



CITY OF RIO RANCHO
RESOLUTION

RESOLUTION NO. 37

ENACTMENT NO. 21-036

1 A RESOLUTION APPROVING THE APPLICATION AND PETITION OF LOS
2 DIAMANTES LLC AND LD DEVELOPMENT LLC, FOR FORMATION OF LOS
3 DIAMANTES PUBLIC IMPROVEMENT DISTRICT PURSUANT TO THE PUBLIC
4 IMPROVEMENT DISTRICT ACT, NMSA 1978, SECTIONS 5-11-1 to -27 (2001, AS
5 AMENDED THROUGH 2019) AND THE CITY OF RIO RANCHO PUBLIC
6 IMPROVEMENT DISTRICT GUIDELINES AND APPLICATION PROCEDURE;
7 MAKING FINDINGS IN CONNECTION WITH THE APPLICATION AND PETITION AND
8 SUPPORTING DOCUMENTATION REQUESTING APPROVAL OF THE FORMATION
9 OF THE DISTRICT; DETERMINING THE REAL PROPERTY TO BE INCLUDED
10 WITHIN THE DISTRICT AND THE PURPOSES FOR WHICH THE DISTRICT IS BEING
11 FORMED; APPROVING THE GENERAL PLAN, FEASIBILITY STUDY, RATE,
12 METHOD OF APPORTIONMENT FOR THE DISTRICT AND MANNER OF
13 COLLECTION OF A SPECIAL LEVY TO BE IMPOSED UPON REAL PROPERTY
14 WITHIN THE DISTRICT, AND APPROVING A DEVELOPMENT AGREEMENT FOR
15 THE DISTRICT; ESTABLISHING PARAMETERS AND AUTHORIZING THE DISTRICT
16 TO ISSUE SPECIAL LEVY BONDS; AUTHORIZING THE DISTRICT TO ISSUE
17 SUBORDINATE OBLIGATIONS; PROVIDING FOR GOVERNANCE OF THE
18 DISTRICT; PROVIDING THAT BONDS AND OTHER OBLIGATIONS OF THE
19 DISTRICT SHALL NOT BE OBLIGATIONS OF THE CITY; WAIVING CERTAIN
20 REQUIREMENTS TO FORMATION OF PUBLIC IMPROVEMENT DISTRICT;
21 RATIFYING CERTAIN ACTIONS HERETOFORE TAKEN; REPEALING ALL ACTIONS
22 INCONSISTENT WITH THIS FORMATION RESOLUTION; DIRECTING THE MAILING
23 OF A NOTICE OF ADOPTION OF THIS FORMATION RESOLUTION BY THE CITY
24 CLERK; AND TAKING RELATED ACTION

25
26 Capitalized terms used in the recitals below and not defined therein shall have the
27 meanings ascribed to such terms in Section 1 hereof.

28
29 **WHEREAS:** the New Mexico Public Improvement District Act, NMSA 1978, Sections 5-
30 11-1 to -27 (2001, as amended through 2019) provides that an application
31 and petition may be filed with the governing body of a municipality for the
32 formation of a public improvement district for the purpose of financing public
33 infrastructure improvements; that, unless waived pursuant to the Act, the
34 governing body shall hold a hearing to determine whether a public
35 improvement district should be formed; and, upon determination that
36 formation of a district is in the interest of the property owners and the
37 citizens of the governing body's municipal jurisdiction, shall order that the
38 public improvement district be formed, and that the district shall be formed
39 without an owner determination if the application and petition was submitted
40 by the owner(s) of 100% of the property proposed to be included within the
41 district; and

42
43 **WHEREAS:** the formation of a public improvement district may result in the imposition
44 of special levies to pay the costs of public infrastructure benefitting a public

1 improvement district; and
2

3 **WHEREAS:** the Act authorizes owners, public improvement districts and municipalities
4 to enter into development agreements to establish the obligations of the
5 owner or developer, the municipality and the public improvement district
6 concerning the zoning, subdivision, improvement, impact fees, financial
7 responsibilities, and other matters relating to the development,
8 improvement and use of real property within the district; and
9

10 **WHEREAS:** the City has enacted policy guidelines and application procedures for the
11 establishment of public improvement districts within the City; and
12

