



CITY OF RIO RANCHO
RESOLUTION

RESOLUTION NO. 82

ENACTMENT NO. 20-081

1 **APPROVING THE PETITION OF LOS DIAMANTES LLC, A NEW MEXICO LIMITED**
2 **LIABILITY COMPANY FOR FORMATION OF THE LOS DIAMANTES TAX**
3 **INCREMENT DEVELOPMENT DISTRICT PURSUANT TO THE TAX INCREMENT**
4 **FOR DEVELOPMENT ACT, NMSA 1978, SECTIONS 5-15-1 TO -29 (2006, AS**
5 **AMENDED THROUGH 2019); MAKING FINDINGS IN CONNECTION WITH THE**
6 **PETITION AND SUPPORTING DOCUMENTATION REQUESTING APPROVAL OF**
7 **THE FORMATION OF THE DISTRICT; DETERMINING THE REAL PROPERTY TO**
8 **BE INCLUDED WITHIN THE DISTRICT AND THE PURPOSE FOR WHICH THE**
9 **DISTRICT IS BEING FORMED; APPROVING THE APPLICATION, PETITION, AND**
10 **TIDD DEVELOPMENT AGREEMENT FOR IMPLEMENTATION OF THE DISTRICT;**
11 **RATIFYING THE TAX INCREMENT DEVELOPMENT PLAN APPROVED FOR**
12 **CONSIDERATION IN CONNECTION WITH THE FORMATION OF THE DISTRICT;**
13 **DEDICATING REVENUES FROM UP TO SEVENTY-FIVE PERCENT (75%) OF**
14 **CERTAIN GROSS RECEIPTS TAX INCREMENTS FOR FINANCING THE**
15 **ACQUISITION OF PUBLIC INFRASTRUCTURE BY THE DISTRICT AS PROVIDED**
16 **IN THE DISTRICT'S TAX INCREMENT DEVELOPMENT PLAN AND TIDD**
17 **DEVELOPMENT AGREEMENT; ESTABLISHING PARAMETERS FOR THE**
18 **ISSUANCE OF TAX INCREMENT BONDS; AUTHORIZING THE DISTRICT TO ISSUE**
19 **SUBORDINATE OBLIGATIONS; PROVIDING FOR GOVERNANCE OF THE**
20 **DISTRICT THROUGH THE APPOINTMENT OF MEMBERS OF THE GOVERNING**
21 **BODY OF THE DISTRICT; PROVIDING THAT BONDS AND SUBORDINATE**
22 **OBLIGATIONS OF THE DISTRICT SHALL NOT BE OBLIGATIONS OF THE CITY OF**
23 **RIO RANCHO; RATIFYING CERTAIN ACTIONS HERETOFORE TAKEN;**
24 **REPEALING ALL ACTIONS INCONSISTENT WITH THIS RESOLUTION; AND**
25 **TAKING OTHER ACTIONS RELATED TO THE FORMATION OF THE DISTRICT**

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

29
30 **WHEREAS:** the Act provides in part that the owners of real property may petition the
31 governing body of the municipality in which the real property is located for
32 the formation of tax increment development districts to provide gross
33 receipts tax increment financing and property tax increment financing for
34 public infrastructure in order to support economic development and job
35 creation; that the governing body shall hold a hearing to determine whether
36 a tax increment development district should be formed; and, upon
37 determination that formation of a tax increment development district is in the
38 interest of the property owner and the citizens of the governing body's
39 jurisdiction, shall order that the tax increment development district be
40 formed; and that each of an owner determination and an election for the
41 formation of the tax increment development district may be waived and
42 cancelled, respectively, pursuant to NMSA 1978, Section 5-15-8 (2019) and
43 the tax increment development district formed if the petition was submitted
44 by the owner(s) of one hundred percent (100%) of the real property

1 proposed to be included within the tax increment development district and
2 the city has received evidence that no persons are registered to vote within
3 the area of the proposed tax increment development district; and
4

5 **WHEREAS:** the Applicants have submitted to the City an Application for the formation of
6 the District, which meets all qualifications of the Act and the City Policy
7 Guidelines, and includes, without limitation, a Tax Increment Development
8 Plan, the District Boundary Map, which depicts the boundaries of the
9 District, a Financial Feasibility Study, and a proposed TIDD Development
10 Agreement; and
11

12 **WHEREAS:** pursuant to the Application, the purpose of the District is to finance a portion
13 of the Costs of Construction of on-site improvements and off-site public
14 improvements that directly or indirectly benefit or otherwise facilitate
15 development of approximately 173.1690 acres of land, in the aggregate,
16 known generally as known as Los Diamantes and generally located south
17 of Southern Boulevard, north of Isabel Road and west of Unser Boulevard
18 in the City; and
19

20 **WHEREAS:** the Applicants estimate that the total Costs of Construction of the TIDD
21 Infrastructure Improvements, in 2020 dollars, is \$31,865,507; and
22

