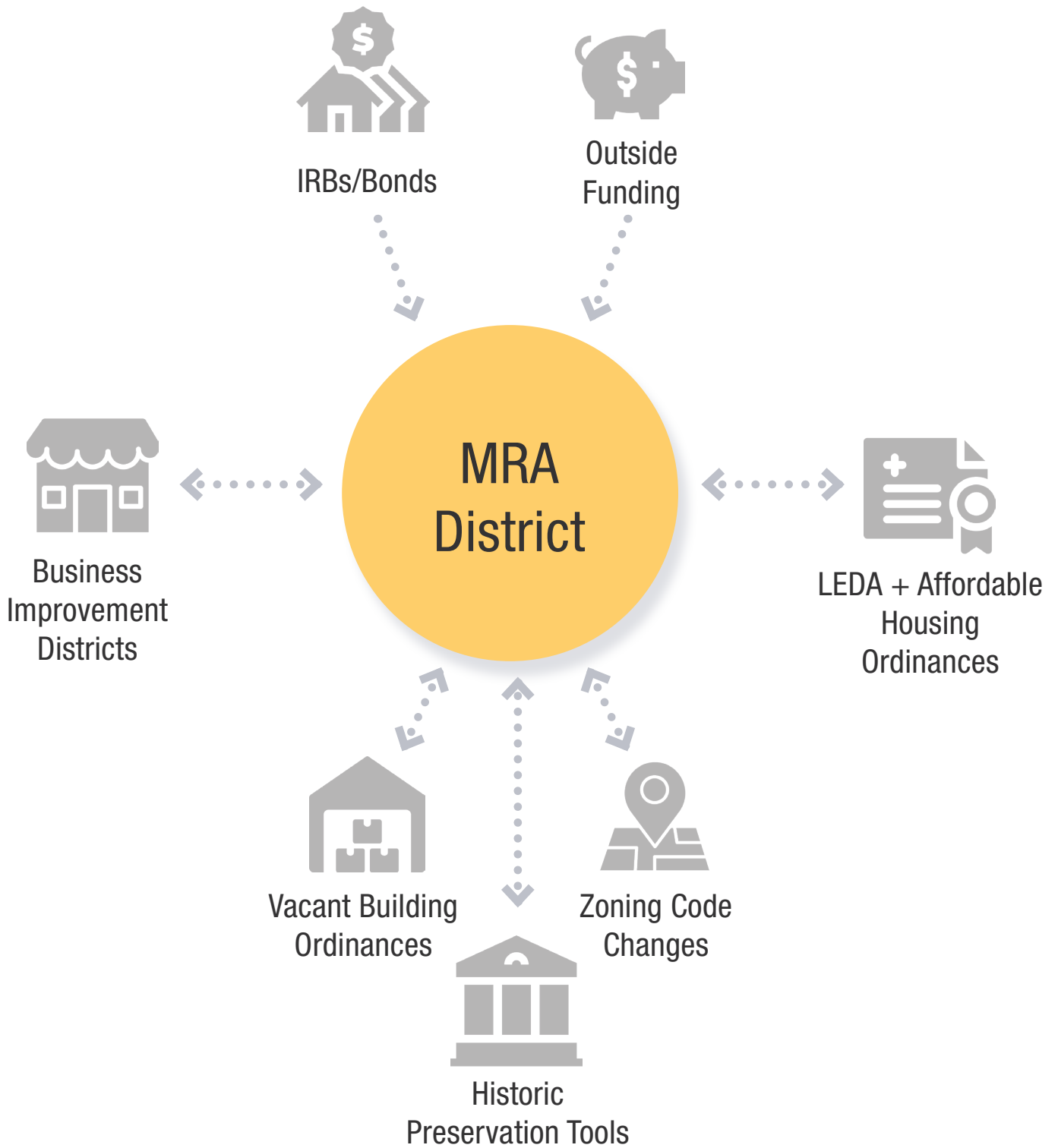


### BENCHMARKS & INVENTORIES

The Redevelopment Code allows local governments to inspect and assess all buildings within a MRA to help evaluate conditions of blight. Complementing this authority, local governments (and MainStreet organizations) should maintain an up-to-day inventory of building conditions, vacant and underutilized lots, and active businesses in the MRA District. These data are helpful to track and evaluate how conditions in the MRA are influenced by the implementation of the MRA Plan and identify projects, as well as long-term market conditions. This practice can help ensure that the most beneficial actions are taken and that progress on Plan goals is achieved.



Figure 6. Overview of complementary tools to utilize in MRA





## ZONING CODE CHANGES

Most MRA plans evaluate current land use and zoning in the MRA and provided recommended improvements. However, these recommended changes are not always adopted by local governments. Supporting the adoption of District-wide zoning changes identified in the MRA Plan (e.g. mixed-use areas) is essential to create flexibility for a variety of redevelopment projects.



## LOCAL ORDINANCE/PLAN INTEGRATION

Two additional local planning tools/ordinances allowed under NM Statute that support business and housing development are **Local Economic Development Act Plans/Ordinances** and **Affordable Housing Plans/Ordinances**. As with the Redevelopment Code, these ordinances allow local governments to contribute to private projects provided they follow restrictions outlined in the State Statute and local ordinances. Unlike MRA projects, both LEDA and Affordable Housing Ordinances can be implemented city-wide, although the type of projects are more targeted. For example, a project in a LEDA plan may focus on city-wide recruitment strategies for a target industry (such as manufacturing), while a MRA plan might identify sites that can accommodate manufacturing operations and recommend physical improvements to a site to make it more attractive to potential manufacturing companies.