13 **WHEREAS:** the Applicant has presented an Application and Petition for Approval of the
14 Formation of Los Diamantes Public Improvement District and the following
15 documents in support of the Petition:

- 16 (i) a description of the proposed District, including a legal description
17 and current title report for the Real Property, the identity and
18 addresses of all persons or entities with any interest in the property,
19 evidence that no person is registered to vote within the Real Property
20 and that the owners of the Real Property have unanimously
21 consented to the formation of the District, and a description of the
22 appropriateness of the boundaries of the District;
- 23 (ii) a General Plan for the District, which includes, among other things,
24 a description of the District's boundaries, anticipated types and
25 locations of Infrastructure Improvements, information regarding the
26 future ownership and maintenance of the Infrastructure
27 Improvements, and adequate information to establish financial
28 parameters for operation of the District;
- 29 (iii) a Feasibility Study for the District, which includes a market
30 absorption study, description of improvements to be constructed,
31 construction schedule and financing plan for the Infrastructure
32 Improvements upon formation of the District, a description of the
33 Applicant's equity contribution and the timing and sources of the
34 contribution, and an operating plan for the Infrastructure
35 Improvements;
- 36 (iv) a Rate and Method of Special Levy Apportionment for the District in
37 sufficient detail to enable each owner or resident within the District
38 to estimate the maximum amount of the proposed District Special
39 Levy;
- 40 (v) an MAI Appraisal for the District;
- 41 (vi) a description of Applicant's development experience and financial
42 ability to complete the Infrastructure Improvements;
- 43 (vii) forms of Disclosure for the District of its District Special Levy;
- 44 (viii) a description of the consistency of the Infrastructure Improvements
45 with the City's development policies and objectives;
- 46 (ix) a Development Agreement for the District to be entered into by and
47 among the City, the District, and the Developer;
- 48 (x) a form of Intent Resolution for the District;
- 49 (xi) a form of Formation Resolution for the District; and

1 **WHEREAS:** except for those improvements that are dedicated and conveyed to another
2 governmental entity, the PID-Funded Infrastructure Improvements will be
3 designed and constructed according to all applicable City requirements, will
4 suitable for dedication to the City upon completion, and will be acquired by
5 a District and then dedicated to, owned and operated by the City; and
6

7 **WHEREAS:** pursuant to the Development Agreement, the District will fund the cost of
8 formation and acquisition of PID-Funded Infrastructure Improvements from
9 the Applicant with proceeds of (i) one or more series of District Bonds, as
10 provided in the Act, which will be payable from the District Special Levy,
11 and/or (ii) the collection of the District Special Levy, with or without the
12 issuance of the District Bonds, through, among other things, the satisfaction
13 of one or more Subordinate Obligations; and
14

15 **WHEREAS:** the City, the District and the Developer will agree to place a cap on the
16 maximum, aggregate amount payable by the District to the Developer to
17 reimburse the Costs of Construction of the PID Funded Infrastructure
18 Improvements; and
19

20 **WHEREAS:** pursuant to the Application, the District will (i) be responsible for imposing
21 the District Special Levy as provided in the Act, (ii) adopt procedures for the
22 foreclosure of delinquent District Special Levy liens on the Real Property,
23 and (iii) administer the District Special Levy, including any required
24 payments to the Sandoval County Assessor and Sandoval County
25 Treasurer from the proceeds of the District Special Levy; and
26

27 **WHEREAS:** pursuant to the Formation Documents, District collectively will finance and
28 acquire the PID-Funded Infrastructure Improvements to serve
29 approximately 136.9149 acres of land, located wholly within the corporate
30 boundaries of the City to consist of an estimated five hundred seventy-eight
31 (578) residential dwelling units, which is an authorized purpose and
32 appropriate use of a public improvement district as set forth in the PID
33 Guidelines; and
34

35 **WHEREAS:** the City Governing Body has considered the Application, adopted an Intent
36 Resolution on March 25, 2021, and has determined that proceeding further
37 with the formation of the District is consistent with the PID Guidelines and
38 promotes the interests, convenience or necessity of the owners, residents
39 of the District and citizens of the City of Rio Rancho.
40

41
42 **NOW THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY**
43 **OF RIO RANCHO:**
44

45 **Section 1. Defined Terms.** As used in this Formation Resolution, the following terms
46 shall have the meanings specified, unless the context clearly requires otherwise (such
47 meanings to be equally applicable to both the singular and the plural forms of the terms
48 defined):
49

50 A. "Act" means the Public Improvement District Act, NMSA 1978,

1 Sections 5-11-1 to -27 (2001, as amended through 2019) and the home rule powers and
2 all enactments of the Governing Body.

