



**CITY OF RIO RANCHO
RESOLUTION**

RESOLUTION NO. 51

ENACTMENT NO. 13-050

1 **APPROVING THE PETITION AND APPLICATION OF COAL BANK HOLDINGS, LTD., FOR**
2 **FORMATION OF THE STONEGATE COMMUNITIES TAX INCREMENT DEVELOPMENT**
3 **DISTRICT (THE "DISTRICT" OR "TIDD") PURSUANT TO THE TAX INCREMENT FOR**
4 **DEVELOPMENT ACT, SECTIONS 5-15-1 THROUGH 5-15-28, NMSA 1978 AND GOVERNING**
5 **BODY RESOLUTION NO. 09-005; MAKING FINDINGS IN CONNECTION WITH THE**
6 **PETITION AND SUPPORTING DOCUMENTATION REQUESTING APPROVAL OF THE**
7 **FORMATION OF THE DISTRICT; DETERMINING THE REAL PROPERTY TO BE INCLUDED**
8 **WITHIN THE DISTRICT AND THE PURPOSES FOR WHICH THE DISTRICT IS BEING**
9 **FORMED; APPROVING THE APPLICATION, PETITION, FINANCIAL FEASIBILITY STUDY**
10 **AND A FORM OF A DEVELOPMENT AGREEMENT FOR IMPLEMENTATION OF THE**
11 **DISTRICT; RATIFYING THE TAX INCREMENT DEVELOPMENT PLAN APPROVED FOR**
12 **CONSIDERATION IN CONNECTION WITH THE FORMATION OF THE DISTRICT;**
13 **DEDICATING SEVENTY-FIVE PERCENT (75%) OF THE GROSS RECEIPTS TAX**
14 **INCREMENT REVENUE FOR THE DISTRICT, AS PROVIDED IN THE DEVELOPMENT**
15 **AGREEMENT; ESTABLISHING PARAMETERS FOR THE ISSUANCE OF TAX INCREMENT**
16 **REVENUE BONDS BY THE DISTRICT; PROVIDING FOR GOVERNANCE OF THE DISTRICT**
17 **THROUGH THE APPOINTMENT OF MEMBERS OF THE GOVERNING BODY OF THE**
18 **DISTRICT; PROVIDING THAT TAX INCREMENT REVENUE BONDS OF THE DISTRICT AND**
19 **OTHER OBLIGATIONS OF THE DISTRICT SHALL NOT BE OBLIGATIONS OF THE CITY OF**
20 **RIO RANCHO; RATIFYING CERTAIN ACTIONS HERETOFORE TAKEN; REPEALING ALL**
21 **ACTIONS INCONSISTENT WITH THIS RESOLUTION OTHER THAN GOVERNING BODY**
22 **RESOLUTION NO. 09-005.**

23
24 Capitalized terms used in the recitals below and not defined therein shall have the meanings
25 given to such terms in Section 1 hereof.
26

27 **WHEREAS:** the TIDD Act provides in part that the owners of real property may petition
28 the governing body of the municipality in which the real property is located for
29 the formation of a tax increment development district to provide gross
30 receipts tax increment financing for public infrastructure in order to support
31 economic development and job creation; that the governing body shall hold a
32 hearing to determine whether a tax increment development district should be
33 formed; and, upon determination that formation of a tax increment
34 development district is in the interest of the property owner and the citizens
35 of the governing body's jurisdiction, shall order that the tax increment
36 development district be formed; and that an election for the formation of the
37 tax increment development district by owners of real property and residents
38 qualified within the tax increment development district may be waived and
39 the tax increment development district formed if the petition was submitted
40 by or on behalf of the owner(s) of 100% of the real property proposed to be
41 included within the tax increment development district and not located within
42 City right of way; and

1 **WHEREAS:** Coal Bank Holdings, Ltd. (the "Applicant") has submitted to the City a
2 Petition and Application for the formation of the Stonegate Communities Tax
3 Increment Development District which includes, without limitation, a Tax
4 Increment Development Plan for the District and a map depicting the
5 boundaries of the District, a study of the feasibility, the financing and the
6 estimated costs of improvements, services and benefits to result from the
7 formation of proposed District (the "Financial Feasibility Study") and a
8 proposed Development Agreement for the District (the "Development
9 Agreement"); and

