RESOLUTION NO. 82

APPROVING THE PETITION OF LOS DIAMANTES LLC, A NEW MEXICO LIMITED LIABILITY COMPANY FOR FORMATION OF THE LOS DIAMANTES TAX INCREMENT DEVELOPMENT DISTRICT PURSUANT TO THE TAX INCREMENT FOR DEVELOPMENT ACT, NMSA 1978, SECTIONS 5-15-1 TO -29 (2006, AS AMENDED THROUGH 2019); MAKING FINDINGS IN CONNECTION WITH THE PETITION AND SUPPORTING DOCUMENTATION REQUESTING APPROVAL OF THE FORMATION OF THE DISTRICT; DETERMINING THE REAL PROPERTY TO BE INCLUDED WITHIN THE DISTRICT AND THE PURPOSE FOR WHICH THE DISTRICT IS BEING FORMED; APPROVING THE APPLICATION, PETITION, AND TIDD DEVELOPMENT AGREEMENT FOR IMPLEMENTATION OF THE DISTRICT; RATIFYING THE TAX INCREMENT DEVELOPMENT PLAN APPROVED FOR CONSIDERATION IN CONNECTION WITH THE FORMATION OF THE DISTRICT; DEDICATING REVENUES FROM UP TO SEVENTY-FIVE PERCENT (75%) OF CERTAIN GROSS RECEIPTS TAX INCREMENTS FOR FINANCING THE ACQUISITION OF PUBLIC INFRASTRUCTURE BY THE DISTRICT AS PROVIDED IN THE DISTRICT'S TAX INCREMENT DEVELOPMENT PLAN AND TIDD DEVELOPMENT AGREEMENT; ESTABLISHING PARAMETERS FOR THE ISSUANCE OF TAX INCREMENT BONDS; AUTHORIZING THE DISTRICT TO ISSUE SUBORDINATE OBLIGATIONS; PROVIDING FOR GOVERNANCE OF THE DISTRICT THROUGH THE APPOINTMENT OF MEMBERS OF THE GOVERNING BODY OF THE DISTRICT; PROVIDING THAT BONDS AND SUBORDINATE 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; AND TAKING OTHER ACTIONS RELATED TO THE FORMATION OF THE DISTRICT

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

WHEREAS: the 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 tax increment development districts to provide gross receipts tax increment financing and property 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 each of an owner determination and an election for the formation of the tax increment development district may be waived and cancelled, respectively, pursuant to NMSA 1978, Section 5-15-8 (2019) and the tax increment development district formed if the petition was submitted by the owner(s) of one hundred percent (100%) of the real property
proposed to be included within the tax increment development district and
the city has received evidence that no persons are registered to vote within
the area of the proposed tax increment development district; and

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

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

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

owners, tax increment development districts, and municipalities, among
other parties, to enter into development agreements to establish the
obligations of the owner or developer, the municipality and the tax increment
development district concerning matters relating to the development of the
real property; and

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

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

(i) a legal description and boundary map of the proposed District,
including a legal description and map of the District's boundaries;
(ii) evidence of the unanimous consent of owners of the Land and a
current title report for the Land as evidence (a) of the identity and
addresses of all persons or entities with any interest in the Land and
(b) that there are no persons are registered to vote at the Land;
(iii) a detailed description of the TIDD Infrastructure Improvements to be
financed 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
Improvements and the required governmental approvals and
licenses;
(iv) a proposed schedule for commencement and completion of the TIDD Infrastructure Improvements and the Additional Improvements;
(v) the Tax Increment Development Plan for the District setting forth the information required by the City Policy Guidelines and the Act, which has been approved by the Governing Body pursuant to NMSA 1978, Section 5-15-4(A) (2009) and is on file with the Clerk, and subject to further proceedings and additional necessary approvals of the Governing Body concerning the formation of the District;
(vi) an operating plan for the District;
(vii) a Financial Feasibility Study setting forth information required by the Act and the City Policy Guidelines;
(viii) a Market Demand Study setting forth the information required by the City Policy Guidelines;
(ix) a description of Applicants' development experience and financial ability to complete the TIDD Infrastructure Improvements and the Additional Improvements;
(x) a description of how the District meets the City's existing development objectives, including a compliance certificate;
(xi) a proposed TIDD Development Agreement to be entered into by the Developer, the City, and the District; and
(xii) proposed forms of the Intent Resolution, Increment Dedication Ordinances, and the Formation Resolution; and