23 **WHEREAS:** NMSA 1978, Sections 5-15-4(A) (2009) and -12(A)(1) (2006) authorize
24 owners, tax increment development districts, and municipalities, among
25 other parties, to enter into development agreements to establish the
26 obligations of the owner or developer, the municipality and the tax increment
27 development district concerning matters relating to the development of the
28 real property; and
29

30 **WHEREAS:** the City Policy Guidelines established policy guidelines and application
31 procedures for the formation of tax increment development districts within
32 the City; and
33

34 **WHEREAS:** the Applicants have presented a Petition for formation of the District, and
35 the following documents and information in support of the Petition, which
36 documents collectively constitute the Application:
37

- 38 (i) a legal description and boundary map of the proposed District,
39 including a legal description and map of the District's boundaries;
- 40 (ii) evidence of the unanimous consent of owners of the Land and a
41 current title report for the Land as evidence (a) of the identity and
42 addresses of all persons or entities with any interest in the Land and
43 (b) that there are no persons are registered to vote at the Land;
- 44 (iii) a detailed description of the TIDD Infrastructure Improvements to be
45 financed by the District, including the estimated construction or
46 acquisition costs, projection of working capital needs, including
47 adequate funds for repair and replacement of infrastructure, annual
48 operation and maintenance costs of the TIDD Infrastructure
49 Improvements and the required governmental approvals and

- 1 licenses;
- 2 (iv) a proposed schedule for commencement and completion of the TIDD
- 3 Infrastructure Improvements and the Additional Improvements;
- 4 (v) the Tax Increment Development Plan for the District setting forth the
- 5 information required by the City Policy Guidelines and the Act, which
- 6 has been approved by the Governing Body pursuant to NMSA 1978,
- 7 Section 5-15-4(A) (2009) and is on file with the Clerk, and subject to
- 8 further proceedings and additional necessary approvals of the
- 9 Governing Body concerning the formation of the District;
- 10 (vi) an operating plan for the District;
- 11 (vii) a Financial Feasibility Study setting forth information required by the
- 12 Act and the City Policy Guidelines;
- 13 (viii) a Market Demand Study setting forth the information required by the
- 14 City Policy Guidelines;
- 15 (ix) a description of Applicants' development experience and financial
- 16 ability to complete the TIDD Infrastructure Improvements and the
- 17 Additional Improvements;
- 18 (x) a description of how the District meets the City's existing
- 19 development objectives, including a compliance certificate;
- 20 (xi) a proposed TIDD Development Agreement to be entered into by the
- 21 Developer, the City, and the District; and
- 22 (xii) proposed forms of the Intent Resolution, Increment Dedication
- 23 Ordinances, and the Formation Resolution; and
- 24

25 **WHEREAS:** except to the extent TIDD Infrastructure Improvements are dedicated and

26 conveyed to the SSCAFCA, AMAFCA or another governmental entity or as

27 otherwise described in the TIDD Development Agreement, the TIDD

28 Infrastructure Improvements are to be designed and constructed according

29 to all applicable City standards, and therefore suitable for conveyance to

30 the City upon completion, and shall be acquired by the District and then

31 dedicated to, owned and operated by the City; and

32

33 **WHEREAS:** the Application proposes that a portion of the total cost of the TIDD

34 Infrastructure Improvements will be satisfied from the proceeds of (i) Bonds

35 payable from the Gross Receipts Tax Increment revenues and/or (ii)

36 Subordinate Obligations payable from the Gross Receipts Tax Increment

37 revenues and/or proceeds of Bonds; and

38

39 **WHEREAS:** the City, the District and the Developer will agree to limit the total

40 reimbursement payable to the Developer by placing a cap on the total Gross

41 Receipts Tax Increment revenues to be distributed by the New Mexico

42 Taxation and Revenue Department to the District from the City GRT

43 Increment Dedication, as well as the maximum total amount payable by the

44 District to the Developer for reimbursement of the Costs of Construction of

45 the TIDD Infrastructure Improvements; and

46

47 **WHEREAS:** the Application also proposes that administrative and other costs of the

48 District may be satisfied from the Gross Receipts Tax Increment revenues;

49 and

50

51 **WHEREAS:** the City will have no responsibility for construction of the TIDD Infrastructure

1 Improvements or payment of the Bonds and Subordinate Obligations; and

2
3 **WHEREAS:** pursuant to NMSA 1978, Sections 5-15-15 (2019) and -17 (2006), the
4 Applicants requested in their Application the dedication by the City of the
5 revenues generated within the District by up to seventy-five percent (75%)
6 of the gross receipts tax increment of a portion of the municipal option gross
7 receipts tax eligible for dedication to the District and the state-shared
8 distribution pursuant to NMSA 1978, Section 7-1-6.4 (2019); and