10 **WHEREAS:** pursuant to the Petition and Application and Development Agreement, the
11 purpose of the Stonegate Communities Tax Increment Development District
12 is to finance public infrastructure to serve, in part, approximately 204 acres of
13 land known as Stonegate Communities, Tierra de Oro and Milagro Mesa
14 (collectively, the "Project"); and

15 **WHEREAS:** the Applicant estimates that the initial cost of public infrastructure, is \$6.62
16 million which may be financed with proceeds of Tax Increment Revenue
17 Bonds issued by the District (the "TIDD Infrastructure"), as provided in the
18 Act and the TIDD Resolution; and

19 **WHEREAS:** the Act authorizes owners, tax increment for development districts,
20 municipalities and counties to enter into development agreements to
21 establish the obligations of the owner or developer, the municipality and the
22 tax increment development district concerning the zoning, subdivision,
23 improvement, impact fees, financial responsibilities, and other matters
24 relating to the development, improvement and use of real property within the
25 District; and

26 **WHEREAS:** pursuant to the TIDD Resolution, the City has enacted policy guidelines and
27 application procedures for the establishment of tax increment development
28 districts within the City; and

29 **WHEREAS:** the Applicant has presented a Petition and Application for formation of the
30 District, together with the following documents in support of the Petition and
31 Application:

32 (i) a description and boundary map of the proposed District, including a legal
33 description of the District's boundaries, identity and addresses of all persons or entities with
34 any interest in the property;

35 (ii) a current title report for the real property within the boundaries of the District
36 and evidence of the unanimous consent of owners of real property within the proposed
37 District's boundaries;

38 (iii) a Tax Increment Development Plan setting forth the information required by
39 the TIDD Resolution and the TIDD Act, which has been approved by the Governing Body
40 pursuant to Section 5-15-4(A) of the TIDD Act, subject to further proceedings and
41 additional necessary approvals of the Governing Body concerning the formation of the
42 District and is on file with the City Clerk; which Tax Increment Development Plan includes a
43 detailed description of the TIDD Infrastructure financed with proceeds of bonds to be

1 issued by the District, including the estimated construction or acquisition costs, projection
2 of working capital needs, including adequate funds for repair and replacement of
3 infrastructure, annual operation and maintenance costs of the TIDD Infrastructure and the
4 required governmental approvals and licenses;

5 (iv) a proposed schedule for commencement and completion of the TIDD
6 Infrastructure and Developer Improvements;

7 (v) a financing plan for public improvements and a Financial Feasibility Study for
8 the District setting forth the information required by the TIDD Resolution;

9 (vi) to the extent required, a market demand study for private development in the
10 District;

11 (vii) a description of Applicant's development experience and financial ability to
12 complete the TIDD Infrastructure Improvements and the Project (including Developer
13 Improvements), including a description of the Applicant's equity contribution toward the
14 initial costs of public infrastructure to serve the real property within the District, and the
15 timing and sources of the contribution;

16 (viii) a draft operating plan for the TIDD Infrastructure;

17 (ix) a certificate that the District will comply with the City's current zoning
18 requirements;

19 (x) a proposed Development Agreement to be entered into by the Applicant, the
20 City and the District;

21 (xi) a statement that the application is not requesting state or county gross
22 receipts tax increment revenue and thus no state or county application materials need be
23 presented;

24 (xii) a proposed form of Resolution of Intent to Form Tax Increment Development
25 District, including provisional adoption of Tax Increment Development Plan; and

26 (xiii) a proposed form of Formation Resolution.