WHEREAS: except to the extent TIDD Infrastructure Improvements are dedicated and conveyed to the SSCAFCA, AMAFCA or another governmental entity or as otherwise described in the TIDD Development Agreement, the TIDD Infrastructure Improvements are to be designed and constructed according to all applicable City standards, and therefore suitable for conveyance to the City upon completion, and shall be acquired by the District and then dedicated to, owned and operated by the City; and

WHEREAS: the Application proposes that a portion of the total cost of the TIDD Infrastructure Improvements will be satisfied from the proceeds of (i) Bonds payable from the Gross Receipts Tax Increment revenues and/or (ii) Subordinate Obligations payable from the Gross Receipts Tax Increment revenues and/or proceeds of Bonds; and

WHEREAS: the City, the District and the Developer will agree to limit the total reimbursement payable to the Developer by placing a cap on the total Gross Receipts Tax Increment revenues to be distributed by the New Mexico Taxation and Revenue Department to the District from the City GRT Increment Dedication, as well as the maximum total amount payable by the District to the Developer for reimbursement of the Costs of Construction of the TIDD Infrastructure Improvements; and

WHEREAS: the Application also proposes that administrative and other costs of the District may be satisfied from the Gross Receipts Tax Increment revenues; and

WHEREAS: the City will have no responsibility for construction of the TIDD Infrastructure
WHEREAS: pursuant to NMSA 1978, Sections 5-15-15 (2019) and -17 (2006), the Applicants requested in their Application the dedication by the City of the revenues generated within the District by up to seventy-five percent (75%) of the gross receipts tax increment of a portion of the municipal option gross receipts tax eligible for dedication to the District and the state-shared distribution pursuant to NMSA 1978, Section 7-1-6.4 (2019); and

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

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

WHEREAS: the Governing Body has considered the Application and related submittals by the Applicants, has conducted a public hearing as provided by NMSA 1978, Section 5-15-6 (2009) and NMSA 1978, Section 5-15-7 (2019), and has determined that the formation of the District is consistent with the City Policy Guidelines 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, including 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):


B. "Additional Improvements" means on-site and off-site infrastructure improvements, other than the TIDD Infrastructure Improvements, which are to be constructed and financed through sources other than the District, as described in the Tax Increment Development Plan.

C. "AMAFCA" means the Albuquerque Metropolitan Arroyo Flood Control Authority.

D. "Applicants" means the Petitioner and the Developer.

E. "Application" means the documents submitted by the Applicants to the City in support of the Petition pursuant to the Act and the City Policy Guidelines.

F. "Bond Resolution" means a resolution of the governing body of the District authorizing the issuance of District Obligations for the purpose of financing TIDD Infrastructure Improvements and other
eligible costs, which are subject to the financing parameters and other applicable requirements established in this Formation Resolution.

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

H. “City” means the City of Rio Rancho, New Mexico.

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

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

K. “City Increment Dedication Period Commencement Date” means, as to the District, the date of the first issuance of District Obligations by the District.

L. “Clerk” means the City Clerk.

M. “Costs of Construction” means the costs described in Section 3.D(ii) of the TIDD Development Agreement.

N. “County” means the Sandoval County, New Mexico, a political subdivision of the State, acting through its County Commission.

O. “City Policy Guidelines” means the City’s Tax Increment Development District Guidelines and Application Procedures.

P. “Developer” means LD Development LLC, a New Mexico limited liability company.

Q. “District” means the Los Diamantes Tax Increment Development District.

R. “District Board” means the governing body of the District.

S. “District Boundary Map” means the map attached as Exhibit A to the District’s Tax Increment Development Plan.

T. “District Obligations” means the Bonds and the Subordinate Obligations.

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

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

W. “Formation Resolution” means this resolution adopted by the Governing Body in connection with its approval of the formation of the District.

X. “Governing Body” means the governing body of the City.

Y. “Gross Receipts Tax Increment” has the meaning assigned in NMSA 1978, Section 5-15-3(H) (2019).
Z. "Home Rule Powers" means the powers of the City as a home rule municipality 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 and the issuance of the District Obligations.