3 B. "AMAFCA" means the Albuquerque Metropolitan Arroyo Flood
4 Control Authority.

5 C. "Applicant" means Los Diamantes LLC, a New Mexico limited
6 liability company and LD Development LLC, a New Mexico limited liability company.

7 D. "Application" means the Application and Petition filed with the City
8 for the formation of Los Diamantes Public Improvement District and all documentation
9 incorporated by reference in the Petition, submitted to the City pursuant to the Act and
10 the PID Guidelines.

11 E. "Bond Resolution" means one or more resolutions of the District
12 Board authorizing issuance of one or more series of its District Bonds for the purpose of
13 financing the acquisition of the PID-Funded Infrastructure Improvements and other
14 eligible costs, which are subject to the financing parameters and other applicable
15 requirements established in this Formation Resolution.

16 F. "City" means the City of Rio Rancho, New Mexico.

17 G. "Clerk" means the City Clerk.

18 H. "Costs of Construction" means the costs described in Section 3.D(ii)
19 of the Development Agreement.

20 I. "Development Agreement" means the Infrastructure Development
21 and Acquisition Agreement dated as of even date herewith by and among the City, the
22 District, and the Developer, which agreement shall memorialize the obligations of the
23 District to the City and LD Development, LLC, shall be binding upon and enforceable
24 against the District immediately following adoption of this Formation Resolution, with no
25 further action by the District, and shall then be subsequently ratified and executed by the
26 District.

27 J. "Disclosure of District Special Levy" means the disclosure of special
28 levy in the forms attached as Exhibit 7 to the Application.

29 K. "District" means Los Diamantes Public Improvement District.

30 L. "District Board" means the governing body of the District.

31 M. "District Bonds" means one or more series of bonds or other
32 obligations proposed to be issued by the District pursuant to the Act, which are secured
33 by a first lien and pledge of the District Special Levy.

34 N. "District Boundary Map" means the map included in Exhibit A to the
35 General Plan for the District.

36 O. "District Special Levy" or "District Special Levies" means the special
37 levy or special levies to be collected from the Land pursuant to NMSA 1978, Section 5-
38 11-20 (2013), which shall remain in place on each parcel of Developed Platted Property
39 (as defined in the Rate and Method of Special Levy Apportionment) in a District for a term
40 not greater than thirty-five (35) years commencing with the fiscal year that the parcel is
41 first classified as Developed Platted Property and concluding upon the earlier of the
42 expiration of the term of the applicable Development Agreement, or the 35th anniversary
43 of the fiscal year that the special levy or special levies are first collected for that parcel of
44 Developed Platted Property pursuant to NMSA 1978, Section 5-11-20 (2013).

45 P. "Feasibility Study" means the study of the estimated costs and
46 financing methods of the Infrastructure Improvements for the District, including the Plan
47 of Finance, submitted by the Applicant in connection with the Application and as
48 supplemented or amended from time to time.

49 Q. "Formation Documents" means the Application, the Petition, the
50 General Plan, the Feasibility Study, the Rate and Method of Special Levy Apportionment,

1 the Development Agreement, and such other documents as are required by the Act and
2 the PID Guidelines to be submitted by the Applicant in connection with an application for
3 the formation of the District.

4 R. "Formation Resolution" means this resolution adopted by the
5 Governing Body in connection with its approval of the formation of the District.

6 S. "General Plan" means the General Plan submitted by the Applicant
7 in connection with the Application and as amended from time to time, which is on file with
8 the Clerk and includes, among other information, a map depicting the boundaries of the
9 District and the real property proposed to be included in the District, a general description
10 of anticipated improvements and their locations, and general cost estimates, proposed
11 financing methods and anticipated District Special Levies.

12 T. "Governing Body" means the governing body of the City.

13 U. "Infrastructure Improvements" means the PID-Funded Infrastructure
14 Improvements for the District, as well as all other public and private improvements on the
15 Land to be financed from sources other than the District Special Levy for the District.