27 **WHEREAS:** pursuant to the Development Agreement, following formation of the District,
28 the Applicant will construct the TIDD Infrastructure Improvements in
29 accordance with the estimated construction schedule included in the
30 Application, the City's rules and regulations and the Development
31 Agreement; and

32 **WHEREAS:** pursuant to the Development Agreement and the Petition and Application,
33 the TIDD Infrastructure Improvements financed with gross receipts tax
34 dedicated by the City to the TIDD are to be designed and constructed
35 according to all applicable City standards, are to be suitable for dedication to
36 the City upon completion, and will be dedicated to, owned and operated by
37 the City; and

38 **WHEREAS:** pursuant to the Petition and Application and as provided for in the TIDD Act,
39 the Applicant anticipates that the TIDD Infrastructure will be financed, in part,

1 through the issuance by the District of Bonds secured by the portion of gross
2 receipts tax increment revenues generated within the District and dedicated
3 by the City to the District, and the City will have no responsibility for
4 construction of the TIDD Infrastructure, payment of the Bonds or other
5 financial obligations of the District; and

6 **WHEREAS:** The District intends to reimburse the Applicant for the costs of the TIDD
7 Infrastructure Improvements pursuant to the Development Agreement and
8 the Applicant intends to reimburse the other Developers for their share of the
9 costs of the TIDD Infrastructure Improvements pursuant to a Reimbursement
10 Agreement; and

11 **WHEREAS:** pursuant to Section 5-15-15(E) of the TIDD Act, the Applicant requests the
12 dedication of seventy-five percent (75%) of the (a) general purposes
13 municipal gross receipts taxes referenced in Section 5-15-15(B)(1) of the Act
14 (the "General Purposes GRT"); (b) municipal infrastructure gross receipts
15 taxes referenced in Section 5-15-15(B)(3) of the Act (the "Municipal
16 Infrastructure GRT"); and (c) state shared gross receipts taxes distributed to
17 the City pursuant to Section 7-1-6.4 NMSA 1978, as provided in Section 5-
18 15-15(B)(6) of the Act (the "State Shared GRT"); and

19 **WHEREAS:** the General Purposes GRT consists of local option gross receipts taxes
20 enacted by the City pursuant to City's 81-020, 81-021, 82-059, 85-132, and
21 85-133 (together with any replacements or amendments thereof, the "City
22 General Purposes GRT Ordinances"), which enacted an aggregate 1.25%
23 gross receipts tax; and

24 **WHEREAS:** pursuant to the City General Purposes GRT Ordinances, no portions of such
25 gross receipts taxes have been dedicated to particular uses other than a
26 0.25% portion, which has been dedicated to "Sanitary sewer lines, storm
27 sewers & other drainage improvements, streets and alleys-specifically the
28 widening of Southern Boulevard, acquisition of rights-of-way, related
29 facilities" (the "Quarter Percent General Purposes GRT Purpose"); and

30 **WHEREAS:** an allocable portion of Gross Receipts Tax Increment that is restricted by the
31 Quarter Percent General Purposes GRT Purpose shall be used for the
32 Quarter Percent General Purposes GRT Purpose pursuant to this Formation
33 Resolution and the Development Agreement; and

34 **WHEREAS:** the City enacted the Municipal Infrastructure GRT in an aggregate of 0.125%
35 pursuant to City Ordinances 92-016 and 92-017 (together with any
36 replacements or amendments thereof, the "City Municipal Infrastructure GRT
37 Ordinances"); and

38 **WHEREAS:** pursuant to the City Municipal Infrastructure GRT Ordinances, no portions of
39 such gross receipts taxes have been dedicated to particular uses (other than
40 the statutory purposes to which such taxes are limited); and

41 **WHEREAS:** no portions of the State Shared GRT have been dedicated to particular uses;
42 and

1 **WHEREAS:** the Applicant certifies that it owns, controls or has a consent in relation to the
2 formation of the District as to 100% of the property located within the District
3 and not located within City right of way, and that no qualified electors reside
4 on the property located within the District and that, consequently, no
5 formation election is required pursuant to Section 5-15-8 of the TIDD Act;
6 and

7 **WHEREAS:** on June 12, 2013, the City adopted Resolution No. 13-040 declaring its intent
8 to form the District; and

9 **WHEREAS:** the Governing Body has considered the Petition and Application and related
10 submittals by the Applicant, has conducted a public hearing as provided by
11 Sections 5-15-6 and 5-15-7 of the TIDD Act, and has determined that the
12 formation of the District is consistent with the TIDD Resolution and promotes
13 the interests, convenience or necessity of the owners and residents of the
14 District and citizens of the City.