**MRA:** Physical development projects in district

**LEDA:** City-wide business development

**Affordable Housing Ordinance:** City-wide affordable housing development

Overall, each MainStreet community should look to integrate the projects and strategies in these plans (if applicable) with those identified in the MRA Plan. Doing so can open up additional funding sources, partnership opportunities, and increase the overall support for redevelopment projects.



## BUSINESS IMPROVEMENT DISTRICTS (BIDs)

Another tool to provide ongoing maintenance, project support, and funding for a MRA is through **Business Improvement Districts (BIDs)**. BIDs are public-private partnerships where businesses in a defined area elect to levy a small tax or membership fee to support projects and programs that benefit the entire district. This may include cleanup, installation of improvements, security, etc.

BIDs have been traditionally established in larger cities including Albuquerque but may be applied to any MainStreet district that has sufficient property and business owner support. As with other community organizations including local MainStreets, BIDs can provide the staffing, volunteer capacity and business support to provide for ongoing property maintenance in an its established district.

## INDUSTRIAL REVENUE BONDS (IRBs)

IRBs are another tool that private developers can use to secure tax exemptions for larger-scale economic development projects. Although the details of IRBs are complicated, they are another tool that many local governments have at their disposal to incentivize development of specific industries and/or sites. For example, Albuquerque currently does not issue IRBs for retail projects, while Bernalillo County does allow retail projects.



For more information, please view the [City of Albuquerque's IRB Summary Document](#).

## HISTORIC PRESERVATION TOOLS

**New Mexico's Historic Preservation Division (HPD)** can assist communities with restoration and/or preservation of historic properties in the MRA District. HPD can assist with the historic nomination process, grant funding, and provide state tax credits for eligible properties. For some property owners, the **State's Income Tax Credit for the Preservation of Cultural Properties** may provide financial assistance to private property owners who are restoring historic properties. Properties must be listed in the State Register of Cultural Properties to be eligible for these funds. HPD also provides grants (up to \$50,000) for historic preservation projects to both public and private entities. **Federal historic building tax credits** are also available.



For more info about historic preservation resources, please visit:

- [The New Mexico Historic Preservation Division](#)
- [Publications of the National Register of Historic Places](#)
- [National Parks Service: Tax Incentives for Historic Properties](#)



# 4. Appendices

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A. RESOLUTION TO CREATE TIF DISTRICT

B. LETTER TO COUNTY ASSESSOR AND TREASURER

C. DRYLANDS BREWERY P3 AGREEMENT

D. SANTA ROSA ILFELD WAREHOUSE P3 AGREEMENT

E. GALLUP ALLEY IMPROVEMENTS P3 LEASE  
AGREEMENT

F. FARMINGTON SHARED USE P3 MOU

APPENDIX A

**RESOLUTION NO. R2017-8**

**A RESOLUTION MAKING CERTAIN FINDINGS AND DETERMINATIONS  
PURSUANT TO THE NM METROPOLITAN REDEVELOPMENT CODE, AND  
APPROVING THE GALLUP DOWNTOWN TAX INCREMENT FINANCING  
DISTRICT.**

WHEREAS, Section 3-60A-8 NMSA 1978 of the Metropolitan Redevelopment Code (Sections 3-60A-1 through 3-60A-48 NMSA 1978) states: “the local governing body of a municipality may elect by resolution to use the procedures set forth in the Tax Increment Law [3-60A-19 to 3-60A-25 NMSA 1978] for financing metropolitan redevelopment projects. Such procedures may be used in addition to, or in conjunction with, other methods provided by law for financing such projects. The tax increment method, for the purpose of financing metropolitan redevelopment projects, is the dedication for further use in metropolitan redevelopment projects of that increase in property tax revenue directly resulting from the increased net taxable value of a parcel of property attributable to its rehabilitation, redevelopment or other improvement because of its inclusion within a metropolitan redevelopment area plan”.

WHEREAS, pursuant to Sections 30-60A-19. and 20. NMSA 1978 of the Metropolitan Redevelopment Code, the Council elected to create by resolution a Tax Increment Financing District; and

WHEREAS, the boundaries of the Gallup Downtown tax increment financing district are delineated on Exhibit A, (Map of Metropolitan Redevelopment Area), as an irregularly shaped area of approximately 40 blocks generally described as south of the Rio Puerco, north of West Mesa Ave, east of Cliff Street, and west of South Seventh Street.; and

WHEREAS, the Council has approved the Gallup Metropolitan Redevelopment Area Plan and the redevelopment projects which exist in the approved Gallup Metropolitan Redevelopment Area Plan, which may be funded or financed through the proposed tax increment financing district.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL,

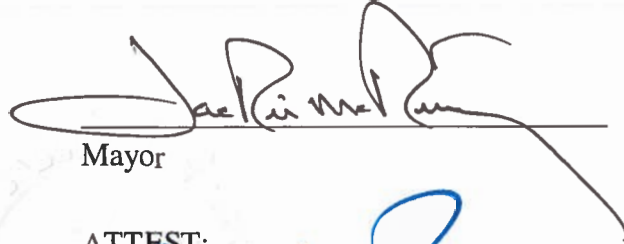
The City Council, after having conducted a public meeting, approves the Gallup Downtown tax increment financing district, as attached hereto as Exhibit A and incorporated herein.

All resolutions, or parts thereof, in conflict with this Resolution are hereby repealed; this repealer shall not be construed to revive any resolution, or part thereof, heretofore repealed.

If any section paragraph, sentence, clause, word or phrase of this resolution is for any reason held to be invalid or unenforceable by any court of competent jurisdiction, such decision shall not

affect the validity of the remaining provisions of this resolution. The Council hereby declares that it would have passed this resolution and each section, paragraph, sentence, word or phrase thereof irrespective of any provisions being declared unconstitutional or otherwise invalid.