9
10 **WHEREAS:** the City will adopt Increment Dedication Ordinances to dedicate to the
11 District's Tax Increment Development Project the applicable increments of
12 the City's municipal option gross receipts and revenue from the distribution
13 from gross receipts tax revenues of the State of New Mexico pursuant to
14 NMSA 1978, § 7-1-6.4 (2019) to be utilized by the District's governing body
15 in the implementation of its Tax Increment Development Plan; and

16
17 **WHEREAS:** the Petitioner certifies that it owns 100% of the Land, and that no persons
18 are registered to vote within any of the proposed District areas and that,
19 consequently, no owner determination or formation election is required
20 pursuant to NMSA 1978, Sections 5-15-8 (2019); and

21
22 **WHEREAS:** the Governing Body has considered the Application and related submittals
23 by the Applicants, has conducted a public hearing as provided by NMSA
24 1978, Section 5-15-6 (2009) and NMSA 1978, Section 5-15-7 (2019), and
25 has determined that the formation of the District is consistent with the City
26 Policy Guidelines and promotes the interests, convenience or necessity of
27 the owners and residents of the District and citizens of the City.

28
29 **NOW THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF**
30 **RIO RANCHO:**

31
32 **Section 1. Defined Terms.** As used in this Formation Resolution, including the recitals
33 above, the following terms shall have the meanings specified, unless the context clearly
34 requires otherwise (such meanings to be equally applicable to both the singular and the
35 plural forms of the terms defined):

- 36 A. "Act" means the Tax Increment for Development Act, NMSA 1978,
37 Sections 5-15-1 to -29 (2006, as amended through 2019).
38 B. "Additional Improvements" means on-site and off-site infrastructure
39 improvements, other than the TIDD Infrastructure Improvements,
40 which are to be constructed and financed through sources other than
41 the District, as described in the Tax Increment Development Plan.
42 C. "AMAFCA" means the Albuquerque Metropolitan Arroyo Flood
43 Control Authority.
44 D. "Applicants" means the Petitioner and the Developer.
45 E. "Application" means the documents submitted by the Applicants to
46 the City in support of the Petition pursuant to the Act and the City
47 Policy Guidelines.
48 F. "Bond Resolution" means a resolution of the governing body of the
49 District authorizing the issuance of District Obligations for the
50 purpose of financing TIDD Infrastructure Improvements and other

1 eligible costs, which are subject to the financing parameters and
2 other applicable requirements established in this Formation
3 Resolution.

4 G. "Bonds" means bonds issued by the District in accordance with the
5 TIDD Legislation and secured by the City GRT Increment Dedication.

6 H. "City" means the City of Rio Rancho, New Mexico.

7 I. "City GRT Increment Dedication" has the meaning assigned in
8 Section 7.A of this Formation Resolution.

9 J. "City Increment Dedication Period" means, as to the District, the
10 period commencing on the City Increment Dedication Period
11 Commencement Date and ending on the first to occur of reaching
12 the Reimbursement Cap or the 25th Anniversary Date; and provided
13 further that the City Increment Dedication Period shall be extended
14 by a period, not to exceed two years, for the purpose of enabling the
15 District to make any budgeted expenditures in satisfaction of
16 obligations to third parties for accounting, financial, legal or other
17 administrative services.

18 K. "City Increment Dedication Period Commencement Date" means, as
19 to the District, the date of the first issuance of District Obligations by
20 the District.

21 L. "Clerk" means the City Clerk.

22 M. "Costs of Construction" means the costs described in Section 3.D(ii)
23 of the TIDD Development Agreement.

24 N. "County" means the Sandoval County, New Mexico, a political
25 subdivision of the State, acting through its County Commission.

26 O. "City Policy Guidelines" means the City's Tax Increment
27 Development District Guidelines and Application Procedures.

28 P. "Developer" means LD Development LLC, a New Mexico limited
29 liability company.

30 Q. "District" means the Los Diamantes Tax Increment Development
31 District.

32 R. "District Board" means the governing body of the District.

33 S. "District Boundary Map" means the map attached as Exhibit A to the
34 District's Tax Increment Development Plan.

35 T. "District Obligations" means the Bonds and the Subordinate
36 Obligations.

37 U. "Financial Feasibility Study" means the study of the feasibility, the
38 financing plan and analysis and the estimated costs of
39 improvements, services and benefits to result from the formation of
40 the proposed District submitted by the Applicants in connection with
41 their Application.

42 V. "Formation Documents" means the Application and such other
43 documents as are required by the Act and the City Policy Guidelines
44 to be submitted by the Applicants in connection with the Petition.

45 W. "Formation Resolution" means this resolution adopted by the
46 Governing Body in connection with its approval of the formation of
47 the District.