15 **NOW THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF RIO**
16 **RANCHO:**

17
18 **Section 1. Defined Terms.** As used in this Formation Resolution and the recitals
19 above, the following terms shall have the meanings specified, unless the context clearly
20 requires otherwise (such meanings to be equally applicable to both the singular and the
21 plural forms of the terms defined):

22 "Act" or "TIDD Act" means Sections 5-15-1 through 5-15-28, NMSA 1978, as supplemented
23 and amended, the TIDD Resolution and this Resolution.

24 "Applicant" means Coal Bank Holdings, Ltd.

25 "Application" means the documents submitted in support of the Petition for formation of the
26 Stonegate Communities Tax Increment Development District and documentation incorporated
27 by reference in the Application and submitted to the City pursuant to the Act and the TIDD
28 Resolution.

29 "Bond Resolution" means a resolution authorizing issuance of District Bonds in an aggregate
30 principal amount not to exceed the costs of Public Infrastructure serving the District, for the
31 purpose of financing the TIDD Infrastructure and containing certain provisions set forth in
32 Section 6 of this Formation Resolution.

33 "Bonds or "TIDD Bonds" means tax increment revenue bonds issued by the District,
34 collectively or individually in accordance with the Act and secured by up to seventy-five percent
35 (75%) of the revenues of the Gross Receipts Tax Increment attributable to the (a) general
36 purposes municipal gross receipts taxes referenced in Section 5-15-15(B)(1) of the Act as
37 enacted by the City General Purposes GRT Ordinances; (b) municipal infrastructure gross
38 receipts taxes referenced in Section 5-15-15(B)(3) of the Act, as enacted by the City Municipal
39 Infrastructure GRT Ordinances; and (c) state shared gross receipts taxes distributed to the City
40 pursuant to Section 7-1-6.4 NMSA 1978, as provided in Section 5-15-15(B)(6) of the Act.

41 "City" means the City of Rio Rancho, New Mexico.

42 "Clerk" means the City Clerk.

43 "Date of Formation" shall have the meaning assigned in Section 5(l) of this Formation
44 Resolution.

45 "Developer Improvements" means the infrastructure improvements to be constructed by the
46 Applicant, through financing or resources other than the proceeds of District Bonds or Tax
47 Increment Revenue, as described in and according to the construction schedule provided in the
48 Application and as described, and in the approximate locations shown, in the Tax Increment
49 Development Plan.

1 "Developers" means, collectively, the Applicant, Cascade Creek Holdings, LLC, a New
2 Mexico limited liability company, Curb Inc., a New Mexico corporation, TDO Partners, a New
3 Mexico general partnership, and Los Alamos National Bank, a national banking association.

4 "Development Agreement" means the development agreement by and between the
5 Applicant and the City in accordance with Section 4.6 of the TIDD Resolution.

6 "District Boundary Map" means the map attached as Exhibit A to the Tax Increment
7 Development Plan.

8 "District" means the Stonegate Communities Tax Increment Development District.

9 "Expenses" means the City's costs of reviewing the Petition and Application and other
10 documentation related to the Application, including legal fees.

11 "Financial Feasibility Study" means the study of the estimated costs and financing methods
12 of the TIDD Infrastructure Improvements submitted by the Applicant in connection with its
13 Petition for formation of the Stonegate Communities Tax Increment for Development District.

14 "Formation Documents" means the Petition, Application, TIDD Development Plan, TIDD
15 Development Agreement, Formation Resolution and such other documents as are required by
16 the Act and the TIDD Resolution to be approved by the City in connection with the formation,
17 implementation and governance of the District.

18 "Formation Resolution" means this resolution adopted by the City in connection with its
19 approval of the formation of the District.

20 "Governing Body" means the City Councilors and the Mayor of the City, unless the context
21 requires otherwise (i.e. unless in reference to the directors of the District).

22 "Gross Receipts Tax Increment" means the gross receipts taxes collected within the District
23 in excess of the base gross receipts taxes collected for the duration of the existence of that
24 District and distributed to that District in the same manner as distributions are made under the
25 provisions of the State Tax Administration Act.

26 "Petition" means the petition for formation of the District submitted pursuant to the Act and
27 the TIDD Resolution.

28 "Real Property" means the real property described in the District Boundary Map.

29 "State" means the State of New Mexico.

