RESOLUTION NO. 135


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

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

WHEREAS: Sandia View, LLC (the "Applicant") has submitted to the City a Petition and
Application for the formation of The Village at Rio Rancho Tax Increment
Development District which includes, without limitation, a Tax Increment
Development Plan for the District and a map depicting the boundaries of the
District, a study of the feasibility, the financing and the estimated costs of
improvements, services and benefits to result from the formation of proposed
District (the "Financial Feasibility Study") and a proposed Development
Agreement for the District (the "Development Agreement"); and

WHEREAS: pursuant to the Petition and Application and Development Agreement, the
purpose of The Village at Rio Rancho Tax Increment Development District is
to finance public infrastructure to serve, in part, approximately 75.8 acres of
land known as The Village at Rio Rancho (the "Project"); and

WHEREAS: the Applicant estimates that the initial cost of public infrastructure, is
$11,475,580 which may be financed with proceeds of Tax Increment
Revenue Bonds issued by the District (the "TIDD Infrastructure"), as provided
in the Act and the TIDD Resolution; and

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

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

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

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

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

(iii) a Tax Increment Development Plan setting forth the information required by the
TIDD Resolution and the TIDD Act, which has been approved by the City Council pursuant
to Section 5-15-4(A) of the TIDD Act, subject to further proceedings and additional necessary approvals of the City Council concerning the formation of the District and is on file with the City Clerk; which Tax Increment Development Plan includes a detailed description of the TIDD Infrastructure financed with proceeds of bonds to be issued by the District, including the estimated construction or acquisition costs, projection of working capital needs, including adequate funds for repair and replacement of infrastructure, annual operation and maintenance costs of the TIDD Infrastructure and the required governmental approvals and licenses;

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

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

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

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

(viii) a statement that no ad valorem tax increment is being requested and thus no form of disclosure to prospective District landowners need be presented;

(ix) a draft operating plan for the TIDD Infrastructure;

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

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

(xii) a statement that the application is not requesting state or county gross receipts tax increment or ad valorem property tax increment revenue and thus no state or county application materials need be presented;

(xiii) a proposed form of intent to form and adoption of Tax Increment Development Plan Resolution; and

(xiv) a proposed form of Formation Resolution.

WHEREAS: pursuant to the Development Agreement, following formation of the District, the Applicant will construct the TIDD Infrastructure Improvements in accordance with the estimated construction schedule included in the Application, the City's rules and regulations and the Development Agreement; and
WHEREAS: pursuant to the Development Agreement and the Petition and Application, the TIDD Infrastructure Improvements financed with gross receipts tax dedicated by the City to the TIDD are to be designed and constructed according to all applicable City standards, are to be suitable for dedication to the City upon completion, and will be dedicated to, owned and operated by the City; and

WHEREAS: pursuant to the Petition and Application and as provided for in the TIDD Act, the Applicant anticipates that the TIDD Infrastructure will be financed, in part, through the issuance by the District of Bonds secured by the portion of gross receipts tax increment revenues generated within the District and dedicated by the City to the District, and the City will have no responsibility for construction of the TIDD Infrastructure, payment of the Bonds or other financial obligations of the District; and

WHEREAS: pursuant to Section 5-15-15(E) of the TIDD Act, the Applicant requests the dedication of seventy percent (70%) of the (a) general purposes municipal gross receipts taxes referenced in Section 5-15-15(B)(1) of the Act (the "General Purposes GRT"), (b) municipal infrastructure gross receipts taxes referenced in Section 5-15-15(B)(3) of the Act (the "Municipal Infrastructure GRT"), and (c) state shared gross receipts taxes distributed to the City pursuant to Section 7-1-6.4 NMSA 1978, as provided in Section 5-15-15(B)(6) of the Act (the "State Shared GRT"); and

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

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

WHEREAS: an allocable portion of Gross Receipts Tax Increment that is restricted by the Quarter Percent General Purposes GRT Purpose shall be used for the Quarter Percent General Purposes GRT Purpose; and

