



# City of Rio Communities Council Regular Business Meeting

City Council Chambers - 360 Rio Communities Blvd

Rio Communities, NM 87002

Monday, August 28, 2023 6:00 PM

## Agenda

*Please silence all electronic devices.*

**Mayor - Joshua Ramsell**

**Mayor Pro Tem - Margaret R. Gutjahr**

**Council - Arthur Apodaca, Lawrence R. Gordon, Jimmie Winters**

### Call to Order

### Pledge of Allegiance

### Roll Call

### Approval of Agenda

**Approval of Consent Agenda Items** (The consent agenda is approved by a single motion. Any member of the Council may request an item to be transferred to the regular agenda from the consent agenda without discussion or vote.)

1. **Minutes for the City Council Workshop, Regular Business Meeting (08/14/23) and Accounts Payable**

### Swearing in of the Police Chief

### Presentation:

**Valencia County Business Incubator - Ben Romero**

**Public Comment:** The Council will take public comments in written format. These should be emailed to [admin@riocommunities.net](mailto:admin@riocommunities.net) through 4:45 PM on Monday, August 28, 2023. These comments will be distributed to all Councilors for review. If you wish to speak during the public comment session, the Council will allow each member of the public to three (3) minutes to address the Council. Both the public and Council will follow rules of decorum. Give your name and where you live. The public will direct comments to the City Council. Comment(s) will not be disruptive or derogatory.

**The Council will not take action or engage in discussion regarding the comments made or received, but when appropriate the matters raised may be referred to staff or others for further review. Both the public and Council will follow rules of decorum. Derogatory Comments or matters under litigation will not be allowed and any person or persons addressing the Council are liable for their own statements, not the Council. Statements are limited to a maximum of 3 minutes duration. Please give your name and where you live for the record.**

### Manager Report

2. **City Project(s)**

### Action Items

3. **Discussion, Consideration, and Decision – Resolution 2023 - xx City Procurement Policy Manual**

NOTE: THIS AGENDA IS SUBJECT TO REVISION UP TO 72 HOURS PRIOR TO THE SCHEDULED MEETING DATE AND TIME (NMSA 10-15-1 F). A COPY OF THE AGENDA MAY BE PICKED UP AT CITY HALL, 360 RIO COMMUNITIES BLVD, RIO COMMUNITIES, NM 87002. IF YOU ARE AN INDIVIDUAL WITH A DISABILITY WHO IS IN NEED OF A READER, AMPLIFIER, QUALIFIED SIGN LANGUAGE INTERPRETER OR ANY OTHER FORM OF AUXILIARY AND OR SERVICE TO ATTEND OR PARTICIPATE IN THE MEETING, PLEASE CONTACT THE MUNICIPAL CLERK AT 505-861-6803 AT LEAST ONE WEEK PRIOR TO THE MEETING OR AS SOON AS POSSIBLE.

4. **Discussion, Consideration, and Decision – Limited Term Positions - Change Code Enforcer to Fire EMS Code enforcer & Fire EMS**
5. **Discussion, Consideration, and Decision – Critical Path on Zip Code Issue**
6. **Discussion, Consideration, and Decision – Change Order to the 10th Anniversary Celebration**
7. **Discussion, Consideration, and Decision – Approval to Proceed with the Design & Construction for Parks and Trails on City Property**
8. **Discussion, Consideration, and Decision – Ordinance 2023 - XX - Chapter 10 Local Economic Development Act (LEDA) - 14-day public review**
9. **Discussion, Consideration, and Decision – Ordinance 2023 - XX - Chapter 10 Industrial Revenue Bond Policy (IRB) and Local Economic Development Act (LEDA) - 14-day public review**

## **Council Discussion**

**Executive Session - For purpose of the discussion of the purchase, addition or disposal of real property or water rights by the public body pursuant to NMSA 10-15-1(H)(8)**

**Motion and roll call vote to go into close session**

**Motion and roll call vote to go back into the regular business meeting session**

**Welcome everyone back and statement by the Mayor:** The Governing Body of the City of Rio Communities, New Mexico, hereby states that on August 28, 2023 a closed executive session was held for purpose of the discussion of the purchase, addition or disposal of real property or water rights by the public body pursuant to NMSA 10-15-1(H)(8)

## **Action Items**

10. **Recommendation, Discussion, Consideration, and Decision - For purpose of the discussion of the purchase, addition or disposal of real property or water rights by the public body pursuant to NMSA 10-15-1(H)(8)**

## **Adjourn**

Please join us from the comfort and safety of your own home by entering the following link: @  
<https://www.facebook.com/riocommunities>

***Council may be attending the Valencia County Business Roundtable hosted by US Congressman Gabe Vasquez & Valencia County Business Incubator held at Rio Communities Conference room 360 Rio Communities Blvd., Rio Communities, NM on Tuesday August 29, 3:30 pm - 4:20 pm, a possible quorum may be in attendance.***

NOTE: THIS AGENDA IS SUBJECT TO REVISION UP TO 72 HOURS PRIOR TO THE SCHEDULED MEETING DATE AND TIME (NMSA 10-15-1 F). A COPY OF THE AGENDA MAY BE PICKED UP AT CITY HALL, 360 RIO COMMUNITIES BLVD, RIO COMMUNITIES, NM 87002. IF YOU ARE AN INDIVIDUAL WITH A DISABILITY WHO IS IN NEED OF A READER, AMPLIFIER, QUALIFIED SIGN LANGUAGE INTERPRETER OR ANY OTHER FORM OF AUXILIARY AND OR SERVICE TO ATTEND OR PARTICIPATE IN THE MEETING, PLEASE CONTACT THE MUNICIPAL CLERK AT 505-861-6803 AT LEAST ONE WEEK PRIOR TO THE MEETING OR AS SOON AS POSSIBLE.



**City of Rio Communities Council Workshop**  
**City Council Chambers - 360 Rio Communities Blvd**  
**Rio Communities, NM 87002**  
**Monday, August 14, 2023 3:00 PM**  
**Minutes**

*Please silence all electronic devices.*

### Call to Order

- Mayor Ramsell called the regular workshop to order at 3:04 pm.

### Attendees

- PRESENT

#### Governing Body

Mayor Joshua Ramsell  
 Mayor Pro-tem Margaret R. Gutjahr  
 Councilor Arthur Apodaca  
 Councilor Lawrence Gordon  
 Councilor Jimmie Winters

#### Staff

Manager Dr. Martin Moore  
 Clerk Elizabeth Adair  
 Finance Officer Stephanie Finch  
 Fire Chief Andrew Tabet  
 Attorney Randall Van Vleck

### Accounts payable report

- Finance officer Finch began going over all chargers over \$500.00 (see packet).

### Resolution 202X-xx ICIP (Infrastructure Capital Improvement Plan)

- Manager Dr. Moore began to explain the ICIP summary and rankings.
- Councilor Apodaca said how do we decide if we want to ask for more than what is currently forecasted.
- Manager Dr. Moore explained it would be based on what we think our timeline would be for plan designed constructed equip. For example, if we want to buy more than one piece of equipment, we will put the price in here.
- Councilor Gutjahr said under City Hall multipurpose complex it says \$50,000.00 I thought we were funded more than that.
- Manager Dr. Moore said you are correct, that the number will be changed to add the two grants we have funded and continued with the discussion.
- Manager Dr. Moore said he recommends going from \$1,050,000.00 to \$2,050,000.00 and continued the discussion.
- Councilor Apodaca said anything we can do ahead of time to beat the going inflation would be to our advantage.
- Manager Dr. Moore recommends increasing parks & trails from \$750,000.00 to \$1,000,000.00.
- Councilor Apodaca said that parks are high on our resident's priority list.

### Ordinance 2023 - Chapter 4 Zoning Code

- Manager Dr. Moore explained the changes they have made. He explained that the table of contest was changed and then explained the definitions and continued the discussion.
- Councilor Apodaca asked if there were any potential developers waiting for us to finish this.
- Manager Dr. Moore said that we do not have any current applications pending and then said we do have any business and landowners that are interested in what we are doing is yes. We have spoken with AREA and New Mexico partnership and talked with a few developer landowners.