AA. "Increment Dedication Ordinances" means, collectively, the City Ordinance to be adopted on August 27, 2020, which dedicate to the Tax Increment Development Project described in the District's Tax Increment Development Plan the revenue from a portion of the municipal gross receipts tax increments imposed by the City and revenue from the distribution from gross receipts tax revenues of the State of New Mexico pursuant to NMSA 1978, § 7-1-6.4 (2019), in the amounts described in Section 7.A of this Formation Resolution and in compliance with the requirements of NMSA 1978, Section 5-15-15(B) (2019) and NMSA 1978, Section 5-15-27 (2019).

BB. "Intent Resolution" means City Resolution No. 68 (Enactment No. 20-066), adopted on July 23, 2020, which declared the City's intent to form the District.

CC. "Land" means the real property described in the District Boundary Map and located within the boundaries of the District.

DD. "Petition" means the petition for formation of the District submitted to the City pursuant to the Act and the City Policy Guidelines, which contains the signature of the owner of one hundred percent (100%) of the Land and states that the owner waives its right to a determination concerning the formation of the District.

EE. "Petitioner" means Los Diamantes LLC, a New Mexico limited liability company.

FF. "PIDs" mean the Los Diamantes Public Improvement Districts South and North, proposed by the Applicants to be formed by the City in calendar year 2020.

GG. "Reimbursement Cap" has the meaning assigned in the Recital J of the TIDD Development Agreement.

HH. "Relocated Business" a business within the District's Tax Increment Development Area, which (a) also operated in the City and, as a result, paid gross receipts tax reportable to the City's gross receipts tax location code, (b) has not certified to the Developer (or the current owner of the business park zoned property within the District) that it intends to maintain its existing operations outside of the District reporting to the City's gross receipts tax location code, and (c) ceases operations of one or more locations outside of the District within 24 months of commencement of business in the District, as reasonably determined by the City. A "Relocated Business" does not include residential relocations and any home-based business that may locate in a residential dwelling unit.

II. "Special Districts" means both the District and the PIDs.

JJ. "SSCAFCA" means the Southern Sandoval County Arroyo Flood Control Authority.

KK. "State" means the State of New Mexico.

LL. "Subordinate Obligation" means loans, advances and other indebtedness incurred or issued by the Special Districts in
accordance with the TIDD Legislation and secured by the City GRT Increment Dedication.

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

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

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

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

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

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

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

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

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

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

C. Words importing any gender include the other gender.

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

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 Petition and Application, and all other relevant information and data, and hereby makes the following findings:

A. The Petitioner owns 100% of the Land and no persons are registered to vote at the Land.

B. As planned and proposed by the Applicants, the TIDD Infrastructure Improvements, to the extent such TIDD Infrastructure Improvements are not dedicated and conveyed to SSCAFCA, AMAFCA or another governmental entity, 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 Obligations proposed to be issued or incurred by the District will be the obligations solely of the District, 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 for the District reasonably protects the interests of the City in meeting its goals to support:
   (i) job creation;
   (ii) workforce housing;
   (iii) public school facility creation and improvement, including the creation and improvement of facilities for charter schools; and
   (iv) underdeveloped area or historical area redevelopment.

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

F. The Tax Increment Development Plan for the District incorporates sustainable development considerations.

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

H. The formation of the District and the issuance or incurrence of District Obligations, subject to the requirements and limitations specified in this Formation Resolution, are consistent with the requirements of the Act and the City Policy Guidelines.

I. The application fee described in the City Policy Guidelines and as further adjusted by the City's review staff was received by the City on the date of submission of the Petition and Application and all other costs billed to or incurred by the City in connection with its review of the Petition and Application have been paid by the Applicants at least 14 days prior to the date of adoption of this Formation Resolution.

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

A. waives the requirements for an owner determination concerning the formation of the District, as authorized by NMSA 1978, Sections 5-15-7(D) (2006) and -8(B) (2006); and
B. declares that any election concerning the formation of the District is cancelled, as authorized by NMSA 1978, Sections 5-15-7(D)(3) (2019) and -8(I) (2019).