16 V. "Intent Resolution" means the resolution described in NMSA 1978,
17 Section 5-11-3 (2013), in which the Governing Body declared its intent to form the District.

18 W. "Land" means the real property described in the District Boundary
19 Map for the District.

20 X. "MAI Appraisal" means the valuation of the Real Property as of
21 March 1, 2021, as prepared by David Pearson, MAI.

22 Y. "Petition" means the petition for formation of District submitted by the
23 Petitioner to the City pursuant to the Act and the PID Guidelines, which contains the
24 signature of the owner of one hundred percent (100%) of the Real Property and requests
25 that the City declare the District formed without requiring compliance with the provisions
26 for posting, publication, mailing, notice, hearing and owner determination provided in the
27 Act.

28 Z. "Petitioner" means Los Diamantes, LLC, a New Mexico limited
29 liability company, which is the sole owner of 100% of the Real Property.

30 AA. "PID-Funded Infrastructure Improvements" means the portion of the
31 Infrastructure Improvements financed with the proceeds of the District Bonds,
32 Subordinate Obligations, and/or revenues of the District derived from the collection of the
33 District Special Levy, as identified in the General Plan and the Plan of Finance.

34 BB. "PID Guidelines" means the City Administrative Policies and
35 Procedures Sections 2-10-1 through -8, known as the Public Improvement District
36 Guidelines and Applications Procedures.

37 CC. "Plan of Finance" means the plan of finance included at Section VI
38 of the Feasibility Study.

39 DD. "Rate and Method of Special Levy Apportionment" means the rate,
40 method of apportionment and manner of collection of the District Special Levy submitted
41 by the Applicant in connection with the Application and as supplemented or amended
42 from time to time.

43 EE. "Real Property" means the real property located within the
44 boundaries of the District, described in the District Boundary Map.

45 FF. "Reimbursement Cap" has the meaning assigned in Recital H of the
46 Development Agreement.

47 GG. "SSCAFCA" means the Southern Sandoval County Arroyo Flood
48 Control Authority.

49 HH. "State" means the State of New Mexico.

50 II. "Subordinate Obligations" means one or more subordinate bonds,

1 subordinate promissory notes and/or other subordinate obligations, secured by a second
2 priority pledge of the District Special Levy and constituting a reimbursement obligation,
3 issued by the District to memorialize the obligation of the District to pay the costs of PID-
4 Funded Infrastructure Improvements received by the District.

5
6 **Section 2. Construction of Formation Resolution.** Except as otherwise expressly
7 provided in this Formation Resolution, or unless the context otherwise requires:
8

9 A. All words and phrases shall be construed and understood according
10 to the common and approved usage of language, but technical words and phrases and
11 such others as may have acquired a peculiar and appropriate meaning in the law shall be
12 construed and understood according to such peculiar and appropriate meaning.

13 B. The singular includes the plural and the plural includes the singular.

14 C. Words importing any gender include the other gender.

15 D. All references to Sections shall refer to Sections of this Formation
16 Resolution, unless otherwise stated.

17 E. "Herein," "hereby," "hereunder," "hereof," "hereinbefore" and
18 "hereafter" refer to this Formation Resolution and not solely to the particular portion of this
19 Formation Resolution in which such word is used.

20 F. All times will be local time in the City unless otherwise designated in
21 this Formation Resolution.
22

23 **Section 3. Findings.** The City hereby declares that it has considered the Application
24 and all other relevant information and data, and hereby makes the following findings:
25

26 A. The Petitioner owns 100% of the Real Property and no person is
27 registered to vote within the Real Property within the seventy days immediately preceding
28 the date of adoption of this Formation Resolution.

29 B. As planned and proposed by the Applicant, the Infrastructure
30 Improvements to be conveyed to the City by the District have been or will be constructed
31 to City specifications and will be subject to inspection, approval and acceptance by the
32 City prior to conveyance to the City, as described in the Development Agreement.

33 C. The District Bonds and Subordinate Obligations of the District will not
34 be backed by the credit, general funds or resources of the City in any manner. Owners
35 of the District Bonds or the Subordinate Obligations of the District will have no right to
36 require the City or the District to impose ad valorem property taxes to pay amounts due
37 under the District Bonds or the Subordinate Obligations of the District.