## **Memorandum of Understanding Between The Amigos of Rio Communities Public Library and the City of Rio Communities, Rio Communities Public Library**

- Manager Dr. Moore explained that the attorney has been in review of this document it is a straightforward document one thing they wanted was a file cabinet in the City and we put that we are not liable for the file cabinet if they want to store it in there.
- Councilor Gutjahr said that the Belen friends have done an outstanding job as far as support. I am glad to see that we will have our own.

### **Demolition of Fire Department Room**

- Manager Dr. Moore pointed out the scope of work we are looking of demolition of current wall and ceilings and the goal is to move the gym equipment over here and it will be available for our police department and all city employees.
- Finance Officer Finch explained they did get three quotes, and this was the cheapest one.
- Manager Dr. Moore said these times nicely with what is going on here with City Hall they are getting ready to do the lighting and the flooring in. They are moving along.
- Councilor Gutjahr asked when we are going to be able to use the front door.
- Manager Dr. Moore explained as soon as we can move the deputy clerk into the front office and continued with the discussion.

### **Zip Code Letter**

- Manager Dr. Moore explained his is a letter that we are putting together and said we are getting an address list. We are also requesting a meeting for the proper paperwork the Postal Service is asking for and continued the discussion.
- Councilor Gutjahr asked regarding the line regarding a meeting online or telephone is okay and wondered if that would be helpful to bold online or telephone. Think in the meeting the conversations we have had they keep thinking we want a post office.

### **Public Comment**

- No public comments.

### **Manager Report**

#### **LEDA & IRB Ordinance(s)**

- Manager Dr. Moore said regarding LEDA & IRB bringing back on August 28<sup>th</sup> asking for approval for a 14-day review on the ordinance and continued the discussion
- Councilor Gutjahr said the sooner we get this the better.

#### **10th Anniversary Celebration**

- Manager Dr. Moore explained that he met with the individual regarding the 10th anniversary celebration he is recommending a much lower consultant fee. We will be having another meeting with the planning committee, and we will stay at our \$10,000.00 goal.

#### **Job openings**

- Manager Dr. Moore said the incoming police chief would like the evidence clerk and police officer positions are out for advertising and then continued with the librarian and said that job description is completed, and it has been posted on our website and will be in the newspaper.
- Manager Dr. Moore said there was a request from the Governor's office we showed her a video we had of our clean up and she said that community clean up is one of her top priorities.

**Council General Discussion & Future Agenda Items**

- Councilor Apodaca said he is still trying to get ahold of the individual to request an easement and he has not returned his emails. He then said he will try to call him later this week.
- Councilor Gutjahr said in general conversation on the fact that all of the events that occurred the industrial park is called the Rio Grande industrial park and they kept saying east of Jarales instead of where we are the fact all of these entities like the News or the Newspaper do not get the picture and somehow, we need to do that effectively. She then said when things happen like with the President arriving who should be calling Sunny 505.
- Councilor Gordon agreed with Councilor Gutjahr that not been mentioned at all. I talked to Mr. Mimms about last year and how can we get our name out there.
- Councilor Winters said why don't we suggest the possibility of our manager with the mayor's input trigger an automatic expenditure of funds to be proactive.
- Manager Dr. Moore recommended that the Council recommends him to get together with Mr. Mimms and Joy Griffin to get an expenditure of funds to accomplish what you are asking.
- Mayor Ramsell said as everyone knows the President was here last week Dr. Moore and myself were able to attend that we were able to speak to the Govern and US Senator Lujan and the CEO of Acosta. We talked to the Governor of things we have going on with our community also discussing the zip code issue with Senator Lujan and letting the CEO of Acosta who is providing his fire service and that the Fire Chief is available anytime he needs to call.

**Adjourn**

- The City Council regular workshop was adjourned at 4:05 pm.

Respectfully submitted,

\_\_\_\_\_  
 Elizabeth F. Adair, Municipal Clerk  
 (Transcribed by Lalena Aragon, Deputy Clerk)

Date: \_\_\_\_\_

Approved:

\_\_\_\_\_  
 Joshua Ramsell,  
 Mayor

\_\_\_\_\_  
 Margaret R. Gutjahr,  
 Mayor Pro-tem/Councilor

\_\_\_\_\_  
 Arthur Apodaca,  
 Councilor

\_\_\_\_\_  
 Lawrence R. Gordon,  
 Councilor

\_\_\_\_\_  
 Jimmie Winters,  
 Councilor



**City of Rio Communities Council Regular Business Meeting**  
**City Council Chambers - 360 Rio Communities Blvd**  
**Rio Communities, NM 87002**  
**Monday, August 14, 2023 6:00 PM**  
**Minutes**

*Please silence all electronic devices.*

### Call to Order

- Mayor Joshua Ramsell called the Regular Business Meeting to order at 6:04 pm.

### Pledge of Allegiance

- Council Gordan led the Pledge of Allegiance.

### Roll Call

- PRESENT

#### Governing Body

Mayor Joshua Ramsell  
 Mayor Pro-tem Margaret R. Gutjahr  
 Councilor Arthur Apodaca  
 Councilor Lawrence Gordon  
 Councilor Jimmie Winters

#### Staff

Manager Dr. Martin Moore  
 Clerk Elizabeth Adair  
 Fire Chief Andrew Tabet  
 Attorney Randy Van Vleck  
 Press Clara Garcia

### Approval of Agenda

- Motion made by Councilor Apodaca to approve the agenda as written. Seconded by Councilor Apodaca.

#### Voting Yea:

Mayor Pro-tem Gutjahr  
 Councilor Apodaca  
 Councilor Gordon  
 Councilor Winters

With a 4-0 vote Council approved the agenda.

### Approval of Consent Agenda Item (Minutes for the City Council Workshop & Regular Business Meeting (07/24/23), Minutes for the City Council Special Business Meeting (07/31/23), Approval of Accounts Payable)

- Motion made by Mayor Pro-tem Gutjahr to approve the consent agenda as stated on the agenda. Seconded by Councilor Winters.

#### Voting Yea:

Mayor Pro-tem Gutjahr  
 Councilor Apodaca  
 Councilor Gordon  
 Councilor Winters

With a 4-0 vote Council approved the consent agenda.

### Presentation: Elisa Saavedra – Torres (PNM)

- ❖ Ms. Saavedra-Torres - the Customer Marking Director for PNM, gave a presentation, continued with the PNM resource overview, she said they are in step 3 of pursuing the replacement of

brown resource generation and replacing it with green resource generation, went further into economic development and said I want to share what our definition of economic development is it is very utility focus and continued with her presentation. She further explained her goal is to be the best supporting actor she then went over services provide. She then said that Ralph Mimms and the Council has been very proactive and asking us to start the planning between PNM and the community and they have a meeting on October 30<sup>th</sup>, and we will bring in our best and brightest engineers and start working on a plan. We also provide electric infrastructure maps and cost estimates for expanding infrastructure and continued her presentation.

- ❖ Councilor Apodaca said looking forward to the October 30<sup>th</sup> meeting and developing a plan for our city. We are on a big economic development push.
- ❖ Councilor Gutjahr asked regarding the community crew portal that is on the PNM website.
- ❖ Ms. Saavedra-Torres explained it is internal to PNM so anyone can send in request for volunteers.

## Public Hearing

### Motion and roll call vote to recess Regular Business Meeting session and to go into Public Hearing

- Motion made by Councilor Apodaca with a roll call vote to recess Regular Business Meeting session and to go into Public Hearing. Seconded by Councilor Gordon.

#### Voting Yea:

Mayor Pro-tem Gutjahr

Councilor Apodaca

Councilor Gordon

Councilor Winters

With a 4-0 vote Council went into the public hearing at 6:25 pm.