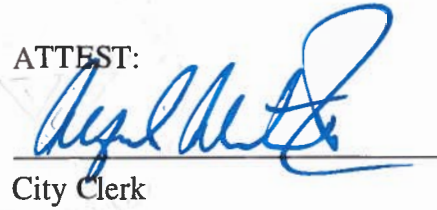
**PASSED, APPROVED, AND ADOPTED** this 28<sup>th</sup> day of February, 2017.



A handwritten signature in black ink, appearing to read 'Jackie McLean', is written over a horizontal line.

Mayor

ATTEST:



A handwritten signature in blue ink is written over a horizontal line.

City Clerk

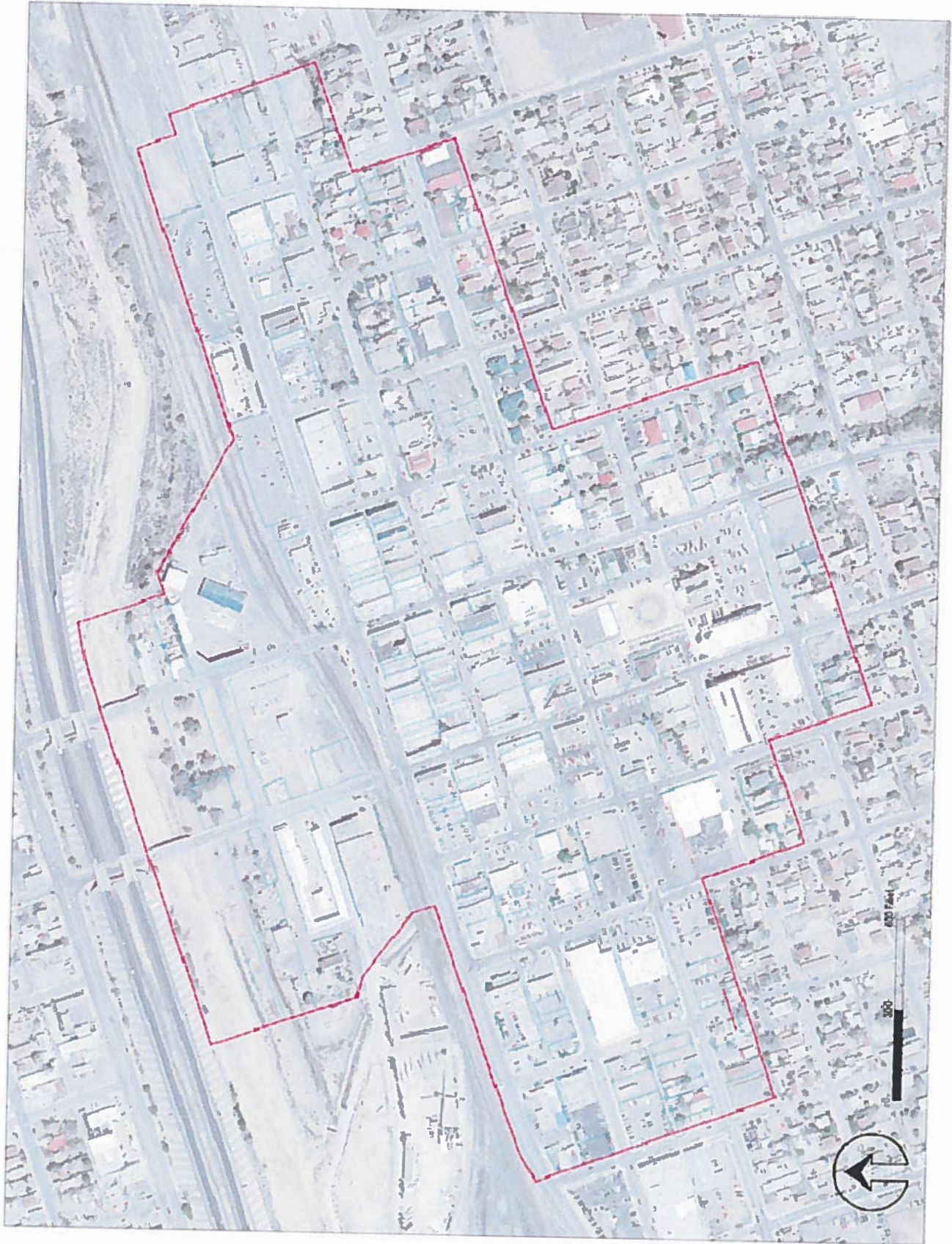


Exhibit A: Downtown TIF District



APPENDIX B

March 3, 2017

McKinley County Treasurer  
Gallup City, NM

**Re: Notification of City of Gallup Metropolitan Redevelopment Area for Tax Increment Financing Purposes**

Dear (Treasurer):

Please be informed that the Gallup City Council on February 28, 2017 approved Resolution No. 2017-8 (attached) in accordance with the Metropolitan Redevelopment Code (NMSA 3-60A-1 to 3-60A-48), which established the Gallup Tax Increment Financing (TIF) district.

As required by the State Metropolitan Redevelopment Code (Section 3-60A-21), we are forwarding this notification to your office, the McKinley County Assessor, and the State Taxation and Revenue Department, the following information: (1) the Metropolitan Redevelopment Area, (2) the taxable parcels within the TIF district, and (3) that the tax increment method should be applied to the parcels included in the district.

Please establish the property tax increment base for the City of Gallup for the parcels identified in the TIF district for the year of 2017.

Should you require additional information related to this notification please contact me at XXX-XXXX.

Sincerely,

City Mayor

Cc: McKinley County Assessor  
NM Tax and Revenue Department

APPENDIX C

**ORDINANCE NO. 540**

AN ORDINANCE AUTHORIZING THE SALE TO ANDRES ARREOLA AND DANIEL TORRES OF A TWO LOT PARCEL OF LAND LOCATED ON THE SOUTHEAST CORNER OF MAIN STREET AND JEFFERSON AVENUE.