30 "Tax Increment Development Plan" means the tax increment development plan for the
31 District, including a map depicting the boundaries of the District, as required by the TIDD
32 Resolution and Section 5-15-5 of the Act.

33 "TIDD Infrastructure Improvements" or "TIDD Infrastructure" means the public infrastructure
34 improvements to be financed with the proceeds of District Bonds as described and in the
35 approximate locations shown in the Tax Increment Development Plan.

36 "TIDD Resolution" means Governing Body Resolution No. 09-005.

37
38 **Section 2. Construction of Formation Resolution.** Except as otherwise expressly
39 provided in this Formation Resolution, or unless the context otherwise requires:

40 A. The singular includes the plural and the plural includes the singular.

41 B. All accounting terms not otherwise defined in this Formation Resolution have
42 the meanings assigned to them in accordance with generally accepted accounting
43 principles in the United States.

44 C. All references to sections shall refer to sections of this Formation Resolution,
45 unless otherwise stated.

46 D. Words importing any gender include the other gender.

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

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

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

9 A. The Applicant owns or has a consent in relation to the formation of the District
10 as to 100% of the real property located within the District and that is not within a City right
11 of way.

12 B. As planned and proposed by the Applicant, the TIDD Infrastructure
13 Improvements will be constructed to City specifications, and will be subject to inspection,
14 approval and acceptance by the City prior to dedication to the City.

15 C. District Bonds proposed to be issued by the District will be the obligations
16 solely of the District issuing the Bonds, and will not be backed by the faith, credit, general
17 funds or resources of the City in any manner, and will not impair any outstanding
18 obligations of the City.

19 D. The Tax Increment Development Plan reasonably protects the interests of the
20 City in meeting its goals to support: (i) job creation, and (ii) economic development.

21 E. The Tax Increment Development Plan demonstrates elements of innovative
22 planning techniques, including mixed-use, transit-oriented development, traditional
23 neighborhood design or sustainable development techniques that are deemed by the
24 Governing Body to benefit community development.

25 F. The Tax Increment Development Plan incorporates sustainable development
26 considerations.

27 G. The Tax Increment Development Plan conforms to the general or long-term
28 planning of the City.

29 H. The financing of the TIDD Infrastructure Improvements is feasible and, based
30 upon the Financial Feasibility Study, will not impose an undue burden on the future owners
31 of property located within the District or served by the TIDD Infrastructure Improvements.

32 I. The financing of the TIDD Infrastructure Improvements will enable the District
33 to construct those improvements in a cost-effective manner.

34 J. The District is planned and will be implemented in a manner which provides
35 for the Expenses to be paid by the District.

36 K. The formation of the District and the issuance of District Bonds subject to the
37 requirements and limitations specified in this Formation Resolution are consistent with the
38 requirements of the TIDD Resolution.

1 **Section 4. Waiver of Additional Hearing and Election.** Based on the information
2 provided by the Applicant in the Application, the Petition has been signed by or consented
3 to and signed on behalf of the owners of 100% of the Real Property to be included in the
4 proposed District and not located within City right of way, and on that basis the City waives
5 the requirements for mailing and owner election, as authorized by Section 5-15-8 of the
6 TIDD Act.

7 **Section 5. Approval of Application and Formation Documents; Conditional**
8 **Formation of District.**

9 A. Approval of Petition. The Petition is hereby accepted and approved.

10 B. Approval of the District pursuant to the Tax Increment Development Plan and
11 Development Agreement. The Stonegate Communities Tax Increment Development
12 District is hereby ordered, approved and formed to carry out the purposes set forth in, and
13 according to the provisions of, this Formation Resolution.

14 (i) The Tax Increment Development Plan, previously approved for purposes of
15 Section 5-15-4(C) of the TIDD Act and subject to further proceedings of and necessary
16 approvals by the City, is hereby ratified. The District shall include the Real Property as
17 shown in the District Boundary Map attached as Exhibit A to the Tax Increment
18 Development Plan and incorporated by reference in this Formation Resolution.

19 (ii) The Financial Feasibility Study is hereby accepted and approved.

20 (iii) The Development Agreement is hereby accepted and approved. The City
21 Manager is authorized and directed to execute the Development Agreement on behalf of
22 the City, with such changes as are consistent with the provisions of this Formation
23 Resolution.