38 D. The District will serve the interests, convenience and necessity of the
39 Applicant, the Petitioner, the future owners of the Real Property and the citizens of the
40 City:

41 (i) The District will be utilized to finance the PID-Funded
42 Infrastructure Improvements benefitting the Land, which will be developed as a master
43 planned development, consisting of residential uses;

44 (ii) The information provided in the Application provides a
45 reasonable basis upon which the Governing Body has determined that all the Real
46 Property is directly or indirectly benefited by the District, as contemplated by NMSA 1978,
47 Sections 5-11-2(S) (2019) and 5-11-6(A) (2019);

48 (iii) The cost of constructing the PID-Funded Infrastructure
49 Improvements of the District will be apportioned in a reasonable manner among the
50 owners of the District's Land, in accordance with the Rate and Method of Special Levy

1 Apportionment, and will not be passed on to the citizens of the City, other than the owners
2 of the District's Land, or the City itself;

3 (iv) The City will receive the benefit of the PID-Funded
4 Infrastructure Improvements of the District through dedication of the Infrastructure
5 Improvements not otherwise dedicated to SSCAFCA or AMAFCA.

6 E. The Applicant has the financial capacity to undertake the
7 development of the Infrastructure Improvements.

8 F. The Plan of Finance is feasible and will not impose an undue burden
9 on the future owners of the District's Land or served by the PID-Funded Infrastructure
10 Improvements.

11 G. The Plan of Finance will enable the District to acquire the PID-
12 Funded Infrastructure Improvements in a cost-effective manner.

13 H. The District is planned and will be implemented in a manner which
14 provides for the expenses to be paid by the Applicant and the District, as applicable.

15 I. As planned, the District and the PID-Funded Infrastructure
16 Improvements are consistent with the City's existing development goals, growth
17 management policies, and conservation policies.

18 J. The formation of the District and the issuance of the District Bonds
19 and Subordinate Obligations, subject to the requirements and limitations specified in this
20 Formation Resolution, are consistent with the requirements of the PID Guidelines.

21
22 **Section 4. Formation of District; District Foreclosure Procedures for Delinquent**
23 **Special Levies; Property Tax Levy.**
24

25 A. Los Diamantes Public Improvement District are hereby ordered
26 approved and formed to carry out the purposes set forth in, and according to the
27 provisions of, this Formation Resolution. The District shall include the Land, which is the
28 real property described in the General Plan's District Boundary Map and more particularly
29 identified in the legal description attached as Exhibit 1 to the Application.

30 B. The Application is hereby accepted and approved.

31 C. The General Plan is hereby accepted and approved.

32 D. The Feasibility Study is hereby accepted and approved. The District
33 shall implement and reasonably carry out the Plan of Finance.

34 E. The Development Agreement is hereby accepted and approved.
35 The City Manager of the City is hereby authorized and directed to execute the
36 Development Agreement on behalf of the City. Any changes, insertions, deletions and
37 modifications to any Development Agreement shall be deemed to have been approved
38 by the Governing Body upon execution and delivery of that Development Agreement by
39 the City Manager of the City, such execution and delivery to be conclusive evidence of
40 such approval. The District shall be a party to the Development Agreement, as approved
41 by the Governing Body, immediately upon formation of the District and without any further
42 action by the District and shall be bound to the obligations set forth therein.

43 F. The Rate and Method of Special Levy Apportionment, establishing
44 the apportionment and manner of collection of the District Special Levy in sufficient detail
45 to enable each owner of all or a portion of the Land or resident within the District to
46 estimate the maximum amount of the proposed District Special Levy, is hereby accepted
47 and approved.

48 G. The forms of Disclosure of District Special Levy are hereby
49 approved.

50 H. The District shall have the powers necessary and convenient to pay,

1 subject to the Reimbursement Cap, a portion of the costs of the District, including
2 administrative and formation costs, and finance the acquisition of the PID-Funded
3 Infrastructure Improvements as provided in the Formation Documents. The District and
4 the City shall be bound by the terms thereof; however, the Formation Documents
5 (excluding the Development Agreement) may be amended or supplemented by the
6 District, without further action by the City, provided that such amendment or supplement
7 is within the financial parameters set by this Formation Resolution.

8 I. The officers, agents and employees of the City are hereby directed,
9 authorized and empowered to do all acts and things and to execute and deliver all
10 documents relating to or requested by the District and necessary to carry out and comply
11 with the provisions of the Formation Documents.

