



1           **WHEREAS, Mr. White has served as a leader of state and national**  
2           **municipal attorney organizations; and**

3           **WHEREAS, He retired from the City of Albuquerque in 2010 and**  
4           **responded to the City’s call again in 2022.**

5           **BE IT ORDAINED BY THE COUNCIL, THE GOVERNING BODY OF THE CITY OF**  
6           **ALBUQUERQUE:**

7           **SECTION 1. §4-2-3-2, Open Space Trust Fund, of the Open Space Trust**  
8           **Fund and Land Administration Ordinance, §§4-2-3-1 et. seq. ROA 1994, is**  
9           **hereby amended as follows:**

10          **“§ 4-2-3-2 ROBERT M. WHITE OPEN SPACE TRUST FUND.**

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

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

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

26          **(B) If Open Space Exchange Lands are traded for land which is not Major**  
27          **Public Open Space as defined by adopted City plans, but is intended for**  
28          **ultimate sale or other disposal, no proceeds will be required to be deposited**  
29          **into the Robert M. White Open Space Trust Fund or payment made to the**  
30          **Albuquerque Academy pursuant to the purchase agreement approved by the**  
31          **City Council on March 15, 1982. To the extent that cash proceeds are received**  
32          **by the City as part of such an exchange, the cash proceeds will be deposited**  
33          **into the Robert M. White Open Space Trust Fund. When the land is ultimately**

1 sold, leased, or exchanged for Major Public Open Space, the operative  
2 portions of §§ 4-2-3-1 et seq. and the Academy Agreement regarding  
3 disposition of proceeds will take effect.

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

7 (D) If Open Space Exchange Lands are exchanged for land designated as  
8 Major Public Open Space by the Albuquerque/Bernalillo County  
9 Comprehensive Plan or other adopted City plans, no proceeds will be required  
10 to be deposited into the Robert M. White Open Space Trust Fund. Any  
11 payment to the Academy necessitated by such an exchange may be paid from  
12 the Open Space Trust Fund or from other available funds.

13 ('74 Code, § 4-11-3) (Ord. 72-1988; Am. Ord. 2015-028)

14 § 4-2-3-4 USE AND ADMINISTRATION OF THE ROBERT M. WHITE OPEN  
15 SPACE TRUST FUND INCOME.

16 The principal of the Robert M. White Open Space Trust Fund shall be  
17 maintained intact and interest earned thereon and other income will be utilized  
18 for the following purposes:

19 Up to 90% of the annual earnings generated by investments may be used for  
20 the acquisition of land designated for Major Public Open Space or for public  
21 easement or rights by the Albuquerque/Bernalillo County Comprehensive Plan  
22 or other adopted City plans, and/or may be reinvested as part of the principal  
23 of the Robert M. White Open Space Trust Fund, subject to the approval of the  
24 City Council upon recommendation by the Open Space Advisory Board. The  
25 remaining 10% of the earnings shall be added to the principal of the trust fund  
26 and reinvested.

27 § 4-2-3-5 DISPOSITION OF OPEN SPACE EXCHANGE LANDS.

28 Pursuant to the powers granted to the City under Article X, Section 6, of the  
29 New Mexico Constitution and the Charter of the City, the Council hereby  
30 adopts the following procedure specifically for the disposition of the Open  
31 Space Exchange Lands. The method set out herein is intended to be an  
32 alternative to the provisions governing disposition provided for in § 5-2-1 et

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1 seq., or any other laws or ordinances governing disposition of real property by  
2 the City.

3 (A) Methods of Disposition.

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

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

17 (b) For land that the City wishes to acquire for subsequent sale or  
18 exchange for lands designated as Major Public Open Space by the  
19 Albuquerque/Bernalillo County Comprehensive Plan or other adopted City  
20 plans.

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

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

30 (1) The Mayor shall report any final decision to dispose of any of the Open  
31 Space Exchange Lands to the City Council for its approval, and no sale, lease,  
32 exchange or other disposition of any of the Open Space Exchange Lands shall

1 occur without the notification of and an opportunity to comment by the Open  
2 Space Advisory Board prior to final approval of the City Council.

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

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

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

17 **§ 4-2-3-6 EXPIRATION.**

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

21 **§ 4-2-3-7 ADMINISTRATION OF THE TRUST FUND.**

22 (A) The Mayor with the advice of the City of Albuquerque Investment  
23 Committee ("Investment Committee") is authorized and directed to convey any  
24 funds appropriated to the Robert M. White Open Space Trust Fund to the City  
25 Treasurer or a trustee, with instructions to administer such fund as the Robert  
26 M. White Open Space Trust Fund for the uses and purposes set forth in this  
27 Article. The trust fund shall be permanent and irrevocable. Funds appropriated  
28 to the Robert M. White Open Space Trust Fund shall be invested in securities  
29 permitted by § 4-1-10 and subject to the City's investment policy in effect at  
30 the time of adoption of this section or as may be amended from time to time,  
31 and according to the recommendations and oversight of the Investment  
32 Committee.

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

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

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

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

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

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

27 SECTION 3. COMPILATION. The ordinance amendment prescribed by  
28 SECTION 1 shall amend, be incorporated in and made part of the Revised  
29 ordinances of Albuquerque, New Mexico, 1994.

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

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1 PASSED AND ADOPTED THIS 20<sup>th</sup> DAY OF November, 2023  
2 BY A VOTE OF: 9 FOR 0 AGAINST.

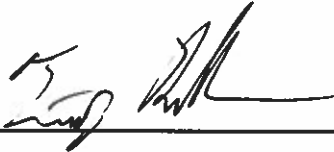
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Pat Davis, President  
City Council

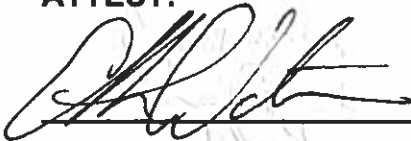
APPROVED THIS 7 DAY OF June, 2023

**Bill No. O-23-93**



Timothy M. Keller, Mayor  
City of Albuquerque

ATTEST:



Ethan Watson, City Clerk

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