24 (iv) The District shall have the powers necessary and convenient to finance,
25 construct, purchase or reimburse the Applicant for the cost of the TIDD Infrastructure
26 Improvements as provided in the Tax Increment Development Plan, Financial Feasibility
27 Study and Development Agreement, as those documents may be amended or modified
28 with the approval of the City. The Applicant, District and the City shall be bound by the
29 terms thereof.

30 C. Purpose of District. The purpose of the District shall be to provide financing
31 of the TIDD Infrastructure Improvements set forth in the Tax Increment Development Plan
32 and the Development Agreement.

33 D. Maximum Authorized Amount and Interest Rates of Bond Financing.

34 (i) The maximum aggregate principal amount of TIDD Bonds issued by the
35 District shall not exceed the lesser of (a) the actual eligible costs (as defined in the
36 Development Agreement), plus amounts to be used to fund debt service reserves,
37 capitalized interest, credit enhancement, costs of issuance and sale, and other costs
38 normally associated with the issuance of TIDD Bonds as permitted by the Act, or (b)
39 \$6,620,000, plus the amount determined as the increase in the cost of constructing public
40 infrastructure improvements by applying the Construction Cost Index applicable to the
41 Albuquerque region published in ENR.com by the McGraw-Hill Companies (or, in the event
42 such index is no longer published at the applicable time, such other index of construction

1 costs as the District and the City Manager mutually determine is acceptable for purposes of
2 this Agreement and this Formation Resolution).

3 (ii) The Bonds shall bear interest at rates not to exceed 12% percent per annum.

4 (iii) As required by the Act and the TIDD Resolution, prior to the issuance of
5 District Bonds by the District, the Applicant or its designee shall have contributed at least
6 20% of the initial estimated cost of the public infrastructure serving the District, which
7 contribution may be reimbursed from the proceeds of District Bonds, as permitted by the
8 Act.

9 E. District to be Self-supporting. The District shall be self-supporting, as
10 provided in Section 1.6 of the TIDD Resolution.

11 F. Compliance with City Policies. The District shall comply with existing City
12 policies for development, growth management and conservation, as provided in Section
13 3(K) of the TIDD Resolution.

14 G. Tax Increment Financing Requirements. The proposed financing of TIDD
15 Infrastructure Improvements described in the Tax Increment Development Plan and
16 Financial Feasibility Study meets the applicable requirements of Section 1.3 of the TIDD
17 Resolution.

18 H. Additional Documents. The officers, agents and employees of the City are
19 hereby authorized and empowered to take all actions necessary and to execute and deliver
20 all documents relating to or requested by the District to carry out and comply with the
21 provisions of the Formation Documents.

22 I. District Governing Body Initial Meeting. The governing body of the District
23 shall hold a public meeting within 60 days following the Date of Formation, as provided in
24 the immediately preceding subsection (I). At that meeting, the governing body shall adopt
25 an open meetings policy and by-laws for that District, shall enter into the Development
26 Agreement by authorizing its execution and delivery by the Chair of the Governing Body of
27 the District, and shall take such other action, toward or in connection with the issuance of
28 Bonds by that District, as authorized by this Formation Resolution.

29 **Section 6. Authorization of District Bonds.** Following the Date of Formation, the
30 District may issue Bonds pursuant to Bond Resolutions in the amounts and subject to the
31 requirements and limitations set forth in this Formation Resolution.

32 A. Each Bond Resolution shall be approved by the City's TIDD Review Staff
33 prior to its enactment by the District.

34 B. Each Bond Resolution shall include, at minimum, the following provisions
35 stated below for the protection of owners of the Bonds:

36 (i) Reasonably Required Reserve Fund. Each Bond Resolution shall provide for
37 the establishment of a debt service reserve fund in an amount, on the date of issuance of
38 the TIDD Bonds, equal to the least of (a) the maximum annual debt service requirements
39 on all outstanding TIDD Bonds; (b) 125% of the average annual debt service requirements
40 of the TIDD Bonds of the related District; or (c) 10% of the aggregate principal amount of
41 the TIDD Bonds of the related District.