WHEREAS: the Municipal Infrastructure GRT relates to local option gross receipts taxes enacted by the City pursuant to City Ordinances 92-016 and 92-017 (together with any replacements or amendments thereof, the "City Municipal Infrastructure GRT Ordinances"), which enacted an aggregate 0.125% gross receipts tax; and

WHEREAS: pursuant to the City Municipal Infrastructure GRT Ordinances, no portions of such gross receipts taxes have been dedicated to particular uses; and
WHEREAS: no portions of the State Shared GRT have been dedicated to particular uses; and

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

WHEREAS: on September 9, 2009, the City adopted Resolution No. 97-007 declaring its intent to form the District; and

WHEREAS: the City Council has considered the Petition and Application and related submittals by the Applicant, has conducted a public hearing as provided by Sections 5-15-6 and 5-15-7 of the TIDD Act, and has determined that, subject to the execution and delivery of the Development Agreement as presented in connection with this Resolution and a subdivision improvement agreement with appropriate security guarantying the completion of specific infrastructure determined to be satisfactory by the City Manager, as described in Section 5(1) of this Resolution, the formation of the District is consistent with the TIDD Resolution and promotes the interests, convenience or necessity of the owners and residents of the District and citizens of the City.

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

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

"Act" or "TIDD Act" means Sections 5-15-1 through 5-15-28, NMSA 1978, as supplemented and amended, the Home Rule Powers and all enactments of the City's Governing Body, including the TIDD Resolution and this Resolution.

"Applicant" means Sandia View, LLC.

"Application" means the documents submitted in support of the Petition for formation of The Village at Rio Rancho Tax Increment Development District and documentation incorporated by reference in the Application and submitted to the City pursuant to the Act and the TIDD Resolution.

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

"Bonds" or "TIDD Bonds" means tax increment bonds issued by the District,
collectively or individually in accordance with the Act and secured by up to seventy percent
(70%) of the revenues of the Gross Receipts Tax Increment attributable to the (a) general
purposes municipal gross receipts taxes referenced in Section 5-15-15(B)(1) of the Act as
enacted by the City General Purposes GRT Ordinances, (b) municipal infrastructure gross
receipts taxes referenced in Section 5-15-15(B)(3) of the Act, as enacted by the City
Municipal Infrastructure GRT Ordinances; (c) state shared gross receipts taxes distributed
to the City pursuant to Section 7-1-6.4 NMSA 1978, as provided in Section 5-15-15(B)(6) of
the Act.

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

"Clerk" means the City Clerk.

"Date of Formation" shall have the meaning assigned in Section 5(1) of this
Formation Resolution.

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

"Development Agreement" means the development agreement by and between the
Applicant and the City in accordance with Section 4.6 of the TIDD Resolution, which
Development Agreement shall be ratified by the District.

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

"District" means The Village at Rio Rancho Tax Increment Development District.

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

"Financial Feasibility Study" means the study of the estimated costs and financing
methods of the TIDD Infrastructure Improvements submitted by the Applicant in connection
with its Petition for formation of The Village at Rio Rancho Tax Increment for Development
District.

"Formation Documents" means the Petition and Application and such other
documents as are required by the Act and the TIDD Resolution to be submitted by an
Applicant in connection with a petition for the formation, implementation and governance of
the District.

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

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

"Home Rule Powers" means the powers of the City as a home rule city to exercise legislative powers given pursuant to the City Charter adopted by the City pursuant to Article X, Section 6 of the State Constitution and all enactments of the Council relating to the formation of the District(s) and the issuance of the TIDD Bonds.

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

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

"State" means the State of New Mexico.

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

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

"TIDD Resolution" means City Council Resolution No. 09-005.

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

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

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

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

D. Words importing any gender include the other gender.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Section 5. Approval of Application and Formation Documents; Conditional Formation of District.
A. Approval of Petition. The Petition is hereby accepted and approved.

B. Approval of the District pursuant to the Tax Increment Development Plan and Development Agreement. The Village at Rio Rancho Tax Increment Development District is hereby ordered, approved and formed to carry out the purposes set forth in, and according to the provisions of, this Formation Resolution.