### Consideration of the Infrastructure Capital Improvement Plan (ICIP)

- Manager Dr. Moore gave a very brief explanation, he explained that a concern is streetlights we are getting a plan in place there were ten sites that were looked at they gave us templates for an internal review for recommendations for future funding, parks and trails we have basic plan master plan, public safety complex police, fire, EMS is important. We did include public safety equipment and we are concerned with pavement reconstruction. On our public works complex we mentioned about \$300,000.00 that will be plan and design if we can get some construction out of that it would be wonderful.
- Roadway beautification would be things like trees, decorative things along the sidewalks, signage welcoming people into the city or upgrade signs. He explained there are other grants other than ICIP.
- Parks and trails we have a master plan, and this can go a long way to help us move along.
- Councilor Apodaca said it is a great improvement we are moving forward as a city.
- Councilor Gutjahr said some of these amounts will be increased then said this is our Master plan, but this also means grants as a reminder if we don't have this and we want to go to the legislator this needs to be in place. She then said it was drilled in our head that you had to have, plan, design this what things would cost at this stage.
- Councilor Gordon said one of the things we added in the workshop for storm water and drainage went from 1 million to 1.5 million.

- Councilor Winters said this year the ICIP has been a wrestling match because we changed some directions on things and figured out better ways to plan and move forward. But I think with the consensus of Council this is a good plan.
- Mayor Ramsell said when you look at the ICIP this shows what the priorities are for your city government, and this allows us not only to receive money from the legislator but also if there are grants that pops up, we can apply for them the first thing they are going to ask is this on your ICIP.
- Fire Chief Tabet said the Valencia County wide public safety 700 mega hurts that is the initiative the municipalities and the county are switching over this entire valley into 700 which is a much more capable radio for the safety of police and EMS we have a lot of dead spots in the county. He said this is a county wide idea to switch over. Los Lunas and Albuquerque have switched over and it is crystal clear.
- Mayor Ramsell said one last item in previous years the County has moved forward in County wide flood prevention system and have asked all the municipalities to add this to their ICIP in hopes of maximizing funding request in capabilities in having county wide flood prevention system.

**Motion and roll call vote to go back into Regular Business Meeting session**

- Motion made by Mayor Pro-tem Gutjahr with a roll call vote to go back into the regular business meeting session. Seconded by Councilor Gordon.

Voting Yea:

Mayor Pro-tem Gutjahr  
 Councilor Apodaca  
 Councilor Gordon  
 Councilor Winters  
 6:43 pm.

With a 4-0 vote Council went into the public hearing at

**Resolution 202X-xx ICIP (Infrastructure Capital Improvement Plan)**

- Motion made by Councilor Apodaca to approve Resolution 2023-19 ICIP (Infrastructure Capital Improvement Plan). Seconded by Councilor Winters.

Voting Yea:

Mayor Pro-tem Gutjahr  
 Councilor Apodaca  
 Councilor Gordon  
 Councilor Winters

With a 4-0 vote Resolution 2023 – 19 ICIP (Infrastructure Capital Improvement Plan) was passed, approved, adopted, and signed.

**Public Hearing: Continuation from the July 31, 2023 public hearing**

**Motion and roll call vote to recess Regular Business Meeting session and to go into Public Hearing**

- Motion made by Mayor Pro-tem Gutjahr with a roll call vote to recess Regular Business Meeting session and to go into Public Hearing for the consideration of Chapter 4 Zoning Code. Seconded by Councilor Apodaca.

Voting Yea:

Mayor Pro-tem Gutjahr



Councilor Apodaca  
 Councilor Gordon  
 Councilor Winters

With a 4-0 vote Council went into the public hearing at 6:46 pm.

#### **Consideration of Chapter 4 Zoning Code**

- Manager Dr. Moore said this particular ordinance is repealing ordinance 2021-76 and pointed out the major points of what we are looking at #1 the petroleum type uses we are concerned about in the existing city limits coming in have been prohibited in this new zoning code, #2 attempt to rezone in to industrial inside the existing city limits is prohibited if we annex an area that is an existing industrial park outside the city limits that's another matter we did maintain what is called I3 industrial 3 zone. Another piece of significant is I1 or I2 what is called light or moderate industrial zoning has been eliminated from the zoning ordinance we don't have any I1 or I2 or any proposed that doesn't mean the city can't come back at some point in time if they want to if there is another annexation. One of the things we did to help this ordinance is if it is a commercial 1 you have a list of permitted uses instead of an example of permitted uses. The other part we have if it is permitted in C1 then it is permitted in C2 if it is permitted in C2 then it is permitted in C3, C3 then in industrial you see the direction that is flows what is permitted uses in the zones. In the business manufacturing zones we talked about limiting residential and making sure people aren't trying to bring a residential development into a business manufacture zone there are buffers built in, for example we don't have a business manufacture next to a residential. We did recognize the Plan development area is important, he then went over the definitions. Those were the main changes, looking at information significant for both existing residents and new businesses coming we want to be clear about the standards that you need to meet to come in.
- Councilor Apodaca said he thinks this is a great move forward for the City and thanked everyone who was a part of this task force.
- Councilor Gutjahr said moving forward on this is key as fast as we can and so people can have questions answered
- Councilor Gordon thanked everyone that was part of this and said it is a good thing for the city and where it is headed.
- Councilor Winters thanked the public for their comments, and we considered every one of those very seriously and appreciate it very much.
- Mayor Ramsell said this is the result of us having a decent zoning code to begin with and taking that and listening to what the community said and what they want and didn't want to see in the community and be business friendly.

#### **Motion and roll call vote to go back into Regular Business Meeting session**

- Motion made by Councilor Gordon with a roll call vote to go back into the regular business meeting session. Seconded by Councilor Winters.

#### Voting Yea:

Mayor Pro-tem Gutjahr  
 Councilor Apodaca  
 Councilor Gordon  
 Councilor Winters

With a 4-0 vote Council went into the public hearing at 7:00 pm.

### Ordinance 2023 - (88) Ch 4 Zoning Code

- Motion made by Mayor Pro-tem Gutjahr to approve Ordinance 2023 - 88 Ch 4 Zoning Code. Seconded by Councilor Winters.

Voting Yea:

Mayor Pro-tem Gutjahr  
 Councilor Apodaca  
 Councilor Gordon  
 Councilor Winters

With a 4 Ordinance 2023 – 88 Ch 4 Zoning Code was passed, approved, adopted, and signed.

### Public Comment

- No public comments.

### Manager Report

- Manager Dr. Moore said there was significant events last week that required a lot of moving parts behind the scenes with security and medical and a lot of things that needed to be done and our chief, working with various of agencies when the President came to town. Working together and creating a repore with the Secret Service. The City of Rio Communities was present at the event. I want to give kudos to our Chief and our fire department. We have a couple of other things that we will be coming forward with in other meetings and talked about the 10<sup>th</sup> anniversary.
- Manager Dr. Moore said the business incubator and congressman Valdez will be here August 29<sup>th</sup> we are asking to use the council chambers. We are pleased he wants to come here and talk business for Valencia County and Rio Communities.

### Municipal Clerk Department: Universal Waste System (2nd quarter report)

- See packet for report.

### Municipal Court Department

- See packet for report.

### Memorandum of Understanding Between The Amigos of Rio Communities Public Library and the City of Rio Communities, Rio Communities Public Library

- Manager Dr. Moore explained there is a group that formed itself called the Rio Communities library amigos. We are pleased they are here and want to help us, we have seen the support the Belen library has been getting from their friends. The library agreed to move forward with this MOU, and we are asking for your permission to move forward.
- Councilor Gutjahr said she is familiar with the friends of the library for Belen, and they have been very supportive and helpful group.
- Motion made by Councilor Apodaca to approve the Memorandum of Understanding Between The Amigos of Rio Communities Public Library and the City of Rio Communities, Rio Communities Public Library. Seconded by Councilor Winters.

Voting Yea:

Mayor Pro-tem Gutjahr  
 Councilor Apodaca  
 Councilor Gordon  
 Councilor Winters

with a 4-0 vote Council approved the MOU between the Amigos of Rio Communities Public Library, the City of Rio

## Communities and Rio Communities Public Library.

**Demolition of Fire Department Room**

- Mayor Ramsell explained this is the former gym here at the fire department there was a cost proposal painting was not included in this bid.
- Manager Dr. Moore said this was one of three quotes they received for this work, and this was the lowest bid and explained the purpose for this is so the fire equipment will fit into the building.
- Attorney Van Vleck recommends writing a more comprehensive contract before we engage in funds and thinks it will be better served with a full-blown contract as well as this award of proposal.
- Motion made by Mayor Pro-tem Gutjahr to approve this proposal and approve the City Manager to work with the City Attorney to write a contract. Seconded by Councilor Gordon.