48 X. "Governing Body" means the governing body of the City.

49 Y. "Gross Receipts Tax Increment" has the meaning assigned in NMSA
50 1978, Section 5-15-3(H) (2019).

- 1 Z. "Home Rule Powers" means the powers of the City as a home rule
2 municipality to exercise legislative powers given pursuant to the City
3 Charter adopted by the City pursuant to Article X, Section 6 of the
4 State Constitution and all enactments of the Council relating to the
5 formation of the District and the issuance of the District Obligations.
6 AA. "Increment Dedication Ordinances" means, collectively, the City
7 Ordinance to be adopted on August 27, 2020, which dedicate to the
8 Tax Increment Development Project described in the District's Tax
9 Increment Development Plan the revenue from a portion of the
10 municipal gross receipts tax increments imposed by the City and
11 revenue from the distribution from gross receipts tax revenues of the
12 State of New Mexico pursuant to NMSA 1978, § 7-1-6.4 (2019), in
13 the amounts described in Section 7.A of this Formation Resolution
14 and in compliance with the requirements of NMSA 1978, Section 5-
15 15-15(B) (2019) and NMSA 1978, Section 5-15-27 (2019).
16 BB. "Intent Resolution" means City Resolution No. 68 (Enactment No.
17 20-066), adopted on July 23, 2020, which declared the City's intent
18 to form the District.
19 CC. "Land" means the real property described in the District Boundary
20 Map and located within the boundaries of the District.
21 DD. "Petition" means the petition for formation of the District submitted to
22 the City pursuant to the Act and the City Policy Guidelines, which
23 contains the signature of the owner of one hundred percent (100%)
24 of the Land and states that the owner waives its right to a
25 determination concerning the formation of the District.
26 EE. "Petitioner" means Los Diamantes LLC, a New Mexico limited liability
27 company.
28 FF. "PIDs" mean the Los Diamantes Public Improvement Districts South
29 and North, proposed by the Applicants to be formed by the City in
30 calendar year 2020.
31 GG. "Reimbursement Cap" has the meaning assigned in the Recital J of
32 the TIDD Development Agreement.
33 HH. "Relocated Business" a business within the District's Tax Increment
34 Development Area, which (a) also operated in the City and, as a
35 result, paid gross receipts tax reportable to the City's gross receipts
36 tax location code, (b) has not certified to the Developer (or the current
37 owner of the business park zoned property within the District) that it
38 intends to maintain its existing operations outside of the District
39 reporting to the City's gross receipts tax location code, and (c)
40 ceases operations of one or more locations outside of the District
41 within 24 months of commencement of business in the District, as
42 reasonably determined by the City. A "Relocated Business" does not
43 include residential relocations and any home-based business that
44 may locate in a residential dwelling unit.
45 II. "Special Districts" means both the District and the PIDs.
46 JJ. "SSCAFCA" means the Southern Sandoval County Arroyo Flood
47 Control Authority.
48 KK. "State" means the State of New Mexico.
49 LL. "Subordinate Obligation" means loans, advances and other
50 indebtedness incurred or issued by the Special Districts in

1 accordance with the TIDD Legislation and secured by the City GRT
2 Increment Dedication.

3 MM. "Tax Increment Development Area" has the meaning assigned in
4 NMSA 1978, Section 5-15-3(V) (2019).

5 NN. "Tax Increment Development Plan" means the plan for the
6 undertaking of a tax increment development project in the proposed
7 District submitted by the Applicants in connection with their Petition
8 and Application, as required by the City Policy Guidelines and NMSA
9 1978, Section 5-15-5 (2006).

10 OO. "Tax Increment Development Project" has the meaning assigned in
11 NMSA 1978, Section 5-15-3(Y) (2019).

12 PP. "TIDD Development Agreement" means the tax increment
13 development district infrastructure acquisition and development
14 agreement dated as of even date herewith by and among the
15 Developer, the City and the District, and in accordance with the Act
16 and the City Policy Guidelines, which tax increment development
17 district infrastructure development and acquisition agreement
18 memorializes the obligations of the District to the City and the
19 Developer and shall be binding upon the District immediately
20 following adoption of this Formation Resolution, shall then be
21 subsequently ratified and executed by the District.

22 QQ. "TIDD Infrastructure Improvements" mean the public improvements
23 described in a Tax Increment Development Plan, which, as
24 authorized in the Act and the City Policy Guidelines, may be financed
25 from the proceeds of the District Obligations.

26 RR. "TIDD Legislation" means, collectively, the Act and all enactments of
27 the Governing Body, including the City Policy Guidelines, the Intent
28 Resolution, this Formation Resolution, and the Increment Dedication
29 Ordinances.

30 SS. "25th Anniversary Date" means, as to the District, the 25th anniversary
31 of the City Increment Dedication Period Commencement Date.

32
33 **Section 2. Construction of Formation Resolution.** Except as otherwise expressly
34 provided in this Formation Resolution, or unless the context otherwise requires:

35
36 A. All words and phrases shall be construed and understood according
37 to the common and approved usage of language, but technical words
38 and phrases and such others as may have acquired a peculiar and
39 appropriate meaning in the law shall be construed and understood
40 according to such peculiar and appropriate meaning.