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

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

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

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

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

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

(i) The maximum aggregate principal amount of TIDD Bonds issued by the District shall not exceed the lesser of (a) the actual eligible costs (as defined in the Development Agreement), plus amounts to be used to fund debt service reserves, capitalized interest, credit enhancement, costs of issuance and sale, and other costs normally associated with the issuance of TIDD Bonds as permitted by the Act, or (b) $15,000,000, plus the amount determined as the increase in the cost of constructing public infrastructure improvements by applying the Construction Cost Index applicable to the Albuquerque region published in ENR.com by the McGraw-Hill Companies (or, in the event such index is no longer published at the applicable time, such other index of construction costs as the District and the City Manager mutually determine is acceptable for purposes of this Agreement and this Formation Resolution).

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

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

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

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

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

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

I. District Formation Conditioned and Effective Upon Delivery of Development Agreement and Subdivision Improvement Agreement for Certain Infrastructure. The formation of the District is subject to and conditioned upon the execution and delivery, by January 13, 2010, of the Development Agreement in the form approved by the Governing Body pursuant to this Formation Resolution, and a subdivision improvement agreement and related completion guaranty (together, the "SIA") in form and substance satisfactory to the City Manager, providing for the construction of the following TIDD Infrastructure: West Branch Channel improvements, including Wellspring RCP storm drain, Wellspring water lines, West Branch channel construction, traffic signal for Wellspring and Unser, and traffic signal for Westside and Wellspring (the "Formation Conditions"). The effective date of formation of the District (the "Date of Formation") shall be the date on which both the Developer and the City Manager have executed the Development Agreement and SIA, prior to which the District shall not be deemed formed. If, on January 13, 2010, the Formation Conditions have not been satisfied, this Resolution shall expire and be of no force or effect, without further action of the Governing Body of the City.

J. District Governing Body Initial Meeting. The governing body of the District shall hold a public meeting within 60 days following the Date of Formation, as provided in the immediately preceding subsection (I). At that meeting, the governing body shall adopt an open meetings policy and by-laws for that District and shall take such other action, toward or in connection with the issuance of Bonds by that District, as authorized by this Formation Resolution.

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

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

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

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

(ii) As provided in the Financing Plan and Tax Increment Development Plan, each indenture of trust relating to any TIDD Bonds shall include provisions for remittance to the City on an annual basis of a portion of the tax increment revenue pledged as security for TIDD Bonds that exceeds (1) 200% of the scheduled payments of the principal of and interest on outstanding TIDD Bonds, plus (2) applicable reserve requirements ("Excess Annual Increment Revenue"), equal to seventy-five percent (75%) of the Excess Annual Increment Revenue, and for the District to retain the remaining twenty-five percent (25%) of such Excess Annual Increment Revenue, which shall be utilized by the District to establish a sinking fund for the retirement or early redemption of TIDD Bonds, to reimburse eligible costs of TIDD Infrastructure Improvements or for other lawful purposes. Following the issuance of TIDD Bonds other than short-term TIDD Bonds, excess tax increment revenue shall not be pledged to secure short-term TIDD Bonds without the consent of the Governing Body of the City.

(iii) Limited Offering; Minimum Denomination. Each Bond Resolution shall provide that the Bonds issued by the District shall be sold pursuant to a limited public offering and issued in minimum denominations of at least $100,000 or such other, lesser amount as is approved by City's TIDD Review Staff.

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

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

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

C. Each Bond Resolution shall provide that the issuance of District Bonds, and the dedication of tax increment toward repayment of District Bonds, will not impair any outstanding obligations of the City.
D. Before the issuance of TIDD Bonds, each Bond Resolution shall be presented to the City Council for approval as being consistent with provisions of Section 6 of this Resolution. For short-term District obligations maturing not later than 30 days after issuance the governing body of the District shall pass a Bond Resolution, which resolution shall have been approved by the City’s TIDD Review Staff, and such short-term bonds shall not require an additional resolution to be adopted by the City Council. In addition, prior to the issuance of TIDD Bonds, the City Council must be satisfied that all other districts proposed to have boundaries overlapping the boundaries of the TIDD have been formed.