Voting Yea:

Mayor Pro-tem Gutjahr  
 Councilor Apodaca  
 Councilor Gordon  
 Councilor Winter

With a 4-0 vote Council approved City Manager to work with the City Attorney writing a contract for the proposal of demolition of the fire department room.

**Zip Code Letter**

- Manager Dr. Moore read the letter into the minutes (see packet).
- Motion made by Councilor Gutjahr to approve the letter. Seconded by Councilor Gordon.

Voting Yea:

Mayor Pro-tem Gutjahr  
 Councilor Apodaca  
 Councilor Gordon  
 Councilor Winters

With a 4-0 vote Council approved the letter.

**Council Discussion**

- Councilor Apodaca said he is continuing to contact the property owner to obtain an easement where the flagpole currently stands.
- Councilor Gutjahr thanked the fire department for the outstanding job they did when the President done and then said have discussed the recognition of our City and to thank the news-bulletin for their article.
- Mayor Ramsell said as previously mentioned we did have the president it was quite an honor to be present. We were able to talk to the Governor about some issues we have been having. We also talked to US Senator Lujan about a zip code, we also got to talk to the CEO of Acosta and that we will be providing their fire service.
- Manager Dr. Moore said we might want to mention our VALEO will be here tomorrow night.

**Executive Session - For the purpose of Police Chief Selection and Contract pursuant to NMSA 10-15-1(H)(2) - Limited Personnel Matters and for the discussion of the purchase, addition or disposal of real property or water rights by the public body pursuant to NMSA 10-15-1(H)(8)**

**Motion and roll call vote to go into close session**

- Motion made by Councilor Apodaca with a roll call vote to go into executive session for the purpose of Police Chief Selection and Contract pursuant to NMSA 10-15-1(H)(2) - Limited Personnel Matters and for the discussion of the purchase, addition or disposal of real property or water rights by the public body pursuant to NMSA 10-15-1(H)(8). Seconded by Councilor Winters.

Voting Yea:

Mayor Pro-tem Gutjahr  
Councilor Apodaca  
Councilor Gordon  
Councilor Winters

With a 4-0 vote Council went into executive session at 7:26 pm.

**Motion and roll call vote to go back into the regular business meeting session**

- Motion made by Councilor Gordon, Seconded by Councilor Winters.

Voting Yea:

Mayor Pro-tem Gutjahr  
Councilor Apodaca  
Councilor Gordon  
Councilor Winters

With a 4-0 vote Council went back into the regular business meeting session at 8:24 pm

**Welcome everyone back and statement by the Mayor**

- See agenda for statement.

**Discussion, Consideration, and Decision - For the purpose of Police Chief Selection and Contract pursuant to NMSA 10-15-1(H)(2) - Limited Personnel Matters and for the discussion of the purchase, addition or disposal of real property or water rights by the public body pursuant to NMSA 10-15-1(H)(8)**

- Mayor Ramsell said his recommendation to approve Felix Nunez for the position of Police Chief.
- Motion made by Mayor Pro-tem Gutjahr to approve Felix Nunez for the position of Police Chief. Seconded by Councilor Apodaca.

Voting Yea:

Mayor Pro-tem Gutjahr  
Councilor Apodaca  
Councilor Gordon  
Councilor Winters

With a 4-0 vote Council approved the appointment and hire of Felix Nunez for the position of Police Chief.

- Mayor Ramsell said in regard to the purchase, addition or disposal of real property or water rights by the public body there are no recommendations.

**Adjourn**

- Motion made by Councilor Winters to adjourn. Seconded by Councilor Apodaca. With a unanimous vote the meeting was adjourned at 8:26 pm.

Respectfully submitted,

\_\_\_\_\_  
 Elizabeth F. Adair, Municipal Clerk  
 (Transcribed by Lalena Aragon, Deputy Clerk)

Date: \_\_\_\_\_

Approved:

\_\_\_\_\_  
 Joshua Ramsell,  
 Mayor

\_\_\_\_\_  
 Margaret R. Gutjahr,  
 Mayor Pro-tem/Councilor

\_\_\_\_\_  
 Arthur Apodaca,  
 Councilor

\_\_\_\_\_  
 Lawrence R. Gordon,  
 Councilor

\_\_\_\_\_  
 Jimmie Winters,  
 Councilor



Rio Communities, NM

# My Check Register

Item 1.

Packet: APPKT00935 - ap 8.28.23

By Check Number

Vendor Number	Vendor Name	Payment Date	Payment Type	Discount Amount	Payment Amount	Number
<b>Bank Code: AP BANK CODE-AP BANK CODE</b>						
VEN04185	Amazon Business	08/24/2023	EFT	0.00	5,827.26	
VEN04582	Valencia County Fiscal Office	08/24/2023	Regular	0.00	1,117.45	
VEN04680	HEI, Inc	08/24/2023	EFT	0.00	95,299.72	
VEN04603	Woodlands Hardware	08/24/2023	Regular	0.00	34.19	
VEN04598	Wells Fargo Financial Leasing	08/24/2023	Regular	0.00	2,497.73	
VEN04260	Craig Independent Tire Co.	08/24/2023	Regular	0.00	251.00	
VEN04406	Dova Inc	08/24/2023	Regular	0.00	400.00	
VEN04562	TLC Plumbing & Utility Commercial S	08/24/2023	Regular	0.00	701.13	
VEN04231	Century Link	08/24/2023	Regular	0.00	76.34	
VEN04620	HDR Engineering, Inc.	08/24/2023	EFT	0.00	54,616.62	
VEN04789	AJ's Professional Contracting	08/24/2023	EFT	0.00	9,329.34	
VEN04794	T&T Trailer Sales	08/24/2023	EFT	0.00	1,369.99	
VEN04454	NM Municipal League	08/24/2023	Regular	0.00	50.00	
VEN04615	Stericycle Inc.	08/24/2023	Regular	0.00	125.68	
VEN04510	RoofCARE, LLC.	08/24/2023	EFT	0.00	1,424.50	
VEN04783	Construction Coordinators Inc.	08/24/2023	EFT	0.00	23,480.64	
VEN04702	Linde Gas & Equipment Inc.	08/24/2023	EFT	0.00	133.33	
VEN04538	Staples Contract & Commercial, LLC.	08/24/2023	EFT	0.00	7.46	
VEN04527	Sharp Electronics Corporation	08/24/2023	EFT	0.00	4,491.86	
VEN04430	Desert Greens Equipment Inc.	08/24/2023	EFT	0.00	1,600.00	

**Bank Code AP BANK CODE Summary**

Payment Type	Payable Count	Payment Count	Discount	Payment
Regular Checks	11	9	0.00	5,253.52
Manual Checks	0	0	0.00	0.00
Voided Checks	0	0	0.00	0.00
Bank Drafts	0	0	0.00	0.00
EFT's	28	11	0.00	197,580.72
	<b>39</b>	<b>20</b>	<b>0.00</b>	<b>202,834.24</b>

### Fund Summary

Fund	Name	Period	Amount
99000	Pooled Cash Fund	8/2023	202,834.24
			<hr/>
			<b>202,834.24</b>



Rio Communities, NM

# Accounts Payable Approval Report

Item 1.