**WHEREAS**, the City of Lovington, hereinafter "City", holds title to two (2) lot parcel of certain real property located in Lovington, Lea County, New Mexico and being more particularly described as Lots 5 and 6, Block 2, Original Lovington Subdivision as found in Book 004, Page 340; and

**WHEREAS**, the City finds that this real property is no longer essential to any municipal purpose and the City's interests would be best served by the sale of the property; and

**WHEREAS**, in Request for Proposal No. 102215 the City requested proposals for the purchase of this real property; and

**WHEREAS**, all proposals received in response to RFP No. 102215 were evaluated based upon the proposed utilization of the property, proposer's capacity to achieve the proposed use, the economic impact of the proposed use, and the purchase price offered; and

**WHEREAS**, Andres Arreola and Daniel Torres, hereinafter "Mr. Arreola and Mr. Torres", submitted a response to the RFP in which they offered to purchase this real property, with such property more particularly described on Exhibit "A" attached hereto and incorporated herein and hereinafter referred to as the "Property"; and

**WHEREAS**, Mr. Arreola and Mr. Torres proposed to use to construct and operate a brick oven pizza restaurant and craft brewery; and

**WHEREAS**, Mr. Arreola and Mr. Torres acknowledges that development and construction of any structures on the Property must be designed to conform with the character of the downtown district and such designs must be reviewed and approved by the Lovington City Commission; and

**WHEREAS**, Mr. Arreola and Mr. Torres shall make no offensive use of the Property; and

**WHEREAS**, Mr. Arreola and Mr. Torres shall not use or lease the Property, or any part thereof for permanent or temporary residences or RV or trailer parks; and

**WHEREAS**, Mr. Arreola and Mr. Torres shall not use or lease the Property, or any part thereof for any use that is extra hazardous on account of fire, chemical waste or for any purposes that is a nuisance or that is offensive to other tenants or occupants of other structures in the vicinity; and

**ORDINANCE NO. 542**

**AN ORDINANCE OF THE CITY OF LOVINGTON AUTHORIZING THE EXECUTION OF A PROJECT PARTICIPATION AGREEMENT PROVIDING FUNDING TO THE DRY LANDS BREWING COMPANY - \$80,000 FOR ECONOMIC ASSISTANCE TO CONSTRUCT AND OPERATE A BREWERY IN LOVINGTON, LEA COUNTY, NEW MEXICO**

**WHEREAS**, pursuant to the Local Economic Development Act, NMSA 1978 §§ 5-10-1 through 5-10-13, (LEDA), the City adopted the Ordinance #495, authorizing the City to consider applications for economic development assistance, to include cultural facilities; and

**WHEREAS**, the Lovington Economic Development Corporation project meets the requirements for economic assistance and is a qualified entity as stated in Ordinance No. 495; and

**WHEREAS**, the City of Lovington City Commission wishes to enter into an agreement with the Dry Lands Brewing Company, in the form of a Project Participation Agreement, as provided for in Ordinance No. 495.

**NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF LOVINGTON, NEW MEXICO:**

**Section 1.** That the Mayor is authorized to execute on behalf of the Lovington City Commission an Project Participation Agreement with the Dry Lands Brewing Company that will provide funding in an amount not to exceed \$80,000.

**Section 2.** Repealer. All ordinances or parts of ordinances or provisions of the City of Lovington Code in conflict or inconsistent herewith be, and the same hereby are repealed to the extent only of such conflict or inconsistency, and as to all other ordinances, this ordinance is hereby made cumulative. This repealer shall not be construed to revive any ordinance or parts of any ordinance heretofore repealed.

**Section 3.** Severability. If any section, paragraph, clause or provision of this ordinance shall, 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 other part of this ordinance.

**Section 4.** Effective date. This ordinance shall be effective thirty days after publication.

**PASSED, ADOPTED, AND APPROVED this 9<sup>th</sup> day of May, 2016.**

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PAUL CAMPOS, MAYOR

ATTEST:

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CAROL ANN HOGUE, CITY CLERK

## **PROJECT PARTICIPATION AGREEMENT**

The Dry Lands Brewing Company ("Company") and the City of Lovington, a municipal corporation organized and existing under the law the State of New Mexico ("City"), agree:

1. Recitals:

A. Pursuant to the Local Economic Development Act, NMSA 1978, §§ 5-10-1 through 5-10-13, (LEDA), the City adopted the Ordinance #495, authorizing the City to consider applications for economic development assistance, to include cultural facilities, and Ordinance No. 533 approving an economic development project for the Lovington Theater.

B. The Company has submitted an application to City for assistance under the LEDA Program. In the application, the Company has proposed that the project provide for the purchase and installation of brewing equipment and facility infrastructure for the Company. The Company shall be operated in Lovington, New Mexico

C. The City has adopted Ordinance No. 542 finding that the Company is a qualifying entity as defined in Section 5-10-3 (G) NMSA 1978 and approving this Project Participation Agreement (this agreement) as meeting the requirements of LEDA.

2. Substantive Contribution by the Dry Land Brewing Company: A minimum of five full time jobs will be created at the Dry Lands Brewing Company within the first year of operation. Additionally, the Company will begin brewing operations within 12 months of signing this agreement. The Company will also be required to maintain the five newly created jobs and remain in operation for a minimum of three years from opening of the brewing location. The terms and obligations of the parties under the Ordinance and Application are incorporated into this Agreement by reference.

3. Security Provided to City: City will require a Security Interest Document. Should the Company cease operation of the Dry Lands Brewing Company during the term of this agreement, it will repay \$80,000 to City. Any property or equipment acquired as a result of this Project, shall be transferred to the City and used by the City for future economic development purposes only.