12 J. The principal purpose of the District shall be to finance the acquisition
13 of the PID-Funded Infrastructure Improvements.

14 K. The District Special Levy to be imposed by the District shall not
15 exceed the maximum amounts set forth in the Application, subject to adjustment
16 consistent with the terms of the Act and the Rate and Method of Special Levy
17 Apportionment.

18 L. The District shall be self-supporting, as provided in Section 3(D) of
19 the PID Guidelines.

20 M. The financing proposed in the Application and other Formation
21 Documents meet the applicable requirements of Section 7 of the PID Guidelines.

22 N. The District Board shall use its best efforts to hold a public meeting
23 within 60 days following the date of adoption of this Formation Resolution. At that
24 meeting, the District Board shall adopt an open meeting policy and bylaws; ratify and
25 execute the Development Agreement, the terms of which shall be binding upon and
26 enforceable against the District immediately upon formation notwithstanding this
27 instruction by the Governing Body to the District Board; direct the recording of its
28 Development Agreement, its notice of formation, its notice of information, and certain
29 related filings with the Sandoval County Clerk, as contemplated by the Act; establish local
30 procedures, in the form attached to this Formation Resolution as Exhibit A, for conducting
31 an owner determination by unanimous written approval of the owners in affidavits
32 executed by the owners and confirmed by the district board; and, in compliance with
33 NMSA 1978, Section 5-11-8(D) (2017), take such other action toward administering in a
34 reasonable manner the implementation of its General Plan including, but not limited to,
35 the imposition of its District Special Levy, the acquisition of its PID-Funded Infrastructure
36 Improvements, and the issuance of its District Bonds and/or Subordinate Obligations, as
37 authorized by this Formation Resolution.

38 O. Pursuant to the authority granted in NMSA 1978, Sections 5-11-20(I)
39 (2013) and 5-11-23(F) (2019), the District shall establish procedures for foreclosure of the
40 delinquent District Special Levies and for redemption of the foreclosed property, which
41 procedures shall be substantially similar to the foreclosure and redemption procedures
42 applicable to Municipal Improvement Districts set forth in NMSA 1978, Sections 3-33-28
43 to -30 (1965, as amended through 1991), and as set forth for the District in the
44 Development Agreement approved by this Formation Resolution.

45
46 **Section 5. Authorization of District Bonds.** In compliance with Section 2-10-6(H) of
47 the PID Guidelines, the District may issue District Bonds pursuant to the terms of the
48 Development Agreement and one or more Bond Resolutions in the amounts and subject
49 to the financing requirements and limitations set forth in this Formation Resolution,
50 including the Reimbursement Cap.

1 A. Each Bond Resolution shall include, at minimum, the following
2 provisions for the protection of owners of the Bonds:

3 (i) Each Bond Resolution shall provide for the establishment of a
4 debt service reserve fund in an amount acceptable to the District Board.

5 (ii) Each Bond Resolution shall include provisions for the public
6 offering or private placement of District Bonds in accordance with Section 7(F) of the PID
7 Guidelines unless, in accordance with the PID Guidelines then in effect, the Governing
8 Body, determines otherwise, based upon the recommendations made by underwriters or
9 financial consultants to the City.

10 (iii) Each Bond Resolution shall provide that the District Bonds
11 shall be sold pursuant to a limited public offering or private placement and issued in such
12 denominations as determined by the District Board.

13 (iv) The minimum maturity of District Bonds shall be at least one
14 day. The final maturity date for each series of District Bonds shall not be more than 30
15 years after the date of issuance of such series of District Bonds by a District.

16 (v) Each Bond Resolution shall include provisions for
17 appointment of a trustee pursuant to an indenture of trust, a supplemental indenture of
18 trust, or other similar instrument.

19 (vi) The District Bonds of the District shall bear interest at rates
20 not to exceed 12% per annum.

21 (vii) The maximum aggregate principal amount of District Bonds
22 issued by the District shall not exceed the estimated cost of the PID-Funded Infrastructure
23 Improvements to be financed by the District, as determined at the time a series of District
24 Bonds is issued by the District, plus all costs connected with the issuance and sale of the
25 District Bonds, including, without limitation, formation costs, credit enhancement and
26 liquidity support fees and costs.

