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

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

WHEREAS: the formation of a public improvement district may result in the imposition of special levies to pay the costs of public infrastructure benefiting a public
improvement district; and

WHEREAS: the Act authorizes owners, public improvement districts and municipalities to enter into development agreements to establish the obligations of the owner or developer, the municipality and the public improvement 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: the City has enacted policy guidelines and application procedures for the establishment of public improvement districts within the City; and

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

(i) a description of the proposed District, including a legal description and current title report for the Real Property, the identity and addresses of all persons or entities with any interest in the property, evidence that no person is registered to vote within the Real Property and that the owners of the Real Property have unanimously consented to the formation of the District, and a description of the appropriateness of the boundaries of the District;

(ii) a General Plan for the District, which includes, among other things, a description of the District's boundaries, anticipated types and locations of Infrastructure Improvements, information regarding the future ownership and maintenance of the Infrastructure Improvements, and adequate information to establish financial parameters for operation of the District;

(iii) a Feasibility Study for the District, which includes a market absorption study, description of improvements to be constructed, construction schedule and financing plan for the Infrastructure Improvements upon formation of the District, a description of the Applicant's equity contribution and the timing and sources of the contribution, and an operating plan for the Infrastructure Improvements;

(iv) a Rate and Method of Special Levy Apportionment for the District in sufficient detail to enable each owner or resident within the District to estimate the maximum amount of the proposed District Special Levy;

(v) an MAI Appraisal for the District;

(vi) a description of Applicant's development experience and financial ability to complete the Infrastructure Improvements;

(vii) forms of Disclosure for the District of its District Special Levy;

(viii) a description of the consistency of the Infrastructure Improvements with the City's development policies and objectives;

(ix) a Development Agreement for the District to be entered into by and among the City, the District, and the Developer;

(x) a form of Intent Resolution for the District;

(xi) a form of Formation Resolution for the District; and
WHEREAS: except for those improvements that are dedicated and conveyed to another governmental entity, the PID-Funded Infrastructure Improvements will be designed and constructed according to all applicable City requirements, will suitable for dedication to the City upon completion, and will be acquired by a District and then dedicated to, owned and operated by the City; and

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

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

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

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

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

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, 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):

A. “Act” means the Public Improvement District Act, NMSA 1978,
Sections 5-11-1 to -27 (2001, as amended through 2019) and the home rule powers and
all enactments of the Governing Body.

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

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

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

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

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

G. "Clerk" means the City Clerk.

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

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

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

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

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

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

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

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

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

Q. "Formation Documents" means the Application, the Petition, the
General Plan, the Feasibility Study, the Rate and Method of Special Levy Apportionment,
the Development Agreement, and such other documents as are required by the Act and
the PID Guidelines to be submitted by the Applicant in connection with an application for
the formation of the District.

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

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

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

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

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

W. “Land” means the real property described in the District Boundary
Map for the District.

X. “MAI Appraisal” means the valuation of the Real Property as of
March 1, 2021, as prepared by David Pearson, MAI.

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

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

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

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

CC. “Plan of Finance” means the plan of finance included at Section VI
of the Feasibility Study.

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

EE. “Real Property” means the real property located within the
boundaries of the District, described in the District Boundary Map.

FF. “Reimbursement Cap” has the meaning assigned in Recital H of the
Development Agreement.

GG. “SSCAFCA” means the Southern Sandoval County Arroyo Flood
Control Authority.

HH. “State” means the State of New Mexico.

II. “Subordinate Obligations” means one or more subordinate bonds,
subordinate promissory notes and/or other subordinate obligations, secured by a second priority pledge of the District Special Levy and constituting a reimbursement obligation, issued by the District to memorialize the obligation of the District to pay the costs of PID-Funded Infrastructure Improvements received by the District.

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

A. The Petitioner owns 100% of the Real Property and no person is registered to vote within the Real Property within the seventy days immediately preceding the date of adoption of this Formation Resolution.
B. As planned and proposed by the Applicant, the Infrastructure Improvements to be conveyed to the City by the District have been or will be constructed to City specifications and will be subject to inspection, approval and acceptance by the City prior to conveyance to the City, as described in the Development Agreement.
C. The District Bonds and Subordinate Obligations of the District will not be backed by the credit, general funds or resources of the City in any manner. Owners of the District Bonds or the Subordinate Obligations of the District will have no right to require the City or the District to impose ad valorem property taxes to pay amounts due under the District Bonds or the Subordinate Obligations of the District.
D. The District will serve the interests, convenience and necessity of the Applicant, the Petitioner, the future owners of the Real Property and the citizens of the City:
   (i) The District will be utilized to finance the PID-Funded Infrastructure Improvements benefitting the Land, which will be developed as a master planned development, consisting of residential uses;
   (ii) The information provided in the Application provides a reasonable basis upon which the Governing Body has determined that all the Real Property is directly or indirectly benefited by the District, as contemplated by NMSA 1978, Sections 5-11-2(S) (2019) and 5-11-6(A) (2019);
   (iii) The cost of constructing the PID-Funded Infrastructure Improvements of the District will be apportioned in a reasonable manner among the owners of the District’s Land, in accordance with the Rate and Method of Special Levy
Apportionment, and will not be passed on to the citizens of the City, other than the owners of the District's Land, or the City itself;