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

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

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

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

49 F. All times will be local time in the City unless otherwise designated in
50 this Formation Resolution.

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

- 4 A. The Petitioner owns 100% of the Land and no persons are registered
5 to vote at the Land.
- 6 B. As planned and proposed by the Applicants, the TIDD Infrastructure
7 Improvements, to the extent such TIDD Infrastructure Improvements
8 are not dedicated and conveyed to SSCAFCA, AMAFCA or another
9 governmental entity, will be constructed to City specifications, and
10 will be subject to inspection, approval and acceptance by the City
11 prior to dedication to the City.
- 12 C. District Obligations proposed to be issued or incurred by the District
13 will be the obligations solely of the District, and will not be backed by
14 the faith, credit, general funds or resources of the City in any manner,
15 and will not impair any outstanding obligations of the City.
- 16 D. The Tax Increment Development Plan for the District reasonably
17 protects the interests of the City in meeting its goals to support:
18 (i) job creation;
19 (ii) workforce housing;
20 (iii) public school facility creation and improvement, including the
21 creation and improvement of facilities for charter schools; and
22 (iv) underdeveloped area or historical area redevelopment.
- 23 E. The Tax Increment Development Plan for the District demonstrates
24 elements of innovative planning techniques, including mixed-use
25 transit-oriented development, traditional neighborhood design or
26 sustainable development techniques that are deemed by the
27 Governing Body to benefit community development.
- 28 F. The Tax Increment Development Plan for the District incorporates
29 sustainable development considerations.
- 30 G. The Tax Increment Development Plan for the District conforms to the
31 general or long-term planning of the City.
- 32 H. The formation of the District and the issuance or incurrence of District
33 Obligations, subject to the requirements and limitations specified in
34 this Formation Resolution, are consistent with the requirements of
35 the Act and the City Policy Guidelines.
- 36 I. The application fee described in the City Policy Guidelines and as
37 further adjusted by the City's review staff was received by the City
38 on the date of submission of the Petition and Application and all other
39 costs billed to or incurred by the City in connection with its review of
40 the Petition and Application have been paid by the Applicants at least
41 14 days prior to the date of adoption of this Formation Resolution.

42
43 **Section 4. Waiver of Owner Determination; Cancellation of Formation Election.** Based
44 on the evidence presented in the Application, the Petition has been signed by the owner
45 of one hundred percent (100%) of the Land and no persons are registered to vote within
46 the Land proposed to be included within the boundaries of the District, and on that basis
47 the City:

- 48 A. waives the requirements for an owner determination concerning the
49 formation of the District, as authorized by NMSA 1978, Sections 5-
50 15-7(D) (2006) and -8(B) (2006); and

- 1 B. declares that any election concerning the formation of the District is
2 cancelled, as authorized by NMSA 1978, Sections 5-15-7(D)(3)
3 (2019) and -8(I) (2019).
4

5 **Section 5. Approval of Formation Documents; Formation of the District; TIDD**
6 **Development Agreement.**

- 7 A. *Approval of Petition.* The Petition is hereby accepted and approved.
8 B. *Order Forming Los Diamantes Tax Increment Development District.*
9 (i) The Los Diamantes Tax Increment Development District is
10 hereby ordered formed. The formation of the District is
11 effective as of the effective date of this Formation Resolution
12 and is not contingent on further action by the State or another
13 local government. The District shall include the Land as
14 shown in the District Boundary Map attached as Exhibit A to
15 the Tax Increment Development Plan and incorporated by
16 reference in this Formation Resolution.
17 (ii) In addition to other express or implied authority granted by the
18 Act and the Home Rule Powers, the District shall have the
19 powers necessary and convenient to finance the costs of a
20 portion of the TIDD Infrastructure Improvements as provided
21 in its Tax Increment Development Plan, Financial Feasibility
22 Study and TIDD Development Agreement, as those
23 documents may be amended from time-to-time.
24 C. *Tax Increment Development Plans.* The Tax Increment
25 Development Plan for the District, previously approved for purposes
26 of NMSA 1978, Section 5-15-4(A) (2009), but subject to further
27 proceedings of and necessary approvals by the City, is now hereby
28 ratified and approved for all purposes under the TIDD Legislation.
29 The District shall implement its Tax Increment Development Plan.
30 D. *TIDD Development Agreements.* The TIDD Development
31 Agreement for the District substantially in the form presented
32 herewith, with such changes, insertions, deletions and modifications
33 as shall be approved by the City Manager is hereby accepted and
34 approved. The City Manager is hereby authorized and directed to
35 execute the TIDD Development Agreement on behalf of the City.
36 Any changes, insertions, deletions and modifications to a TIDD
37 Development Agreement shall be deemed to have been approved
38 by the City upon execution and delivery of such TIDD Development
39 Agreement by the City Manager, such execution and delivery to be
40 conclusive evidence of such approval. The District shall be a party
41 to the TIDD Development Agreement and shall be bound to the
42 obligations set forth therein immediately upon formation of the
43 District, without any further action by the District, and notwithstanding
44 the provisions of the Procurement Code or applicable local
45 procurement requirements as permitted by NMSA 1978, Section 5-
46 15-12(B) (2006).
47 E. *Purpose of the District.* The principal purpose of the District shall be,
48 as contemplated by its Tax Increment Development Plan, to finance
49 the acquisition of a portion of the TIDD Infrastructure Improvements
50 to be conveyed to the District and then reconveyed by the District to