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

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

B. Order Forming Los Diamantes Tax Increment Development District.

(i) The Los Diamantes Tax Increment Development District is hereby ordered formed. The formation of the District is effective as of the effective date of this Formation Resolution and is not contingent on further action by the State or another local government. The District shall include the Land 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) In addition to other express or implied authority granted by the Act and the Home Rule Powers, the District shall have the powers necessary and convenient to finance the costs of a portion of the TIDD Infrastructure Improvements as provided in its Tax Increment Development Plan, Financial Feasibility Study and TIDD Development Agreement, as those documents may be amended from time-to-time.

C. Tax Increment Development Plans. The Tax Increment Development Plan for the District, previously approved for purposes of NMSA 1978, Section 5-15-4(A) (2009), but subject to further proceedings of and necessary approvals by the City, is now hereby ratified and approved for all purposes under the TIDD Legislation. The District shall implement its Tax Increment Development Plan.

D. TIDD Development Agreements. The TIDD Development Agreement for the District substantially in the form presented herewith, with such changes, insertions, deletions and modifications as shall be approved by the City Manager is hereby accepted and approved. The City Manager is hereby authorized and directed to execute the TIDD Development Agreement on behalf of the City. Any changes, insertions, deletions and modifications to a TIDD Development Agreement shall be deemed to have been approved by the City upon execution and delivery of such TIDD Development Agreement by the City Manager, such execution and delivery to be conclusive evidence of such approval. The District shall be a party to the TIDD Development Agreement and shall be bound to the obligations set forth therein immediately upon formation of the District, without any further action by the District, and notwithstanding the provisions of the Procurement Code or applicable local procurement requirements as permitted by NMSA 1978, Section 5-15-12(B) (2006).

E. Purpose of the District. The principal purpose of the District shall be, as contemplated by its Tax Increment Development Plan, to finance the acquisition of a portion of the TIDD Infrastructure Improvements to be conveyed to the District and then reconveyed by the District to
the City, the SSCAFCA, AMAFCA or another public agency or public body for ownership and ongoing operation, maintenance and repair. The District may, subject to the Reimbursement Cap, choose to satisfy the obligations of another Special District (in whole or part), in compliance with the TIDD Development Agreement, to pay the costs of constructing all or a portion of the TIDD Infrastructure Improvements conveyed to such Special District, which have not been previously paid or otherwise satisfied (in whole or part) with public monies from another public source. The District will not undertake or otherwise finance the operation, maintenance, or repair of TIDD Infrastructure Improvements.

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

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

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

I. **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.

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

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

A. Each Bond Resolution shall include, at minimum, the following provisions stated below for the protection of owners of the District
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 1978, Section 5-15-15(A) (2019).
1978, Section 5-15-17(B) (2006), the Tax Increment Development Plan, the TIDD Development Agreement, and the terms of one or more resolutions of the District Board.

### Section 7. Dedication of Gross Receipts Tax Increments to the District; Tax Increment to Secure District Obligations.

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

<table>
<thead>
<tr>
<th>Description</th>
<th>Authority</th>
<th>GRT Rates</th>
<th>Net GRT Rates Dedicated to the District</th>
</tr>
</thead>
<tbody>
<tr>
<td>State Distribution Shared</td>
<td>NMSA 1978, Section 7-1-6.4 (2019)</td>
<td>1.2250%</td>
<td>0.8889%</td>
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<tr>
<td>Hold Harmless Distribution</td>
<td>NMSA 1978, Section 7-1-6.46 (2013)</td>
<td></td>
<td>0.00%</td>
</tr>
<tr>
<td>Municipal Gross Receipts Tax</td>
<td>City Ord. Nos. 81-20, 81-21, 82-59, 85-132, 85-133, and 19</td>
<td>1.5000%</td>
<td>1.1006%</td>
</tr>
<tr>
<td>Municipal Infrastructure Gross Receipts Tax</td>
<td>City Ord. Nos. 17 and 18 (Enactment No. 92-017)</td>
<td>0.1250%</td>
<td>0.0907%</td>
</tr>
<tr>
<td>Description</td>
<td>Authority</td>
<td>GRT Rates</td>
<td>Net GRT Rates Dedicated to the District</td>
</tr>
<tr>
<td>------------------------------------------</td>
<td>----------------------------</td>
<td>-----------</td>
<td>----------------------------------------</td>
</tr>
<tr>
<td>Municipal Environmental Services Gross</td>
<td>City Ord. No. 33</td>
<td>0.0625%</td>
<td>0.0000%</td>
</tr>
<tr>
<td>Receipts Tax</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Hold Harmless Gross Receipts Tax</td>
<td>City Ord. No. 18</td>
<td>0.1250%</td>
<td>0.0907%</td>
</tr>
<tr>
<td></td>
<td>(Enactment No. 18-17)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Higher Public Education Gross Receipts</td>
<td>City Ord. No. 98</td>
<td>0.2500%</td>
<td>0.0000%</td>
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<tr>
<td>Tax</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Subtotal</td>
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<td>2.0625%</td>
<td>1.2820%</td>
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<tr>
<td>Total City</td>
<td></td>
<td>3.2875%</td>
<td>2.1709%</td>
</tr>
</tbody>
</table>