4. Review: City will review the project timeline, progress and job creation annually until the three-year anniversary of this agreement. Job creation reporting will be supported by reports and documentation from the New Mexico Department of Workforce Solutions demonstrating the headcount of the operation to demonstrate compliance with this Agreement at each review cycle annually, and another at thirty (30) days prior to the anniversary date of this Agreement, for a period of one year.

5. Ratification: City and the Company hereby ratify all actions consistent with this Agreement that they or their respective agents may have taken in furtherance of the Project.

6. Miscellaneous: This Agreement binds and insures to the benefit of the parties and their respective successors and assigns. This Agreement may be amended or modified, and the performance by any party of its obligations hereunder may be waived, only in a written instrument duly executed by the parties. This Agreement may be executed in any number of counterparts, each of which is an original and all of which taken together constitute one instrument. This Agreement is governed by and is to be construed in accordance with the laws of the State of New Mexico, without giving effect to its choice-of-law principles.

7. Transfer of Funds: Funds will be transferred to the Dry Lands Brewing Company upon their submittal of an invoice to the City that includes proof of payment for the equipment purchased for the brewing operation and an itemized statement or receipt listing the equipment purchased, to include model numbers and serial numbers.

8. Term of Participation Agreement: Will be agreed upon through City and the Company by the \_\_\_ of \_\_\_\_\_ until the third year anniversary.

Adopted by the City of Lovington

On the \_\_\_\_\_ of \_\_\_\_\_, 2016

For the City of Lovington

For the Dry Lands Brewing Company

\_\_\_\_\_  
Paul Campos, Mayor

\_\_\_\_\_  
Andres Arreola

\_\_\_\_\_  
Attest: Carol Ann Hogue, City Clerk

\_\_\_\_\_  
Daniel Torres

\_\_\_\_\_  
Patrick McMahon, City Attorney

**WHEREAS**, development of the Property shall begin within twelve (12) months of acquisition of the Property from the City; and

**WHEREAS**, business operations shall begin within eighteen (18) months of acquisition of the Property from the City; and

**WHEREAS**, the City shall retain the right of first refusal should Mr. Arreola and Mr. Torres desire to sell the property; and

**WHEREAS**, prior to the sale of the Property to another individual or group, the sale must be approved by the City of Lovington; and

**WHEREAS**, any additional or change of use of the Property by Mr. Arreola and Mr. Torres or any future owners must have prior approval by the City of Lovington; and

**WHEREAS**, Mr. Arreola and Mr. Torres or any future owner(s) shall not violate any ordinances or other regulations of the City of Lovington or County of Lea, or any other state or federal rule, regulation or law, now in force or hereinafter adopted, which in any manner shall affect the use of the premises.

**WHEREAS**, Mr. Arreola and Mr. Torres proposal is that they would purchase the Property for one hundred dollars (\$100); and

**WHEREAS**, the City desires to sell the Property to Mr. Arreola and Mr. Torres for the remuneration described as it is located in a Metropolitan Redevelopment Area and the described use conforms to the City of Lovington Comprehensive Plan and Downtown Master Plan; and

**WHEREAS**, the City has published notice of this sale prior to the consideration of this Ordinance as required by N.M.S.A 1978, Sec. 3-54-1(D)(1999);

**NOW THEREFORE**, be it ordained by the Governing Body of the City of Lovington, County of Lea, State of New Mexico, as follows:

1. The sale of the Property as described on Exhibit "A" by the City of Lovington to Mr. Arreola and Mr. Torres for one hundred dollars (\$100) for a total purchase price of one hundred dollars (\$100) is hereby approved.
2. The total purchase price shall be due and payable to the City at closing.
3. The City shall purchase Title Insurance in the amount of the total purchase price. All other costs shall be borne by Mr. Arreola and Mr. Torres

4. The Mayor and City Manager are authorized to execute all documents necessary to implement the terms of this ordinance.
5. Notice shall be published pursuant to the terms of N.M.S.A. 1978, Sect.3-54-1 (1999).

ADOPTED BY THE GOVERNING BODY OF THE CITY OF LOVINGTON ON THE 23<sup>RD</sup> DAY of NOVEMBER, 2015.

---

SCOTTY GANDY, MAYOR

ATTEST:

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CAROL ANN HOGUE, CITY CLERK

**AGREEMENT**

**THIS AGREEMENT** is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2017, by and between the City of Santa Rosa, hereinafter referred to as "owner/city" and the Guadalupe Community Development Corporation, hereinafter referred to as the "GCDC/Sub-landlord", and \_\_\_\_\_ (sub-leasee) \_\_\_\_\_ hereinafter referred to as "sub-tenant."

**WHEREAS**, the City Council of the City of Santa Rosa, New Mexico has found and determined pursuant to its Resolution No. 16-28, that due to the presence of a substantial number of deteriorated and deteriorating structures, deterioration of site and other improvements, and low levels of commercial and industrial activity and redevelopment, the Santa Rosa Downtown Redevelopment Area (the "Project Area") within the City is a "blighted area" within the meaning of the Metropolitan Redevelopment Code, Sections 3-60A-1 to 3-60A-13 and 3-60A-14 to 3-60A-48 NMSA 1978, (the "Code"), and that the rehabilitation, conservation, development and redevelopment of and in the Project Area is necessary in the interest of the public health, safety, or welfare of the residents of the City. The City Council therefore has, pursuant to the Resolution, designated such area as appropriate for a metropolitan redevelopment project as defined in the Code.

**WHEREAS**, subsequent to the adoption of the Resolution, the City Council adopted as Resolution # 16-29 a Metropolitan Redevelopment Plan for the Project Area, the "Ifeld-Johnson Warehouse Adaptive Reuse Metropolitan Redevelopment Plan" for the Project Area, which plan is hereafter referred to as the "Metropolitan Redevelopment Plan", or "MRP".