## By Fund

Vendor Name	Payable Number	Post Date	Description (Item)	Amount
<b>Fund: 11000 - General Operating Fund</b>				
<b>Department: 1001 - Governing Body</b>				
Amazon Business	1J3C-R96J-PPHW	08/17/2023	CM Laptop/Docking Station/P	4,646.00
<b>Department 1001 - Governing Body Total:</b>				<b>4,646.00</b>
<b>Department: 2001 - Manager</b>				
Amazon Business	1J3C-R96J-PPHW	08/17/2023	2 Monitors, Stand, Docking St	383.93
NM Municipal League	INV0004316	08/17/2023	Annual NMML Membership F	50.00
<b>Department 2001 - Manager Total:</b>				<b>433.93</b>
<b>Department: 2002 - General Administration</b>				
Wells Fargo Financial Leasing	5026174364	08/17/2023	CH Server Lease - Contract #8	2,497.73
RoofCARE, LLC.	15754	08/21/2023	Front Door Leak	700.00
Sharp Electronics Corporation	9004443200	08/21/2023	Contract# 800595693 - Aquos	274.50
Sharp Electronics Corporation	9004443202	08/21/2023	City Hall Copies	110.55
TLC Plumbing & Utility Comm	CH537495-1	08/21/2023	City Hall - HVAC Repair	290.59
Sharp Electronics Corporation	9004459460	08/24/2023	City Hall & Fire Dept. VOIP	624.72
Sharp Electronics Corporation	9004461108	08/24/2023	CH Help Desk - Contract #800	285.00
<b>Department 2002 - General Administration Total:</b>				<b>4,783.09</b>
<b>Department: 2004 - Finance/Budget/Accounting</b>				
Amazon Business	1VKV-PK17-MCHY	08/17/2023	Finance Office Supplies	155.96
Staples Contract & Commerci	8071275555	08/17/2023	Finance Office Supplies	7.46
<b>Department 2004 - Finance/Budget/Accounting Total:</b>				<b>163.42</b>
<b>Department: 3001 - Law Enforcement</b>				
Sharp Electronics Corporation	9004443201	08/21/2023	Contract# 800608808 - PD Hel	919.00
Sharp Electronics Corporation	SH580611	08/21/2023	Police Dept. Copies	187.72
Sharp Electronics Corporation	SH580612	08/21/2023	Police Dept. Copies	319.58
<b>Department 3001 - Law Enforcement Total:</b>				<b>1,426.30</b>
<b>Department: 3004 - Animal Control</b>				
Valencia County Fiscal Office	AC2024-06	08/21/2023	Animal Control	1,117.45
<b>Department 3004 - Animal Control Total:</b>				<b>1,117.45</b>
<b>Department: 4004 - Library</b>				
Sharp Electronics Corporation	9004443197	08/21/2023	Library copies	69.23
Sharp Electronics Corporation	9004443200	08/21/2023	Contract# 800595693 - Aquos	137.25
<b>Department 4004 - Library Total:</b>				<b>206.48</b>
<b>Department: 5101 - Public Works</b>				
Woodlands Hardware	011243/1	08/17/2023	Various Supplies	28.49
Desert Greens Equipment Inc.	01-74521	08/17/2023	95 Gallon Weed Sprayer	1,600.00
T&T Trailer Sales	10165	08/17/2023	Headache Rack	1,100.00
T&T Trailer Sales	10165	08/17/2023	Weathertech Floor mats	269.99
Craig Independent Tire Co.	131330	08/17/2023	Vehicle Tire Repair	251.00
Woodlands Hardware	011261/1	08/22/2023	Various Supplies	5.70
Amazon Business	1FPH-Q4C4-FRCV	08/24/2023	Safety Equip for PW Vehicles	430.38
<b>Department 5101 - Public Works Total:</b>				<b>3,685.56</b>
<b>Fund 11000 - General Operating Fund Total:</b>				<b>16,462.23</b>
<b>Fund: 20900 - Fire Protection</b>				
<b>Department: 3002 - Fire Protection</b>				
Amazon Business	1J3C-R96J-PPHW	08/17/2023	Extra Laptop Battery for Fire C	210.99
Century Link	INV0004317	08/17/2023	FD/Substation - Telephone ser	76.34
Sharp Electronics Corporation	900443198	08/21/2023	Fire Dept Copies	15.50
Sharp Electronics Corporation	9004443199	08/21/2023	Fire Dept Help Desk & Server	1,301.00
Sharp Electronics Corporation	9004443200	08/21/2023	Contract# 800595693 - Aquos	137.25
Sharp Electronics Corporation	9004443202	08/21/2023	Fire Dept Copies	110.56



**Accounts Payable Approval Report**

Vendor Name	Payable Number	Post Date	Description (Item)	Amount
TLC Plumbing & Utility Comm	CH538794-1	08/21/2023	Fire Dept - HVAC Repair	410.54
Linde Gas & Equipment Inc.	37737871	08/22/2023	Oxygen	133.33
Dova Inc	6067	08/23/2023	Fire Dept-Vehicle Detail	400.00
			<b>Department 3002 - Fire Protection Total:</b>	<b>2,795.51</b>
			<b>Fund 20900 - Fire Protection Total:</b>	<b>2,795.51</b>
<b>Fund: 26000 - American Rescue Plan Act</b>				
<b>Department: 2002 - General Administration</b>				
HEI, Inc	JC3486	08/21/2023	Audio/Visual System Council	93,161.88
			<b>Department 2002 - General Administration Total:</b>	<b>93,161.88</b>
			<b>Fund 26000 - American Rescue Plan Act Total:</b>	<b>93,161.88</b>
<b>Fund: 29700 - County EMS GRT</b>				
<b>Department: 2002 - General Administration</b>				
Stericycle Inc.	3006601557	08/22/2023	Biohazard Waste Pickup	125.68
			<b>Department 2002 - General Administration Total:</b>	<b>125.68</b>
			<b>Fund 29700 - County EMS GRT Total:</b>	<b>125.68</b>
<b>Fund: 30300 - State Legislative Appropriation Project</b>				
<b>Department: 2002 - General Administration</b>				
HDR Engineering, Inc.	1200546893	08/22/2023	Task 4 - Safety Lighting	5,013.00
HDR Engineering, Inc.	1200546893	08/22/2023	Task 8 - Subconsultant Terraco	650.00
HDR Engineering, Inc.	1200546893	08/22/2023	Gross Receipts Tax (Albuquerque)	491.85
HDR Engineering, Inc.	1200546893	08/22/2023	Subconsultant Mark-Up	65.00
HDR Engineering, Inc.	1200546893	08/22/2023	Task 1 - Project Management	1,580.60
AJ's Professional Contracting	1500.01	08/23/2023	City Hall Gutter System	8,576.41
AJ's Professional Contracting	1500.02	08/24/2023	City Hall Gutter System	752.93
			<b>Department 2002 - General Administration Total:</b>	<b>17,129.79</b>
			<b>Fund 30300 - State Legislative Appropriation Project Total:</b>	<b>17,129.79</b>
<b>Fund: 30400 - Road/Street Projects</b>				
<b>Department: 2002 - General Administration</b>				
HDR Engineering, Inc.	1200547043	08/22/2023	GRT (7.7500%)	3,127.53
HDR Engineering, Inc.	1200547043	08/22/2023	Task 1 - Project Management	3,640.20
HDR Engineering, Inc.	1200547043	08/22/2023	Task 3 - Preliminary & Final D	37,376.60
			<b>Department 2002 - General Administration Total:</b>	<b>44,144.33</b>
			<b>Fund 30400 - Road/Street Projects Total:</b>	<b>44,144.33</b>
<b>Fund: 39900 - Other Capital Projects</b>				
<b>Department: 2002 - General Administration</b>				
RoofCARE, LLC.	15709	08/17/2023	Roof Repair north side of Buil	724.50
HEI, Inc	JC3487	08/21/2023	Installation of Laser Cutter Ve	2,137.84
HDR Engineering, Inc.	1200546893	08/22/2023	Gross Receipts Tax (Albuquerque)	65.43
HDR Engineering, Inc.	1200547538	08/22/2023	On-Call Engineering Services	2,606.41
Construction Coordinators Inc	1266	08/24/2023	Rio Communities GRT (7.8125)	1,079.00
Construction Coordinators Inc	1266	08/24/2023	Fire Department Demolition	13,800.00
Construction Coordinators Inc	1267	08/24/2023	Weight room and Hall constru	8,601.64
			<b>Department 2002 - General Administration Total:</b>	<b>29,014.82</b>
			<b>Fund 39900 - Other Capital Projects Total:</b>	<b>29,014.82</b>
<b>Grand Total:</b>				<b>202,834.24</b>

**Report Summary**

**Fund Summary**

Fund	Expense Amount
11000 - General Operating Fund	16,462.23
20900 - Fire Protection	2,795.51
26000 - American Rescue Plan Act	93,161.88
29700 - County EMS GRT	125.68
30300 - State Legislative Appropriation Project	17,129.79
30400 - Road/Street Projects	44,144.33
39900 - Other Capital Projects	29,014.82
<b>Grand Total:</b>	<b>202,834.24</b>