1 the City, the SSCAFCA, AMAFCA or another public agency or public
2 body for ownership and ongoing operation, maintenance and repair.
3 The District may, subject to the Reimbursement Cap, choose to
4 satisfy the obligations of another Special District (in whole or part), in
5 compliance with the TIDD Development Agreement, to pay the costs
6 of constructing all or a portion of the TIDD Infrastructure
7 Improvements conveyed to such Special District, which have not
8 been previously paid or otherwise satisfied (in whole or part) with
9 public monies from another public source. The District will not
10 undertake or otherwise finance the operation, maintenance, or repair
11 of TIDD Infrastructure Improvements.

12 F. *District to be self-supporting.* The District shall be self-supporting, as
13 provided in Section 1.6 of the City Policy Guidelines.

14 G. *Compliance with City Policies.* The District shall comply with existing
15 City policies for development, growth management and
16 conservation, as provided in Section 1(C) of the City Policy
17 Guidelines.

18 H. *Tax Increment Financing Requirements.* The proposed financings
19 of TIDD Infrastructure Improvements described in the Tax Increment
20 Development Plan and Financial Feasibility Study meet the
21 applicable requirements of the City Policy Guidelines.

22 I. *Additional Documents.* The officers, agents and employees of the
23 City are hereby authorized and empowered to take all actions
24 necessary and to execute and deliver all documents relating to or
25 requested by the District to carry out and comply with the provisions
26 of the Formation Documents.

27 J. *District Governing Body Initial Meeting.* The District Board shall hold
28 a public meeting on or about the sixtieth (60th) day following the date
29 of adoption of this Formation Resolution. At that meeting, the District
30 Board shall adopt an open meetings policy and by-laws for the
31 District; ratify and execute the TIDD Development Agreement, the
32 terms of which shall be binding upon and enforceable against the
33 District immediately upon formation notwithstanding this instruction
34 by the Governing Body to the governing body of the District; direct
35 the recording of TIDD Development Agreement with the Sandoval
36 County Clerk; establish local procedures for conducting an owner
37 determination, in the form attached to this Resolution as Exhibit A,
38 by unanimous written approval of the owners in affidavits executed
39 by the owners and confirmed in a review by the District Board; and,
40 in compliance with NMSA 1978, Section 5-15-10(A) (2006), take
41 such other action toward administering in a reasonable manner the
42 implementation of its Tax Increment Development Plan and
43 satisfying the obligations of the TIDD Development Agreement.

44
45 **Section 6. Authorization of District Obligations.** The District may issue District
46 Obligations pursuant to the terms of the TIDD Development Agreement and one or more
47 Bond Resolutions in the amounts and subject to the requirements and limitations set forth
48 in this Formation Resolution.

49 A. Each Bond Resolution shall include, at minimum, the following
50 provisions stated below for the protection of owners of the District

Obligations:

- (i) *Reasonably Required Reserve Fund.* Each Bond Resolution shall, in satisfaction of Section 5.6 of the City Policy Guidelines, provide for the establishment of a debt service reserve fund in an amount acceptable to the governing body of the District.
 - (ii) *Public or Private Offering; Minimum Denomination.* Each Bond Resolution shall provide that the District Obligations shall be sold pursuant to a public offering or a private placement and issued in such denominations as determined by the governing body of the District.
 - (iii) *Minimum and Maximum Maturity.* The minimum maturity of District Obligations shall be at least one day. The final maturity date for all District Obligations issued by the District shall not be more than 25 years after the date of issuance of the first series of District Obligations by the District.
 - (iv) *Appointment of Trustee.* Each Bond Resolution shall include provisions for appointment of a trustee pursuant to an indenture of trust or other similar instrument.
- B. Each Bond Resolution shall provide that the issuance of District Obligations, and the dedication of tax increment toward repayment of District Obligations, shall not impair any outstanding obligations of the City.
- C. The issuance of Bonds by the District shall also be subject to the following additional limitations and requirements:
- (i) The Bonds shall bear interest at rates not to exceed twelve percent (12%) per annum.
 - (ii) The maximum aggregate principal amount of Bonds issued shall not exceed the estimated Costs of Construction of the TIDD Infrastructure Improvements to be financed by the District, as determined at the time a series of Bonds is issued by the District, plus all costs connected with the issuance and sale of Bonds, including, without limitation, formation costs, credit enhancement and liquidity support fees and costs.
 - (iii) As required by the Act and the City Policy Guidelines, prior to the issuance of Bonds, the Applicants or their designee or a future owner of some portion of the Land shall have contributed at least 20% of the initial cost of the TIDD Infrastructure Improvements to be financed by the District, which contribution may be reimbursed from the proceeds of Bonds as permitted by the Act.
- D. *Issuance of Long Term Debt.* Any resolution for the issuance by the District of a District Obligation maturing more than thirty (30) days from the date of issuance must be approved by the affirmative vote of at least four (4) of the five (5) members of the District Board.