27 B. In addition to any other express or implied authority granted by the
28 Act and the PID Guidelines, the District may issue Subordinate Obligations pursuant to
29 NMSA 1978, Sections 5-11-10 (2001) and -20 (2013), the Formation Documents, and the
30 terms of one or more resolutions of the District Board authorizing issuance of one or more
31 Subordinate Obligations, for the purpose of memorializing and/or satisfying the obligation
32 of the District to pay for the value of the PID-Funded Infrastructure Improvements
33 received by the District.

34
35 **Section 6. District Governance.**

36
37 A. The District Board shall initially be composed of the five (5) members:

38 (i) one of whom shall be a representative from the City
39 Manager's Office, which member shall initially be Peter Wells;

40 (ii) one of whom shall be the Director of the Financial Services
41 Department, who is currently Carole Jaramillo ;

42 (iii) one of whom shall be the Director of the Development
43 Services Department, who is currently Matthew Geisel;

44 (iv) two members nominated by the Applicant, and consented to
45 by the Governing Body, which members shall initially be Pierre Amestoy and Christine
46 Amestoy.

47 B. Matthew Geisel, Peter Wells, and Pierre Amestoy shall serve 6-year
48 terms for the District. Carole Jaramillo and Christine Amestoy shall serve 4-year terms
49 for the District.

50 C. Pursuant to NMSA 1978, Section 5-11-6(A) (2019), Pierre Amestoy

1 is appointed to be the clerk of the District and Christine Amestoy is appointed to be
2 treasurer of the District.

3 D. At the end of the appointed directors' initial terms, a new slate of
4 directors for the District Board will be selected in compliance with the Act.

5
6 **Section 7. Waiver of Additional Hearing and Election.** Based on the information
7 provided by the Applicant in the Application, the Petition has been signed by and on behalf
8 of the owners of 100% of the Real Property to be included in the proposed District and no
9 person is registered to vote within the proposed areas of the District, and on that basis
10 the City waives the requirements for posting, publication, mailing, notice, hearing and
11 owner determination, as authorized by NMSA 1978, Section 5-11-7(F) (2019), to the
12 extent not performed. Furthermore, since no person is registered to vote on the Real
13 Property, which comprises the proposed district areas, there will be no election
14 concerning the formation of the District pursuant to NMSA 1978, Section 5-11-7(G)
15 (2019).

16
17 **Section 8. Notice of Adoption of Formation Resolution.** In compliance with NMSA
18 1978, Section 5-11-8(A) (2017), the Clerk is hereby directed to cause a copy of this
19 Formation Resolution to be delivered, by certified mail, return receipt requested, to the
20 Sandoval County Assessor, the Sandoval County Treasurer, the Sandoval County
21 Manager, the Secretary of the New Mexico Taxation and Revenue Department, and the
22 Director of the Local Government Division of the New Mexico Department of Finance and
23 Administration.

24
25 **Section 9. Amendments.** This Formation Resolution may be amended or
26 supplemented by ordinance or resolution adopted by the Governing Body in accordance
27 with the laws of the City and the State.

28
29 **Section 10. Repealer.** All ordinances or resolutions, or parts thereof in conflict with the
30 provisions of this Formation Resolution, are hereby repealed to the extent only of such
31 inconsistency. To the extent, if any, that this Formation Resolution conflicts with any
32 provision of the PID Guidelines, such provision is waived solely with respect to the
33 formation of and other matters concerning the District, and the PID Guidelines shall
34 remain in full force and effect in connection with any other application or project to which
35 the PID Guidelines applies or may apply in the future. This repealer shall not be construed
36 to revive any ordinance or resolution, or part thereof, heretofore repealed.

37
38 **Section 11. Severability.** If any section, paragraph, clause or provision of this
39 Formation Resolution shall for any reason be held to be invalid or unenforceable, the
40 invalidity or unenforceability of such section, paragraph, clause or provision shall in no
41 manner affect any remaining provisions of this Formation Resolution.

42
43 *[The remainder of this page intentionally left blank.]*
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ADOPTED THIS 8TH DAY OF APRIL, 2021.