**Account Summary**

Account Number	Account Name	Expense Amount
11000-1001-56020	Supplies - General Office	4,646.00
11000-2001-56020	Supplies - General Office	383.93
11000-2001-57150	Subscriptions & Dues	50.00
11000-2002-54010	Maintenance & Repairs -	700.00
11000-2002-54050	Maintenance & Repair -	290.59
11000-2002-55030	Contract - Professional S	1,184.22
11000-2002-57090	Printing/Publishing/Adv	110.55
11000-2002-57130	Rent of Equipment/Mac	2,497.73
11000-2004-56020	Supplies - General Office	163.42
11000-3001-55030	Contract - Professional S	919.00
11000-3001-57090	Printing/Publishing/Adv	507.30
11000-3004-55999	Contract - Other Service	1,117.45
11000-4004-55030	Contract - Professional S	137.25
11000-4004-57090	Printing/Publishing/Adv	69.23
11000-5101-54050	Maintenance & Repair -	1,100.00
11000-5101-56030	Supplies - Field Supplies	34.19
11000-5101-56040	Supplies-Furniture/Fixtu	1,600.00
11000-5101-56090	Supplies - Safety	430.38
11000-5101-56122	Supplies - Vehicle Tires	251.00
11000-5101-56999	Supplies - Other	269.99
20900-3002-54040	Maintenance & Repairs -	400.00
20900-3002-54050	Maintenance & Repair -	410.54
20900-3002-55030	Contract - Professional S	1,438.25
20900-3002-56020	Supplies - General Office	210.99
20900-3002-56030	Supplies - Field Supplies	133.33
20900-3002-57090	Printing/Publishing/Adv	126.06
20900-3002-57160	Telecommunications	76.34
26000-2002-58020	Equipment & Machinery	93,161.88
29700-2002-55999	Contract - Other Service	125.68
30300-2002-55030	Contract - Professional S	7,800.45
30300-2002-58010	Buildings & Structures	9,329.34
30400-2002-55030	Contract - Professional S	44,144.33
39900-2002-55030	Contract - Professional S	2,671.84
39900-2002-58010	Buildings & Structures	26,342.98
<b>Grand Total:</b>		<b>202,834.24</b>

**Project Account Summary**

Project Account Key	Expense Amount
**None**	61,302.35
D19427-50000	40,504.13
D19577-50000	7,865.88
FRF-RIOCOM-075-50000	93,161.88
<b>Grand Total:</b>	<b>202,834.24</b>

# Authorization Signatures

## MAYOR & COUNCILORS

---

JOSHUA RAMSELL, MAYOR

---

MARGARET "PEGGY" GUTJAHR, MAYOR PRO-TEM

---

LAWRENCE GORDON, COUNCILOR

---

ARTHUR APODACA, COUNCILOR

---

JIM WINTERS, COUNCILOR

ATTEST:

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**STATE OF NEW MEXICO  
CITY OF RIO COMMUNITIES  
RESOLUTION 2023**

**A RESOLUTION REPEALING THE EXISTING PROCUREMENT POLICY AND ADOPTING THE STATE  
PROCUREMENT CODE AS THE CITY'S PROCUREMENT PROCEDURE**

**WHEREAS,** the City of Rio Communities adopted its Procurement Policies & Procedures Manual by passing Resolution 2020-168; and

**WHEREAS,** the City of Rio Communities Procurement Policies & Procedures Manual was last updated on March 25, 2020; and

**WHEREAS,** the Legislature adopted the State Procurement Code which shall apply to every expenditure by local public bodies; and

**WHEREAS,** except as provided in the state Procurement Code, no local procurement policy may be inconsistent with the state Procurement Code; and

**WHEREAS,** the state Procurement Code has undergone several amendments since March of 2020 that necessitate changes to the city's procurement policies; and

**WHEREAS,** whenever the state law changes, so must the local policy; and

**WHEREAS,** the City would be well-served in adopting the state Procurement Code as it is amended from time to time as its local procurement code/policy.

**NOW THEREFORE BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF RIO COMMUNITIES THAT: RESOLUTION 2020-158 be and hereby is repealed; and**

**BE IT FURTHER RESOLVED THAT:** The City of Rio Communities adopts the state Procurement Code as it is amended form time-to-time as its procurement process; and

**PASSED, APPROVED AND ADOPTED THIS 28 DAY OF AUGUST 2023 BY THE GOVERNING BODY OF THE CITY OF RIO COMMUNITIES, NEW MEXICO.**

**City of Rio Communities Governing Body**

\_\_\_\_\_  
Joshua Ramsell, Mayor

\_\_\_\_\_  
Margaret R. Gutjahr, Mayor Pro-tem/Councilor

\_\_\_\_\_  
Arthur Apodaca, Councilor

\_\_\_\_\_  
Lawrence R. Gordon, Councilor

\_\_\_\_\_  
Jimmie Winters, Councilor

ATTEST:

\_\_\_\_\_  
Elizabeth F. Adair, Municipal Clerk

State of NM Public Purchase and Property 13-1-1 through 13-1-199

[Chapter 13 - Public Purchases and Property - NMSources.com](http://NMSources.com)



## CITY OF RIO COMMUNITIES

360 Rio Communities Blvd.  
Rio Communities, NM 87002  
505-861-6803  
www.riocommunities.net

### Critical Path Worksheet ZIP Code

The following are recommended actions for the City of Rio Communities to follow in its newest effort to obtain a zip code.

- Zip code request letter to the US Postal Service—August, 2023
- Copied request letters to Congressional and state officials—August, 2023
- Encourage rezoning and annexation petition process—August, 2023
- Meeting with the Governor and Legislators—September, 2023
- Meeting with Congressional representatives—September/October, 2023
- Follow-up letter and data presented to the US Postal Service—September/October, 2023
- Congressional delegation letter of support to accompany follow-up letter—September/October, 2023
- Seek a legislative solution if zip code request if there is no progress toward a process solution from the US Postal Service—December, 2023

# Industrial Revenue Bonds & Local Economic Development Act

Summary and applicability

A law firm  
shaping the future.

Sherman  
& Howard



# Industrial Revenue Bonds



## What is a IRB

- ▼ Technically: A “loan” from an investor (Bond Purchaser) to a company where the loan proceeds and repayment flow through the City (Issuer)
- ▼ Practically: A mechanism through which a company may receive certain tax-exemptions in exchange for the creation of increased economic activity and jobs in the City
- ▼ Only qualified “projects,” (land, building, equipment, and improvements) as defined in the Municipal Industrial Revenue Bond Act are eligible

# Benefits of IRBs

## ▼ Available Tax Abatements

- ▼ Property Tax on real and personal property
- ▼ Gross Receipts Tax on equipment purchased as agent for the City using Type 9 NTTCs
- ▼ Compensating Tax on equipment from out of state
- ▼ Taxes of other overlapping jurisdictions

## ▼ Payments In Lieu Of Taxes (PILOTs or PILTs) to recover some of this foregone tax revenue

## ▼ “Claw-backs”

# IRBs: Issuance process

1. The Company contacts the City and applies for IRB assistance
2. The City and the Company begin to negotiate the terms of the IRB (amount, Company commitments, duration of tax exemption, etc.)
3. City considers a Non-binding Inducement Resolution
  - Allows the Company to start benefiting from the gross receipts tax exemption
4. The City notifies the County is notified of the City's intent to issue IRBs
5. The City approves the issuance of the IRB via Bond Ordinance
6. Bond documents including a Bond Indenture, Lease Agreement, and Bond Purchase Agreement are executed



# Local Economic Development Act

# LEDA: Anti-Donation Clause Exception

- ▶ The Local Economic Development Act allows the City to provide economic support to projects that will result in increased economic activity
  - ▶ There are some limits to the amount of aid that can be provided
- ▶ The State (in certain circumstances) and other governmental entities can provide additional assistance for the same project
- ▶ Not all types of businesses are eligible
  - ▶ “Qualifying entities” are listed in 5-10-3(L) NMSA 1978
- ▶ Prior to providing any support, the City must approve an Economic Development Plan detailing its economic development goals and strategies
  - ▶ The plan cannot exceed the limits set by the Local Economic Development Act

# LEDA Incentives

- ▶ The assistance from the City can take many forms
  - ▶ In kind: grants of land, buildings or rights of way; building of infrastructure specific to the project, etc.
  - ▶ Purely monetary: lump sum payments from the State, lump sum payments from the City, gross receipts tax increment from local governments, gross receipts tax sharing from City, County, and State
- ▶ The City must be able to recoup its investment should the commitments from the Company not materialize
  - ▶ It is common to request a “security” from a bank or a parent company guaranteeing the reimbursement of the public aid in case of breach

# LEDA: Approval Process

1. The City must have an Economic Development Plan in place approved via ordinance.
2. The Company contacts the City and applies for LEDA assistance
3. The City and the Company start negotiating the terms of the assistance (amount, employment or outcome commitments, etc.)
4. If applicable, other governmental entities also join the negotiations
5. The City approves the LEDA Plan for the specific project via ordinance and a Project Participation Agreement is executed.
6. In the event that other governmental entities participate in the project, an Intergovernmental Agreement or Intergovernmental Project Participation Agreement is signed.