**WHEREAS**, the purpose and intent of this Agreement is to establish the terms under which the City may convey a portion of that property to the GCDC/Sub-landlord, and the sub-tenant will develop the Project Area in accordance with the MRP and this Agreement, for the purposes of promoting the public health, safety, convenience and prosperity of the residents of the City, eliminating conditions of blight identified in the Resolution that have impaired the sound and orderly development of the City, preserving the historic integrity of the existing warehouse buildings, promoting economic and commercial activity within the City, enhancing employment opportunities in the City, and increasing property values and enhancing tax revenues.

**WHEREAS**, the City Council has determined pursuant to Section 3-60A-12 NMSA 1978 that the fair value for uses under the Code of all the real property within the Project Area to be conveyed to the GCDC/Sub-landlord or sub-tenant under this Agreement, is not more than the sum of the consideration to be provided by the GCDC/Sub-landlord or sub-tenant under this Agreement through the GCDC/Sub-landlord or sub-tenant's performance of this Agreement.

**WHEREAS**, the sub-tenant is in need of space and the Sub-landlord has agreed to sublease a portion of the Ifeld Warehouse to the Subtenant for Economic Development purposes, redevelopment, rehabilitation, conservation and as a business incubator; and

**WHEREAS**, the intent is to provide the building as a business incubator, taking in a tenant and subletting in accordance with the Code; and

**THEREFORE**, the following terms and conditions shall apply;



- 1. EFFECTIVE DATE AND TERM:** This contract shall become effective upon approval by the city/owner of the property, the Guadalupe Community Development Corporation (GCDC/sub-landlord) and \_\_\_\_\_ the (subtenant) and shall be for a term of one (1) year, with the option to renew annually for up to three (3) additional years. Term will begin upon approval of all parties and execution of this agreement.
- 2. TERMINATION:**

  - A. This agreement may be terminated at any time by any party upon thirty days (30 days) written notice to all parties (City/owner, GCDC/sub-landlord and sub-tenant).
  - B. In the event that a court of competent jurisdiction enters any order which affects the Party's ability to perform its obligations under this Agreement.
- 3. DESCRIPTION OF PROPERTY FOR LEASE**  
A portion of the Ilfeld Warehouse  
Approximately \_\_\_\_\_ square feet  
44 North Fourth Street  
Santa Rosa, NM 88435  
County of Guadalupe  
State of New Mexico  
Lot 2 Block 75 (Warehouse)
- 4. PURPOSE**  
Since the GCDC/sub-landlord's goals and mission is to work with business and the community to improve economic development, rehabilitation, redevelopment and conservation purposes it seems suitable to lease this office space. The city agrees to allow the GCDC/sub-landlord to sublease a portion of the Ilfeld Warehouse. The sub-tenant agrees to keep the leased area neat and clean and presentable at all times and use the leased property for the purpose of \_\_\_\_\_.
- 5. RENT**  
The sub-tenant agrees to the rent fee of \$ \_\_\_\_\_ per month upon occupying the building. Payment will be due the first of every month and payable to the GCDC/sub-landlord. A late fee of \$100 (one hundred dollars) and interest of 3% (three percent) will be assessed if the full amount of payment is not received within 5 (five) days of the due date.
- 6. UTILITIES**  
Born by the tenant GCDC/sub-landlord. The Sub-tenant agrees to pay a monthly charge of \$ \_\_\_\_\_ per month to cover the cost of utility expenses, to be paid directly to the GCDC/sub-landlord. Utility payment will be due the first of every month. A late fee of \$100 (one hundred dollars) and interest of 3% (three percent) will be assessed if the full amount of payment is not received within five (5) days of the due date. A prorated amount of the monthly utility fee will be allowed only during the first month of the sub-tenant's occupation of the property.
- 7. INSURANCE**  
The City agrees to maintain property insurance. The GCDC/sub landlord agrees to provide the City with a certificate of liability insurance for the amount of one million fifty thousand dollars and no cents (\$1,050,000). The City/owner must be named as additional insured. The City/owner will not be responsible for the GCDC/sub landlord or the sub-tenant's property, inventory and/or equipment

stored in the building. The sub-tenant must provide a certificate of liability insurance in the amount of \$1,050,000 (one million fifty thousand dollars) and name the city as additional insured.

**8. SUBLEASE**

The City agrees to allow the GCDC/sub landlord to sublease a portion of leased area and this agreement will suffice as the required written approval. This agreement will be presented to the City of Santa Rosa and the Department of Finance and Administration for approval.

**SUB-TENANT IMPROVEMENT SCHEDULE.**

The different portions of the Project will be constructed according to the following schedule:

- a. Business Incubator space construction shall begin within 90 days after the Conveyance Date, and a certificate of occupancy shall be obtained within 180 days thereafter.

**9. REHABILITATION AND RENOVATION**

The city/owner will continue to rehabilitate and renovate the Ilfeld Building while the tenant/sub landlord and the sub-tenant occupies the building. Rehabilitation and renovation will occur as the city has the ability to and appropriate resources.

**10. RIGHT OF INGRESS, EGRESS AND INSPECTION**

The building is owned by the City and the city reserves the right of reasonable ingress and egress for itself, its agents and employees to inspect the facility premises for the purpose of making major repairs and/or emergencies. The city/owner agrees to limit their access to the buildings and will try not to interfere with the operations of the GCDC/sub landlord and the sub-tenant's services.

- 11. ENTIRE AGREEMENT:** This Agreement constitutes the entire agreement between all three parties, and this agreement shall not be modified, amended or rescinded in whole or in part, except by written amendment signed by all three parties. If any part of this agreement is held to be invalid or unenforceable, such hold will not affect the validity or enforceability of any other part of this agreement so long as the reminder of this agreement is reasonable capable of completion.