Greggory D. Hull, Mayor

ATTEST:



Rebecca A. Martinez, City Clerk
(SEAL)

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2
3

EXHIBIT A
LOCAL PROCEDURES FOR CONDUCTING OWNER DETERMINATION

1 SECTION 1. AUTHORITY; PURPOSE OF PROCEDURES.

2
3 A. The Los Diamantes Public Improvement District (the "District") is a public
4 improvement district located in the City of Rio Rancho (the "City"), duly created and
5 existing pursuant to the Public Improvement District Act, NMSA 1978, Sections 5-11-1 to
6 -27 (2001, as amended through 2019) (the "Act"), Sections 2-10-1 to -8, City of Rio
7 Rancho Administrative Policies and Procedures and City of Rio Rancho City Council
8 Resolution No. _____, adopted April 8, 2021 (the "Formation Resolution").
9

10 B. The Formation Resolution instructed the governing body of the District (the
11 "District Board") to establish local procedures for noticing, conducting and canvassing
12 owner determinations (a "Determination"). A Determination is not a local election for
13 purposes of the Local Election Act, NMSA 1978, Sections 1-22-1 to -19 (1985, as
14 amended through 2019). The Act permits a Determination to be made by unanimous
15 written approval of the owner or owners in affidavits executed by the owner or owners
16 and confirmed in a review by the District Board.
17

18 C. In the absence of registered voters in the District or, if applicable, in a
19 proposed additional area, a Determination prevails subject to NMSA 1978, Section 5-11-
20 7(G) (2019).
21

22 D. The District shall follow the steps described in these Local Procedures to
23 undertake a Determination while no person is registered to vote in the District or, if
24 applicable, in a proposed additional area, and the land in the District is owned by Los
25 Diamantes LLC, LD Development, LLC, and/or a homebuilder.
26

27 SECTION 2. LOCAL DETERMINATION PROCEDURES.

28
29 A. As identified by District resolution (the "Determination Resolution"), the
30 District Board shall present one or more questions to each owner of land in the District,
31 and, if applicable, each owner of land in a proposed additional area, for a Determination.
32 The District Board may rely on staff or third parties to identify and deliver notice and other
33 Determination materials to all owners of land, as applicable.
34

35 B. The Determination shall respond to a question from the District Board and
36 be submitted by the owner or owners to the clerk of the District by affidavit (the
37 "Determination Affidavit") in substantially the form attached to these Local Procedures as
38 Exhibit 1, which Determination Affidavit may be executed in counterpart. The applicable
39 owners shall return the Determination Affidavit in the manner provided in the
40 Determination Resolution. Any Determination Affidavit not timely returned as provided in
41 the Determination Resolution shall be a rejection of the question presented in the
42 Determination Resolution.
43

44 C. Within fifteen (15) days of expiration of the deadline for returning the
45 Determination Affidavit as provided in the Determination Resolution, the District clerk, or
46 such other designee as identified in the Determination Resolution, shall:
47

48 (1) review and confirm whether a Determination Affidavit has
49 been received from all owners eligible to submit a Determination Affidavit;
50

1 (2) if all possible Determination Affidavits are received in the
2 manner provided by the Determination Resolution, review and confirm each
3 Determination Affidavit and conduct, consider and canvass the Determination; and

4
5 (3) prepare a certificate of canvassing (the "Certificate") for
6 recording in the District's minute book, which Certificate shall indicate which questions
7 received unanimous approval in the Determination and which questions did not receive
8 unanimous approval in the Determination.

9
10 D. As of the date of the Certificate, the Determination shall prevail and be
11 binding and conclusive.
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EXHIBIT 1
DETERMINATION AFFIDAVIT

DETERMINATION AFFIDAVIT OF THE OWNERS

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The undersigned (the "Owners") state and affirm under penalty of perjury under the laws of the State of New Mexico that the following statements are true and correct:

- 1. The Owners are the sole owners of all the land (the "Land") identified in Exhibit A, which is attached hereto and incorporated herein by reference.
- 2. The Owners certify that there are no qualified electors, as that term is used throughout the Public Improvement District Act, NMSA 1978, Sections 5-11-1 to -27 (2001, as amended through 2019) (the "Act"), located on the Land.
- 3. In compliance with the Act, the Owners unanimously authorize the following (the "Action"):
[INSERT ACTION].
- 4. The Owners unanimously approve the Action.

Further affiants sayeth naught.
Date: _____, 20__

□

□

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EXHIBIT A
THE LAND