Following adoption of the Increment Dedication Ordinances, but on or before Monday, August 31, 2020, the City Manager will cause delivery of the notice of dedication of the City GRT Increment Dedication to the Taxation and Revenue Department as described in NMSA 1978, Section 5-15-27 (2006), as well as providing notice to the Taxation and Revenue Department that the estimated base gross receipts taxes generated in the District are $0.00 (zero dollars). The City GRT Increment Dedication will become effective on January 1, 2021.

B. The Governing Body shall, by resolution, end the duration of the City GRT Increment Dedication for the District following the completion of the City Increment Dedication Period. The Governing Body may at any time, by resolution, authorize the extension of the City Increment Dedication Period for the District to the extent permitted by the Act or other applicable law.

C. The dedication of the City GRT Increment Dedication to the District shall be and remain irrepealable until the end of the City Increment Dedication Period for the District, except as otherwise provided in the TIDD Development Agreement.

D. Pursuant to NMSA 1978, Section 5-15-15(E) (2009), the Gross Receipts Tax Increment revenues generated within the District may be dedicated for the purpose of securing Bonds. The District may also authorize the issuance or incurrence of Subordinate Obligations to be secured by the Gross Receipts Tax Increment revenues generated within the District or otherwise fund the Costs of Construction of TIDD Infrastructure Improvements directly from the proceeds of the Gross Receipts Tax Increment within the Tax Increment Development Area of the District.

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

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

Section 8. TIDD Governance.

A. The District Board shall initially be composed of the five (5) members:
   (i) one of whom shall be a representative from the City Manager's Office, which member shall initially be Matthew Geisel;
   (ii) one of whom shall be employed in the Department of Financial Services, which member shall initially be Carole Jaramillo;
   (iii) two members nominated by the Applicant, and consented to by the Governing Body, which members shall initially be Pierre Amestoy and Christine Amestoy;
   (iv) one a designee of the Secretary of the Department of Finance and Administration with full voting privileges.
   (v) Matthew Geisel and Pierre Amestoy shall serve 6-year terms for the District.
   (vi) Carole Jaramillo and Christine Amestoy shall serve 4-year terms for the District.
   (vii) Pursuant to NMSA 1978, Section 5-11-6(A) (2019), Pierre Amestoy is appointed to be the clerk of the District and Christine Amestoy is appointed to be treasurer of the District.

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

Section 9. Mail and Record Notices of Formation. The City shall cause:
A. delivery of a copy of this Formation Resolution to each of the persons and entities identified in NMSA 1978, Section 5-15-9(A) (2009);
B. delivery of the notices described in NMSA 1978, Section 5-15-15(H) (2019) and NMSA 1978, Section 5-15-17(F) (2006); and
C. recording of a notice described in NMSA 1978, Section 5-15-9(B) (2019) in the records of the County Clerk.

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

Section 11. 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. To the extent, if any, that this Formation Resolution conflicts with any provision of the City Policy Guidelines, such provision is waived solely with respect to the formation of and other matters concerning the District, and the City Policy Guidelines shall remain in full force and effect in connection with any other application or project to which the City Policy Guidelines applies or may apply in the future. This repealer shall not be construed to revive any ordinance or resolution, or part thereof, heretofore repealed.

Section 12. 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.


Greggory D. Hull, Mayor

ATTEST:

Rebecca A. Martinez, City Clerk
(SEAL)