Q&A



**CITY OF RIO COMMUNITIES, NEW MEXICO**  
**Ordinance No: 2023 - XX**

**CHAPTER 10      ECONOMIC DEVELOPMENT**  
**LOCAL ECONOMIC DEVELOPMENT ACT (LEDA) PLAN ORDINANCE**

**WHEREAS,** the development of the local economy is vital to the wellbeing of the City of Rio Communities (the “City”) and its residents; and

**WHEREAS,** local communities may need to provide land buildings infrastructure and other financial incentives to compete with other states and locales in efforts to attract and retain businesses; and

**WHEREAS,** the New Mexico State Legislature enacted Chapter 5, Article 10 NMSA 1978, entitled the Local Economic Development Act (as amended, the “Act”), which gives local governments the authority to use public resources for economic development purposes; and

**WHEREAS,** this Local Economic Development Act Plan Ordinance is enacted pursuant to that statutory authority.

**NOW THEREFORE BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF RIOCOMMUNITIES, NEW MEXICO**

**Article 1.      LOCAL ECONOMY DEVELOPMENT**

This Ordinance may be cited as the "Local Economic Development Act Plan Ordinance."

**Article 2.      PURPOSE**

This Ordinance is adopted as part of the City's economic development plan. In accordance with the Act, the purpose of the Local Economic Development Act Plan Ordinance is to allow public support of economic development projects to foster, promote and enhance local economic development efforts while continuing to protect against the unauthorized use of public money and other public resources. The Local Economic Development Act Plan Ordinance will also allow the City to enter into joint powers agreements or memoranda of understanding with other local governments to support regional economic development projects.

**Article 3.      DEFINITIONS**

The City hereby adopts all of the definitions contained in Section 5-10-3, NMSA 1978, as it currently exists or is amended from time to time, by reference and as though fully restated herein.

**Article 4.      ECONOMIC DEVELOPMENT PLAN**

4.1      The City hereby adopts an economic development plan as described in this Local Economic Development Act Plan Ordinance. The City may provide public support

for economic development projects to qualifying entities in any legally permissible manner, including, but not limited to, the provision of land, buildings and infrastructure it already owns.

- 4.2 The City may also provide public support for economic development to qualifying entities by building, purchasing or leasing the facilities needed for the economic development project. The City may bear the full cost or contribute to a portion of the costs and may waive applicable fees. The City may also contribute to the payments of the costs for professional service contracts, including industry feasibility studies and planning and design services with respect to a project.
- 4.3 The City may consider offering all forms of assistance under this article and any other form of assistance allowed under the Act, as amended from time to time; however, the City has no obligation to offer any specific type of assistance.
- 4.4 Without limiting the generality of the foregoing provisions of this article, but subject to the limitations in Section 5-10-4(B), NMSA 1978, as amended, the City may provide for a local contribution of payments reimbursing expenditures for land, building or infrastructure that is measured based on an increment of gross receipts taxes received by the City as a result of the construction of the economic development project

#### **Article 5. APPLICATION FOR ASSISTANCE**

Any qualifying entity, as such term is defined in the Act from time to time, may propose an economic development project to the City and apply for assistance from the City. The applicant's proposal shall describe the proposed project, including the names and addresses of persons with an interest in the project, the number and types of jobs to be created, wages and benefits associated with the jobs to be created, the type and amount of assistance sought from the City, proposed construction schedule, and all other information requested by the City. The City intends to evaluate the applications, the form and extent of assistance proposed to be provided, the security to be provided to the City, and other details of each proposed project on a case-by-case basis. The City may accept or reject proposals at its sole discretion.

#### **Article 6. PUBLIC INSPECTION OF APPLICATIONS**

Applications for assistance and all supporting documentation shall be available for public inspection

#### **Article 7. SUBSTANTIVE CONTRIBUTION—PROJECT PARTICIPATION AGREEMENT**

- 7.1 If the City approves a request for assistance, it will do so by ordinance. In addition, the City will enter into a project participation agreement in accordance with the Act. This agreement is the formal document which states the contributions and obligations of all parties in the local economic development act plan project. The project participation agreement, at a minimum must clearly state the following:

- (1) The economic development goals of the project;
- (2) The contributions of the City and the qualifying entity;
- (3) The specific measurable objectives upon which the performance review will be based;
- (4) A schedule for project development and goal attainment;
- (5) The security offered for the City's investment;
- (6) The procedures by which the project may be terminated. Each project shall have a "sunset" clause after which the City shall relinquish interest in and oversight of the project; and
- (7) A cost/benefit analysis that reflects net benefits to both parties, including gross receipts taxes, tax abatements, average wages, construction jobs, environmental and community impacts, and the number of jobs filled locally and through transfers

7.2 The City may require that all recipients of assistance pursuant to the Act provide the City with periodic reports with respect to the project for which assistance was received.

## **Article 8. LOCAL INCENTIVES**

In accordance with the Act, the City may offer the following local economic development incentives for economic development projects as recommended by the review committee. These incentives may be in addition to other incentives as permitted by the Act.

- (1) The City may defer or delay impact fees in whole or in part upon start up until the business generates income. To qualify for the incentive the entity receiving this incentive must create a number of jobs to be determined by the review committee.
- (2) The City may provide water and sewer tap meter materials, labor and equipment to install water and sewer lines to the property line. The review committee will determine if an entity qualifies for this incentive which may include only a partial provision of the materials, labor and equipment necessary for the entire project.
- (3) The City may waive or reduce certain fees to induce economic development if an entity meets the definition of economic development projects established in the Act. The review committee will consider requests for fee reductions and make a recommendation to the City Council and City Manager who must give their approval.
- (4) The City may install and pay for part or all of the landscaping for an entity provided the entity will dedicate a permanent/temporary landscape easement to the City for the improvements and consent to maintain the landscape improvements. The entity must agree to maintain said installed landscape on both the private and public right-of-way areas. The review committee will consider companies that provide a positive economic impact based on the number of jobs created and the pay scale.
- (5) The City may provide right-of-way, construction, paving and/or other improvements necessary for the provision of roads/streets to the site.
- (6) The City may waive or reduce water rights requirements if an entity meets

the definition of economic development projects established in the Act. The review committee will consider requests for water rights waiver or reduction and make a recommendation to the City Council and City Manager who must give their approval

**Article 9. JOINT POWERS AGREEMENTS**

The City may enter into joint powers agreements with other local governments to develop a regional economic development plan in accordance with the Act, as in effect from time to time.

**Article 10. SEVERABILITY**

If any article, paragraph, sentence, clause or word or phrase of this Ordinance is for any reason held to be invalid or unenforceable by any court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions of the Ordinance.

**Article 11. REPEALER**

City Ordinance 2022-83 is hereby repealed in its entirety. Additionally, all other ordinances (not including City Ordinance 2022-83), bylaws, orders and resolutions, or parts thereof, inconsistent herewith are hereby repealed to the extent only of such inconsistency.

*(Signature Page to Follow)*

PASSED, APPROVED AND ADOPTED THIS XX DAY OF XX 2023 BY THE GOVERNING BODY OF THE CITY OF RIO COMMUNITIES, NEW MEXICO.