1 (ii) Minimum and Maximum Maturity. The minimum maturity of TIDD Bonds shall
2 be at least one day. The final maturity date for TIDD Bonds issued by the District shall not
3 be more than 25 years after the date of issuance of the first series of Bonds by the District.

4 (iii) Appointment of Trustee. Each Bond Resolution shall include provisions for
5 appointment of a trustee pursuant to an indenture of trust or other similar instrument.

6 (iv) Exercise of District Rights and Remedies by Trustee. Each Bond Resolution
7 shall provide that the trustee may exercise the rights and remedies of the District for the
8 protection of bondholders, including, without limitation, the trustee's appointment of a
9 receiver or other agent to complete the construction of the TIDD Infrastructure
10 Improvements in the event of a default in the payment of debt service on the Bonds issued
11 by the District, which default cannot be cured by (x) drawing on the debt service reserve
12 fund established for the Bonds issued by the District, (y) through payment pursuant to a
13 letter of credit or other guaranty provided by or on behalf of the Applicant or (z) through
14 direct payment by the Applicant or its designee of the amount necessary to pay the debt
15 service on the TIDD Bonds then due.

16 C. Each Bond Resolution shall provide that the issuance of District Bonds, and
17 the dedication of tax increment toward repayment of District Bonds, will not impair any
18 outstanding obligations of the City.

19 D. Before the issuance of TIDD Bonds, each Bond Resolution shall be
20 presented to the City's TIDD Review Staff for approval as being consistent with provisions
21 of Section 6 of this Resolution.

22 **Section 7. Dedication of Gross Receipts Tax.** On the Date the adoption and approval
23 of this Formation, pursuant to Section 5-15-15(E) of the TIDD Act, the City hereby
24 dedicates seventy-five percent (75%) of the revenues of the Gross Receipts Tax Increment
25 attributable to the (a) general purposes municipal gross receipts taxes referenced in
26 Section 5-15-1 5(B)(1) of the Act, as enacted by the City General Purposes GRT
27 Ordinances, (b) municipal infrastructure gross receipts taxes referenced in Section 5-15-1
28 5(B)(3) of the Act, as enacted by the City Municipal Infrastructure GRT Ordinances; and (c)
29 state shared gross receipts taxes distributed to the City pursuant to Section 7-1-6.4 NMSA
30 1978, as provided in Section 5-15-15(B)(6) of the Act. An allocable portion of Gross
31 Receipts Tax Increment that is restricted by the Quarter Percent General Purposes GRT
32 Purpose shall be used for the Quarter Percent General Purposes GRT Purpose.

33 **Section 8. District Governance.**

34 A. The District's governing body shall initially be composed of the following five
35 directors: (i) a representative of the Developer, who is currently C. Adam Thornton, (ii) the
36 City Manager, who is currently Keith J. Riesberg, (iii) the Director of the City's Development
37 Services Department, who is currently Dolores Wood, (iv) the Director of the City's
38 Department of Financial Services, who is currently Olivia Padilla Jackson and (v) the
39 Secretary of Finance and Administration of the State of New Mexico or the Secretary's
40 designee (the "DFA Director").

41 B. Keith J. Riesberg and C. Adam Thornton shall serve 6-year terms.

42 C. Dolores Wood and Olivia Padilla Jackson shall serve 4-year terms.

1 D. The DFA Director shall be a permanent director and in the event that any
2 specific person filling the DFA Director position shall die, resign or otherwise vacate the
3 board position, the District shall apply to the Secretary of Finance and Administration for
4 the designation of a new director to fill the DFA Director position. If a vacancy occurs on
5 the board because of the death, resignation or inability of the director to discharge the
6 duties of the director, the governing body shall appoint a director to fill the vacancy, and the
7 director shall hold office for the remainder of the unexpired term until a successor is
8 appointed. At the end of the initial term of any director other than the DFA Director, the
9 Governing Body shall appoint a new director.

10 E. Pursuant to Section 5-15-11 of the Act, Dolores Wood is appointed clerk of
11 the District and Olivia Padilla Jackson is appointed treasurer of the District.