Section 7. Dedication of Gross Receipts Tax. Following the Date of Formation, pursuant to Section 5-15-15(E) of the TIDD Act, the City will dedicate seventy percent (70%) of the revenues of the Gross Receipts Tax Increment attributable to the (a) general purposes municipal gross receipts taxes referenced in Section 5-15-15(B)(1) of the Act, as enacted by the City General Purposes GRT Ordinances, (b) municipal infrastructure gross receipts taxes referenced in Section 5-15-15(B)(3) of the Act, as enacted by the City Municipal Infrastructure GRT Ordinances; and (c) state shared gross receipts taxes distributed to the City pursuant to Section 7-1-6.4 NMSA 1978, as provided in Section 5-15-15(B)(6) of the Act. An allocable portion of Gross Receipts Tax Increment that is restricted by the Quarter Percent General Purposes GRT Purpose shall be used for the Quarter Percent General Purposes GRT Purpose.

Section 8. District Governance.

A. The District’s governing body shall initially be composed of the following five directors: (i) a representative of the Developer, who is currently Robert D. Geringer, (ii) the City Manager, who is currently James Jimenez, (iii) the Director of the City Development Services Department, who is currently John Castillo, (iv) the Director of the City Department of Financial Services, who is currently Richard Kristof and (v) the Secretary of Finance and Administration of the State of New Mexico or the Secretary’s designee (the “DFA Director”).

B. James Jimenez and Robert D. Geringer shall serve 6-year terms.

C. John Castillo and Richard Kristof shall serve 4-year terms.

D. The DFA Director shall be a permanent director and in the event that any specific person filling the DFA Director position shall die, resign or otherwise vacate the board position, the District shall apply to the Secretary of Finance and Administration for the designation of a new director to fill the DFA Director position. If a vacancy occurs on the board because of the death, resignation or inability of the director to discharge the duties of the director, the governing body shall appoint a director to fill the vacancy, and the director shall hold office for the remainder of the unexpired term until a successor is appointed or elected. At the end of the initial term of any director other than the DFA Director, the District either shall hold an election of new directors by majority vote of owners and qualified resident electors in accordance with the Act or governance of the District shall revert to the City Council.

E. Pursuant to Section 5-15-11 of the Act, James Jimenez is appointed clerk of the District and Richard Kristof is appointed treasurer of the District.
Section 9. Amendments. This Formation Resolution may be amended or supplemented by ordinance or resolution adopted by the City Council in accordance with the laws of the City and the State.

Section 10. Repealer. All ordinances or resolutions, or parts thereof in conflict with the provisions of this Formation Resolution, are hereby repealed to the extent only of such inconsistency. This repealer shall not be construed to revive any ordinance or resolution, or part thereof, heretofore repealed.

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

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

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

Notice is hereby given of the title and general summary of the subject matter contained in a resolution duly adopted and approved by the City Council of the City of Rio Rancho, New Mexico relating to the approval of The Village at Rio Rancho Tax Increment Development District. Complete copies of the resolution are available for public inspection during the regular business hours of the City Clerk, City of Rio Rancho, New Mexico.

The title of the Formation Resolution is as follows:

RESOLUTION

DEVELOPMENT AGREEMENT; ESTABLISHING PARAMETERS FOR THE ISSUANCE
OF TAX INCREMENT BONDS BY THE DISTRICT; PROVIDING FOR GOVERNANCE OF
THE DISTRICT THROUGH THE APPOINTMENT OF MEMBERS OF THE GOVERNING
BODY OF THE DISTRICT; PROVIDING THAT TAX INCREMENT BONDS OF THE
DISTRICT AND OTHER OBLIGATIONS OF THE DISTRICT SHALL NOT BE
OBLIGATIONS OF THE CITY OF RIO RANCHO; RATIFYING CERTAIN ACTIONS
HERETOFORE TAKEN; REPEALING ALL ACTIONS INCONSISTENT WITH THIS
RESOLUTION OTHER THAN CITY COUNCIL RESOLUTION NO. 09-005.

A summary of the subject matter of the Formation Resolution is contained in its title.

(End of Form of Summary of Resolution for Publication)

ADOPTED THIS 16TH DAY OF DECEMBER, 2009.

Thomas E. Swisstack, Mayor

Date

ATTEST:

Roman Montoya, City Clerk

(SEAL)