In addition to any other express or implied authority granted by the Act and the City Policy Guidelines, the District may, in its sole discretion and without further review and approval of the Governing Body, issue Subordinate Obligations pursuant to NMSA 1978, Section 5-15-12(A) (2006), NMSA 1978, Section 5-15-15(B) (2019) and NMSA

1 1978, Section 5-15-17(B) (2006), the Tax Increment Development Plan, the TIDD
 2 Development Agreement, and the terms of one or more resolutions of the District Board.

3
 4 **Section 7. Dedication of Gross Receipts Tax Increments to the District; Tax Increment**
 5 **to Secure District Obligations.**

6 A. Pursuant to NMSA 1978, Section 5-15-15 (2009), the City hereby
 7 dedicates the respective portion of the Gross Receipts Tax
 8 Increment generated within the District from gross receipts tax
 9 revenues distributed to the City and certain City local option gross
 10 receipts tax rate increments imposed by the City, as identified in the
 11 following table (collectively the "City GRT Increment Dedication")
 12

Description		Authority	GRT Rates	Net GRT Rates Dedicated to the District
State Distribution	Shared	NMSA 1978, Section 7-1-6.4 (2019)	1.2250%	0.8889%
Hold Distribution	Harmless	NMSA 1978, Section 7-1-6.46 (2013)	The sum of all distributions, as reduced in accordance with NMSA 1978, Section 7-1-6.46(B) (2013)	0.00%
Municipal Options	Local			
Municipal Gross Tax	Receipts	City Ord. Nos. 81-20, 81-21, 82-59, 85-132, 85-133, and 19	1.5000%	1.1006%
Municipal Infrastructure Gross Tax	Receipts	City Ord. Nos. 17 and 18 (Enactment No. 92-017)	0.1250%	0.0907%

Description	Authority	GRT Rates	Net GRT Rates Dedicated to the District
Municipal Environmental Services Gross Receipts Tax	City Ord. No. 33	0.0625%	0.0000%
Hold Harmless Gross Receipts Tax	City Ord. No. 18 (Enactment No. 18-17)	0.1250%	0.0907%
Higher Public Education Gross Receipts Tax	City Ord. No. 98	0.2500%	0.0000%
Subtotal		2.0625%%	1.2820%
Total City		3.2875%	2.1709%

- 1 Following adoption of the Increment Dedication Ordinances, but on or before
2 Monday, August 31, 2020, the City Manager will cause delivery of the notice of
3 dedication of the City GRT Increment Dedication to the Taxation and Revenue
4 Department as described in NMSA 1978, Section 5-15-27 (2006), as well as
5 providing notice to the Taxation and Revenue Department that the estimated
6 base gross receipts taxes generated in the District are \$0.00 (zero dollars). The
7 City GRT Increment Dedication will become effective on January 1, 2021.
- 8 B. The Governing Body shall, by resolution, end the duration of the City
9 GRT Increment Dedication for the District following the completion of
10 the City Increment Dedication Period. The Governing Body may at
11 any time, by resolution, authorize the extension of the City Increment
12 Dedication Period for the District to the extent permitted by the Act
13 or other applicable law.
- 14 C. The dedication of the City GRT Increment Dedication to the District
15 shall be and remain irrevocable until the end of the City Increment
16 Dedication Period for the District, except as otherwise provided in the
17 TIDD Development Agreement.
- 18 D. Pursuant to NMSA 1978, Section 5-15-15(E) (2009), the Gross
19 Receipts Tax Increment revenues generated within the District may
20 be dedicated for the purpose of securing Bonds. The District may
21 also authorize the issuance or incurrence of Subordinate Obligations
22 to be secured by the Gross Receipts Tax Increment revenues
23 generated within the District or otherwise fund the Costs of
24 Construction of TIDD Infrastructure Improvements directly from the
25 proceeds of the Gross Receipts Tax Increment within the Tax
26 Increment Development Area of the District.
- 27 E. *Remittance of City GRT Tax Increment Revenue Generated by*