- 12. NOTICES:** All notices required under this contract shall be sent Certified Mail, Return Receipt requested to:

City of Santa Rosa  
Timothy P. Dodge, City Manager  
244 South 4th Street,  
Santa Rosa, New Mexico 88435

Guadalupe Community Development Corporation  
Mary Ann Romero, Secretary/Treasurer  
1085 Blue Hole Road  
Santa Rosa, New Mexico 88435

Subleasee  
Address  
City, State, Zip

- 13. INDEMNIFICATION HOLD HARMLESS:** The GCDC/sub landlord and the sublease shall defend,

indemnify and Hold Harmless the City/owner and its “public employees” as defined in the New Mexico Tort Claims Act, Sections 41-4-1 to 41-4-29, N.M.S.A. 1978, as amended from all actions, proceeding, claims, demands, costs, damages, attorney’s fees and all other liabilities and expenses of any kind from any source which may arise out of the performance of this Agreement, caused by the negligent act or failure to act by the GCDC/sub landlord and the sub-tenant, its officers, employees, servants, or agents. The GCDC/sub landlord and the sub-tenant shall, as soon as practical but no later than two (2) days after received notice thereof, notify the legal counsel of the City in writing by certified mail.

**14. DISCRIMINATION PROHIBITED:** In performing the Services required hereunder, the GCDC/sub landlord and the sublease shall not discriminate against any person on the basis of race, color, religion, gender, sexual preference, sexual preference, sexual orientation, national origin or ancestry, age, physical handicap, or disability as defined in the Americans with Disabilities act of 1990, as now enacted or hereafter amended.

**15. APPLICABLE LAW:** This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of New Mexico. In performing the services required hereunder, the GCDC/sublandlord and the sub-tenant shall comply with all applicable laws, ordinance and codes of the federal, state and local governments.

**IN WITNESS WHEREOF,** the City of Santa Rosa, N.M. and Guadalupe Community Development Corporation and the sublease have executed this Agreement as of the date first above written.

**CITY OF SANTA ROSA**

\_\_\_\_\_  
Jose Campos, Mayor

\_\_\_\_\_  
Timothy P. Dodge, City Manager

**ATTEST:**

\_\_\_\_\_  
Yolanda Garcia, City Clerk,

**GUADALUPE COMMUNITY DEVELOPMENT CORPORATION**

\_\_\_\_\_  
Christina Campos, President

\_\_\_\_\_  
Alex Carone, Vice-President

APPENDIX E

**ALLEY IMPROVEMENT**  
**EASEMENT AGREEMENT**

**This Agreement** made and entered into this \_\_\_\_ day of October, 2017, by and between the City of Gallup, a New Mexico municipal corporation, hereinafter referred to as CITY, and William T. Keeler & Rebecca Sue Keeler, Trustees of the William T. Keeler & Rebecca Sue Keeler Revocable Trust, hereinafter referred to as “Keeler Trust.”

WHEREAS, City desires to obtain an easement on property owned or controlled by the Keeler Trust for the placement of underground trash containers, landscaping, and electrical equipment, and;

WHEREAS, the Keeler Trust is willing to grant such easement to the City at no cost, under certain conditions and for certain consideration, it is hereby agreed as follows:

1. Keeler Trust is granting the easement needed to the City for the alley improvements simultaneous with this agreement, and in consideration for the covenants and promises made in this agreement.
2. The City will replace water and sewer services, replace utilities with utility services being placed underground. The parties agree that issues may arise during the improvements of the area in question and the parties agree to work together to resolve issues if and/or when issues need to be addressed.
3. In return for the easement granted to the City, City will provide positive drainage and resurfacing on the Keeler Trust parking area immediately adjacent to said easement to assure Keeler Trust property drains into City alley, a gate and fencing on the north edge of the easement, and lighting to be placed and maintained at City's expense, to light the area sufficiently from dusk to dawn.
4. The parties warrant that each has the legal authority to enter into this Agreement and said Agreement is binding upon their respective successors, assigns, grantees, or any entity claiming by or through them.
5. This Agreement may only be modified or changed herein by a subsequent written agreement executed by both parties hereto.

IN **WITNESS WHEREOF** I have hereunto set my hand this \_\_\_\_ day of October, 2017.

KEELER TRUST:

CITY OF GALLUP:

By: \_\_\_\_\_

By: \_\_\_\_\_

William T. Keeler, Trustee

Jackie McKinney, Mayor

APPENDIX F  
**MEMORANDUM OF UNDERSTANDING  
BETWEEN THE CITY OF FARMINGTON  
AND BOON'S FAMILY THAI BBQ**

THIS Memorandum of Understanding ("MOU") is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2019 by and between Boon's Family Thai BBQ ("Boon's Thai"), and the CITY OF FARMINGTON, NEW MEXICO ("the City").

WHEREAS, the City owns the parking lot directly behind Boon's Thai on the northeast corner of South Locke Avenue and West Broadway ("parking lot") that is within the Metropolitan Redevelopment Area ("MRA"); and

WHEREAS, Boon's Thai is in need of space to locate a required grease and cooking oil storage container and trash receptacle; and

WHEREAS, there is a parking space available in the parking lot across the alley and behind Boon's Thai as indicated on Exhibit A attached hereto and incorporated herein in; and

WHEREAS, the City offers incentives within the MRA as a means of enhancing economic development and maintaining economic vitality; and

WHEREAS, Boon's Thai and the City desire to enter into an MOU to place Boon's Thai's required grease and cooking oil storage container and trash receptacle in one of the parking spaces available in the parking lot across the alley and behind Boon's Thai.