(iv) The City will receive the benefit of the PID-Funded Infrastructure Improvements of the District through dedication of the Infrastructure Improvements not otherwise dedicated to SCAFC or AMAFC.

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

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

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

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

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

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

Section 4. Formation of District; District Foreclosure Procedures for Delinquent Special Levies; Property Tax Levy.

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

B. The Application is hereby accepted and approved.

C. The General Plan is hereby accepted and approved.

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

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

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

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

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

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

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

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

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

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

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

O. Pursuant to the authority granted in NMSA 1978, Sections 5-11-20(1)
(2013) and 5-11-23(F) (2019), the District shall establish procedures for foreclosure of the
delinquent District Special Levies and for redemption of the foreclosed property, which
procedures shall be substantially similar to the foreclosure and redemption procedures
applicable to Municipal Improvement Districts set forth in NMSA 1978, Sections 3-33-28
to -30 (1965, as amended through 1991), and as set forth for the District in the
Development Agreement approved by this Formation Resolution.

Section 5. Authorization of District Bonds. In compliance with Section 2-10-6(H) of
the PID Guidelines, the District may issue District Bonds pursuant to the terms of the
Development Agreement and one or more Bond Resolutions in the amounts and subject
to the financing requirements and limitations set forth in this Formation Resolution,
including the Reimbursement Cap.
A. Each Bond Resolution shall include, at minimum, the following provisions for the protection of owners of the Bonds:

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

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

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

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

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

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

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

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

Section 6. District 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 Peter Wells;

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

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

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

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

C. 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.

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

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

Section 9. Amendments. This Formation Resolution may be amended or
supplemented by ordinance or resolution adopted by the Governing Body 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. To the extent, if any, that this Formation Resolution conflicts with any
provision of the PID Guidelines, such provision is waived solely with respect to the
formation of and other matters concerning the District, and the PID Guidelines shall
remain in full force and effect in connection with any other application or project to which
the PID 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 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.

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ADOPTED THIS 8TH DAY OF APRIL, 2021.

Greggory D. Hull, Mayor

ATTEST:

Rebecca A. Martinez, City Clerk
(SEAL)
EXHIBIT A
LOCAL PROCEDURES FOR CONDUCTING OWNER DETERMINATION
SECTION 1. AUTHORITY; PURPOSE OF PROCEDURES.

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

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

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

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

SECTION 2. LOCAL DETERMINATION PROCEDURES.

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

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

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

(1) review and confirm whether a Determination Affidavit has been received from all owners eligible to submit a Determination Affidavit;
(2) if all possible Determination Affidavits are received in the manner provided by the Determination Resolution, review and confirm each Determination Affidavit and conduct, consider and canvass the Determination; and

(3) prepare a certificate of canvassing (the “Certificate”) for recording in the District’s minute book, which Certificate shall indicate which questions received unanimous approval in the Determination and which questions did not receive unanimous approval in the Determination.

D. As of the date of the Certificate, the Determination shall prevail and be binding and conclusive.
EXHIBIT 1

DETERMINATION AFFIDAVIT
DETERMINATION AFFIDAVIT OF THE OWNERS

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

1. The Owners are the sole owners of all the land (the "Land") identified in Exhibit A, which is attached hereto and incorporated herein by reference.

2. The Owners certify that there are no qualified electors, as that term is used throughout the Public Improvement District Act, NMSA 1978, Sections 5-11-1 to -27 (2001, as amended through 2019) (the "Act"), located on the Land.

3. In compliance with the Act, the Owners unanimously authorize the following (the "Action"): [INSERT ACTION].

4. The Owners unanimously approve the Action.

Further affiants sayeth naught.

Date: _________________ ____, 20___

[Signature]

[Signature]

[Signature]

[Signature]
EXHIBIT A

THE LAND