1 *Certain Rio Rancho Businesses that relocate to the District.* The
2 District shall pay to the City the value of the City GRT Increment
3 Dedication generated by a Relocated Business. The City GRT
4 Increment Dedication generated by a Relocated Business shall be
5 repaid by the District to the City beginning on the first month following
6 reporting to the New Mexico Taxation and Revenue Department of
7 sales at the District's location code by the Relocated Business. The
8 TIDD Development Agreement shall provide that (i) each Relocated
9 Business will deliver copies of each applicable Form CRS-1 (or its
10 equivalent) to the City and the District, within 7 days of filing with the
11 New Mexico Taxation and Revenue Department, to allow for
12 calculation of the City GRT Tax Increment Revenue to be repaid; (ii)
13 the Developer shall cause notice of this reporting requirement to be
14 recorded against business park zoned property within the District;
15 and (iii) following recording of such notice, no action or inaction of
16 the Developer or of any Relocated Business, in connection with this
17 requirement shall be construed as a "default" by the Developer,
18 subject, however, to Developer's obligations under any applicable
19 provisions of the TIDD Development Agreement.

- 20 F. Following the expiration or termination of the District and the
21 payment of all amounts due to any third parties as provided in the
22 TIDD Development Agreement, any City GRT Tax Increment
23 revenue, including any investment earnings thereon, shall be
24 remitted to the City Treasurer and may be used by the City for any
25 lawful purpose.
26

27 **Section 8.** TIDD Governance.

- 28 A. The District Board shall initially be composed of the five (5) members:
29 (i) one of whom shall be a representative from the City
30 Manager's Office, which member shall initially be Matthew
31 Geisel;
32 (ii) one of whom shall be a employed in the Department of
33 Financial Services, which member shall initially be Carole
34 Jaramillo;
35 (iii) two members nominated by the Applicant, and consented to
36 by the Governing Body, which members shall initially be
37 Pierre Amestoy and Christine Amestoy;
38 (iv) one a designee of the Secretary of the Department of Finance
39 and Administration with full voting privileges.
40 (v) Matthew Geisel and Pierre Amestoy shall serve 6-year terms
41 for the District.
42 (vi) Carole Jaramillo and Christine Amestoy shall serve 4-year
43 terms for the District.
44 (vii) Pursuant to NMSA 1978, Section 5-11-6(A) (2019), Pierre
45 Amestoy is appointed to be the clerk of the District and Christine
46 Amestoy is appointed to be treasurer of the District.
47 B. At the end of the appointed directors' initial terms, a new slate of
48 directors for the District Board will be selected in compliance with the
49 Act.

50 **Section 9.** Mail and Record Notices of Formation. The City shall cause:

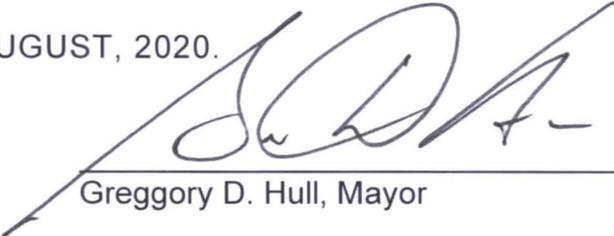
- 1 A. delivery of a copy of this Formation Resolution to each of the persons
2 and entities identified in NMSA 1978, Section 5-15-9(A) (2009);
3 B. delivery of the notices described in NMSA 1978, Section 5-15-15(H)
4 (2019) and NMSA 1978, Section 5-15-17(F) (2006); and
5 C. recording of a notice described in NMSA 1978, Section 5-15-9(B)
6 (2019) in the records of the County Clerk.
7

8 **Section 10. Amendments.** This Formation Resolution may be amended or
9 supplemented by resolution or resolution adopted by the Governing Body in accordance
10 with the laws of the City and the State.
11

12 **Section 11. Repealer.** All ordinances or resolutions, or parts thereof in conflict with the
13 provisions of this Formation Resolution, are hereby repealed to the extent only of such
14 inconsistency. To the extent, if any, that this Formation Resolution conflicts with any
15 provision of the City Policy Guidelines, such provision is waived solely with respect to the
16 formation of and other matters concerning the District, and the City Policy Guidelines shall
17 remain in full force and effect in connection with any other application or project to which
18 the City Policy Guidelines applies or may apply in the future. This repealer shall not be
19 construed to revive any ordinance or resolution, or part thereof, heretofore repealed.
20

21 **Section 12. Severability.** If any section, paragraph, clause or provision of this Formation
22 Resolution shall for any reason be held to be invalid or unenforceable, the invalidity or
23 unenforceability of such section, paragraph, clause or provision shall in no manner affect
24 any remaining provisions of this Formation Resolution.
25

26 ADOPTED THIS 27th DAY OF AUGUST, 2020.

27
28
29
30 
31 _____
32 Gregory D. Hull, Mayor

33 ATTEST:

34 
35 _____
36 Rebecca A. Martinez, City Clerk
37 (SEAL)