NOW, THEREFORE, Boon's Thai and the City, do hereby agree as follows:

1. The City agrees to provide Boon's Thai with the use of the one parking space described in the foregoing recital paragraphs as an MRA incentive. Boon's Thai will not be required to pay the City any remuneration for the use of the space provided it is used as contemplated by the terms of this MOU.
2. Boon's Thai will use the designated parking space described in the foregoing recital paragraphs to locate its required grease and cooking oil storage container and trash receptacle.
3. This MOU shall become effective immediately upon execution and have an initial term of one (1) year, at which time it can be extended by mutual action of Boon's Thai and the City.
4. If Boon's Thai moves from its current location, the parking spaces will return to their original use.
5. Boon's Thai agrees to defend, indemnify, and hold harmless the City and its officers, agents, officials, and employees from and against all suits, actions, or claims of any character brought because of any injury or damage received or sustained by any person,

persons, or property arising out of or resulting from any act, error, or omission of Boon's Thai or its agents or employees. Boon's Thai is not required to defend the City, its officers, agents, employees, or any of them from assertions that they were negligent, or to indemnify and save them harmless from liability based on their negligence. The indemnity required hereunder shall not be limited by reason of the specification of any particular insurance coverage in this MOU.

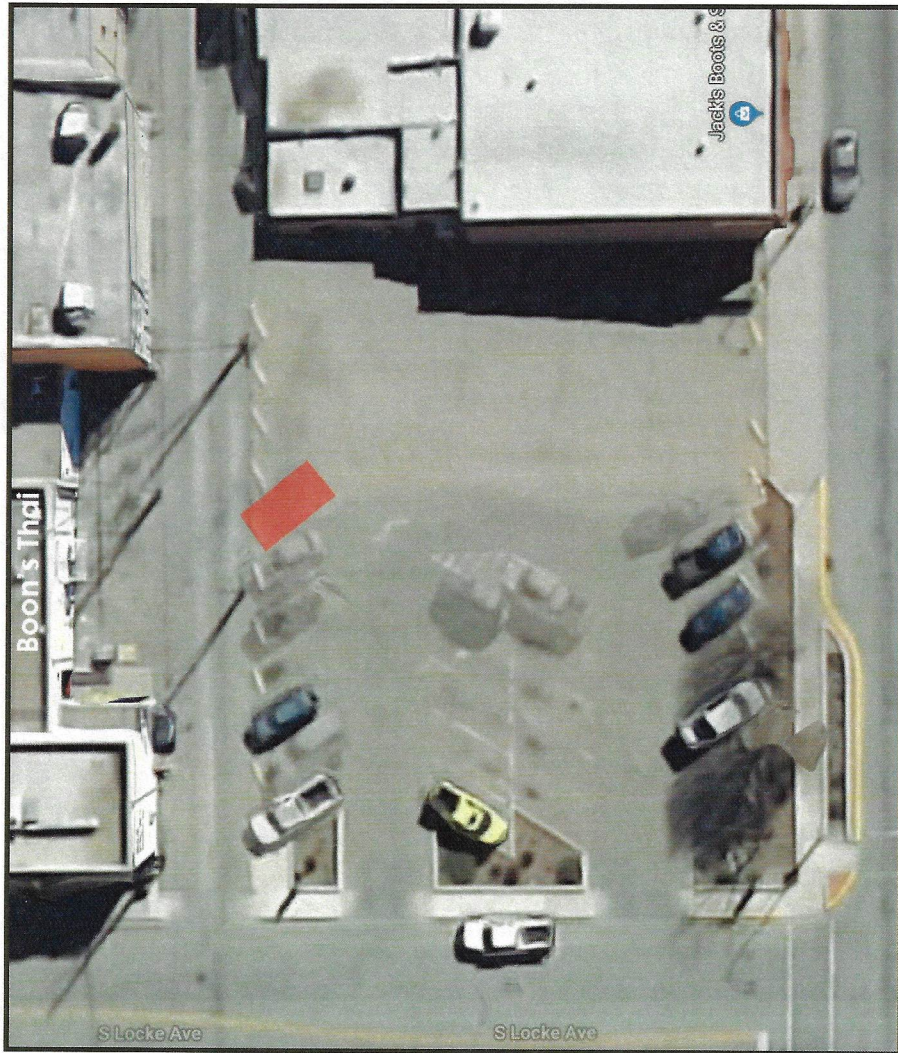
6. Without limiting any of the liabilities or other obligations of Boon's Thai under this MOU, Boon's Thai shall obtain and maintain in effect, at its sole cost and expense, with forms and insurers acceptable to City, during the term of this MOU, insurance policies providing coverage protecting against claims for personal and bodily injury or death, for at least the following minimum coverage:
  - a. Worker's Compensation Insurance. If Boon's Thai has employees, to cover obligations imposed by federal and state statutes pertaining to Boon's Thai's employees engaged in the performance of any services, and Employer's Liability Insurance with a minimum limit of One Million Dollars (\$1,000,000).
  - b. Professional Liability Insurance, or the equivalent, with a minimum limit of One Million Dollars (\$1,000,000) per occurrence. The policy shall include coverage for bodily injury liability.

The Boon's Thai shall provide current proof of insurance to the City.

7. This MOU may be terminated by Boon's Thai or the City at any time upon ninety (90) days written notice to the other party.
8. Neither party shall assign or transfer any interest in this MOU without the prior written approval of the other party.
9. This MOU may only be amended or modified in writing, with the mutual approval of the parties.
10. This MOU shall be governed by the laws of New Mexico.

*Signatures are on the following page.*

# Boon's Family Thai BBQ Parking Agreement



**Exhibit A**

This parking space has been used for Boon's Family Thai BBQ's grease and oil storage container and their dumpster for many years already. By formalizing the agreement the City will guarantee that Boon's can continue to use the parking space.