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

15 **Section 10. Repealer.** All ordinances or resolutions, or parts thereof in conflict with the
16 provisions of this Formation Resolution, are hereby repealed to the extent only of such
17 inconsistency. This repealer shall not be construed to revive any ordinance or resolution,
18 or part thereof, heretofore repealed. The Governing Body hereby ratifies July 24, 2013, as
19 the date of the hearing regarding the formation of the District and all actions taken by City
20 staff in connection with the publication of notice of the formation hearing to occur on that
21 date.

22 **Section 11. Severability.** If any section, paragraph, clause or provision of this Formation
23 Resolution shall for any reason be held to be invalid or unenforceable, the invalidity or
24 unenforceability of such section, paragraph, clause or provision shall in no manner affect
25 any remaining provisions of this Formation Resolution.

26 **Section 12. Publication of Notice of Adoption of Formation Resolution.**

27 A. The Clerk is hereby directed to publish a notice of this Formation Resolution,
28 in substantially the following form:

29 Notice is hereby given of the title and general summary of the subject matter contained in a
30 resolution duly adopted and approved by the Governing Body of the City of Rio Rancho, New
31 Mexico relating to the approval of the Stonegate Communities Tax Increment Development
32 District. Complete copies of the resolution are available for public inspection during the regular
33 business hours of the City Clerk, City of Rio Rancho, New Mexico.

34 The title of the Formation Resolution is as follows:

35
36 RESOLUTION

37
38 **APPROVING THE PETITION AND APPLICATION OF COAL BANK HOLDINGS, LTD., FOR**
39 **FORMATION OF THE STONEGATE COMMUNITIES TAX INCREMENT DEVELOPMENT**
40 **DISTRICT (THE "DISTRICT" OR "TIDD") PURSUANT TO THE TAX INCREMENT FOR**
41 **DEVELOPMENT ACT, SECTIONS 5-15-1 THROUGH 5-15-28, NMSA 1978 AND GOVERNING**
42 **BODY RESOLUTION NO. 09-005; MAKING FINDINGS IN CONNECTION WITH THE**
43 **PETITION AND SUPPORTING DOCUMENTATION REQUESTING APPROVAL OF THE**
44 **FORMATION OF THE DISTRICT; DETERMINING THE REAL PROPERTY TO BE INCLUDED**
45 **WITHIN THE DISTRICT AND THE PURPOSES FOR WHICH THE DISTRICT IS BEING**

1 FORMED; APPROVING THE APPLICATION, PETITION, FINANCIAL FEASIBILITY STUDY
2 AND A FORM OF A DEVELOPMENT AGREEMENT FOR IMPLEMENTATION OF THE
3 DISTRICT RATIFYING THE TAX INCREMENT DEVELOPMENT PLAN APPROVED FOR
4 CONSIDERATION IN CONNECTION WITH THE FORMATION OF THE DISTRICT;
5 DEDICATING SEVENTY-FIVE PERCENT (75%) OF THE GROSS RECEIPTS TAX
6 INCREMENT REVENUE FOR THE DISTRICT, AS PROVIDED IN THE DEVELOPMENT
7 AGREEMENT; ESTABLISHING PARAMETERS FOR THE ISSUANCE OF TAX INCREMENT
8 BONDS BY THE DISTRICT; PROVIDING FOR GOVERNANCE OF THE DISTRICT THROUGH
9 THE APPOINTMENT OF MEMBERS OF THE GOVERNING BODY OF THE DISTRICT;
10 PROVIDING THAT TAX INCREMENT BONDS OF THE DISTRICT AND OTHER
11 OBLIGATIONS OF THE DISTRICT SHALL NOT BE OBLIGATIONS OF THE CITY OF RIO
12 RANCHO; RATIFYING CERTAIN ACTIONS HERETOFORE TAKEN; REPEALING ALL
13 ACTIONS INCONSISTENT WITH THIS RESOLUTION OTHER THAN GOVERNING BODY
14 RESOLUTION NO. 09-005.

15
16 A summary of the subject matter of the Formation Resolution is contained in its title.
17 (End of Form of Summary of Resolution for Publication)
18

19
20 ADOPTED THIS 24TH DAY OF JULY, 2013.
21

22
23 
24 _____
25 Thomas E. Swisstack, Mayor
26

27
28 ATTEST:

29
30 
31 _____
32 Stephen J. Ruger, City Clerk
33 (SEAL)