City of Rio Communities Governing Body

---

Joshua Ramsell,  
Mayor

---

Margaret R. Gutjahr,  
Councilor Mayor Pro tem

---

Arthur Apodaca,  
Councilor

---

Lawrence R. Gordon,  
Councilor

---

Jimmie Winters,  
Councilor

ATTEST:

---

Elizabeth F. Adair,  
Municipal Clerk

**CITY OF RIO COMMUNITIES, NEW MEXICO  
ORDINANCE NO: 2023 - XX**

**ORDINANCE ADOPTING THE CITY OF RIO COMMUNITIES INDUSTRIAL REVENUE BOND POLICY AND LOCAL ECONOMIC DEVELOPMENT ACT POLICY**

**WHEREAS,** the City encourages the issuance of industrial revenue bonds (“IRBs”) for qualifying entities that meet the requirements for projects that are allowed under the New Mexico Industrial Revenue Bond Act, Chapter 3, Article 32 NMSA 1978, as amended (the “IRB Act”) and may provide certain benefits to projects under the New Mexico Local Economic Development Act, Chapter 5, Article 10, NMSA 1978, as amended (the “LEDA Act”); and

**WHEREAS,** it is the intent of the City to allow public support of economic development projects through the issuance of IRBs from time to time for appropriate projects as provided in the IRB Act and to provide assistance for projects qualifying under the LEDA Act, to foster, promote and enhance local economic development efforts while continuing to protect against the unauthorized use of public money and other public resources; and

**WHEREAS,** the City desires to adopt a policy to establish its expectations and requirements relating to the issuance of IRBs and assistance under the LEDA Act, consistent with the IRB Act, the LEDA Act and applicable state and federal laws, rules and guidelines.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF RIO COMMUNITIES** that the “City of Rio Communities Industrial Revenue Bond Policy and Local Economic Development Act Policy”, attached as Exhibit A, is adopted.

**PASSED, APPROVED AND ADOPTED THIS XX DAY OF XX 2023 BY THE GOVERNING BODY OF THE CITY OF RIO COMMUNITIES, NEW MEXICO.**

**City of Rio Communities Governing Body**

\_\_\_\_\_  
Joshua Ramsell, Mayor

\_\_\_\_\_  
Margaret R. Gutjahr, Councilor Mayor Pro-tem

\_\_\_\_\_  
Arthur Apodaca, Councilor

\_\_\_\_\_  
Lawrence R. Gordon, Councilor

\_\_\_\_\_  
Jimmie Winters, Councilor

ATTEST:

\_\_\_\_\_  
Elizabeth F. Adair,  
Municipal Clerk

**EXHIBIT A**

**City of Rio Communities  
Industrial Revenue Bond Policy  
and  
Local Economic Development Act Policy**

\_\_\_\_\_, 2023

## Industrial Revenue Bonds (IRBs)

### Section 1.0 Policy Statement and Overview of IRB Process

1.1 The City of Rio Communities (“City”) encourages the issuance of industrial revenue bonds (“IRBs”) for Qualifying Projects (defined below) meeting the requirements of the New Mexico Industrial Revenue Bond Act, Chapter 3, Article 32 NMSA 1978, as amended (“IRB Act”). Generally, Qualifying Projects are expected to involve a minimum of \$3 million of capital investment unless otherwise approved by Staff and the City Council.

1.2 All persons requesting the issuance of IRBs are required to submit a Pre-Application (defined below), an Application (defined below) and a Project Plan (defined below) and proceed through the City’s Economic Development Staff (“Staff”) and City Council review process as provided in the IRB Act and in this Policy.

### Section 2.0 Summary of Typical Benefits of IRBs and Subsidies/Tax Exemptions for Qualifying Projects Located on Land Subject to Property Tax

2.1 An IRB is a bond issued by the City under the IRB Act to finance a Qualifying Project. The Qualifying Project is to be transferred to/owned by the City and the proceeds of the IRB received from the purchaser of the IRB (“Bond Purchaser”) are in turn loaned to the company developing and operating the Qualifying Project (“Qualifying Entity”). The term of an IRB may be for up to 30 years. Typically, the Qualifying Entity enters into a lease agreement with the City to lease the Qualifying Project from the City in exchange for rental payments sufficient to pay obligations on the associated IRB. At the end of the lease term, the lease generally permits the Qualifying Entity to purchase the facility from the City for a nominal amount. Lease payments are pledged to the repayment of the IRB.

2.2 There are three potential benefits of taxable IRBs: a property tax exemption (for Qualifying Projects located on land subject to property tax), a gross receipts tax (“GRT”) deduction and a compensating tax deduction. Tax-exempt IRBs receive reduced borrowing costs through tax-exempt interest rates.

2.2.1 **Property Tax Exemption; PILOT.** One potential benefit to a Qualifying Entity is a full or partial abatement of property taxes. The property tax exemption results from legal title to the project property being held, while the bonds are outstanding, by the City as issuer. The City may abate property tax for up to 100% of the applicable mill rate at the sole discretion of the City. The City may also negotiate a payment in lieu of taxes (“PILOT”) as it deems necessary or appropriate. The PILOT obligation is based on an agreement between the City and the Qualifying Entity under which the Qualifying Entity agrees to make payments to offset all or a portion of the property taxes that the City deems necessary to be paid, such as property taxes for the school district or other relevant political subdivisions.

2.2.2 **Gross Receipts Tax and Compensating Tax Deductions.** Another potential benefit to Qualifying Entities is a GRT deduction permitted under New Mexico



law. For example, when the Qualifying Entity purchases furniture, computer equipment, manufacturing equipment (but not personal property that becomes part of the project real estate) for the project, these purchases are not subject to the GRT. Equipment purchased from out of state is not subject to the compensating tax. The City may also limit the GRT and compensating tax deductions by limiting the definition of project property.

- 2.2.3 **Tax-Exempt Bond Interest.** Interest on tax-exempt IRBs may, under appropriate circumstances, be excludable from federal and (for New Mexico residents, also New Mexico) gross income of the Bond Purchaser, reducing interest expense attributable to the Qualifying Project. Tax-exempt IRBs offer the same local tax advantages as Taxable IRBs (i.e., property tax and GRT and compensating tax relief), but also may facilitate lower borrowing costs due to the tax-exempt nature of interest on the IRB. Tax-exempt IRBs are limited in scope (principally available for manufacturing facilities), require an allocation of “volume cap” from the New Mexico State Board of Finance, and are subject to various restrictions imposed by Internal Revenue Service (“IRS”) regulations.

2.3 Taxable IRBs are often self-funded (or funded by an affiliate of the applicant) and are principally utilized to abate personal and property taxes on land, building and infrastructure and to provide an exemption on compensating and GRT for the purchase of equipment for a Qualifying Project. Taxable IRBs are not limited by the size of the capital investment. Tax-Exempt IRBs must be funded by an independent lender or funding source (not related to the Qualifying Entity) in order to qualify for federal tax-exemption on interest. Tax-Exempt IRBs are limited by the size of the capital investment.

### **Section 3.0 Definitions**

3.1 **Qualifying Project:** “Qualifying Project” means a “project” as defined by the IRB Act.

3.2 **Clawbacks and Springing PILOTS (Payments in Lieu of Taxes):** Clawbacks (such as provisions that require the company to repay a percent of the taxes avoided by use of an IRB in the event of an early facility closure) and/or Springing PILOTS (such as provisions that require PILOT payments to be made in future years if job creation estimates or other promises are not met or maintained by the company) may be required by the City to protect against early closure of facilities or for the failure to achieve projected job growth goals or other performance goals.

3.3 **Project Plan:** The project plan (“Project Plan”) is the format for an applicant to submit an Application to the City to ensure that all plans present the same sequence of information and contains information and responses to all applicable questions as set forth in Section 5.1 through 5.21 herein.

### **Section 4.0 IRB Procedures**

4.1 **Pre-Application Discussion:** The applicant shall submit to Staff a completed City of Rio Communities IRB Pre-Application in the form attached hereto as Appendix A, including the one-page description of the Qualifying Project referenced therein (“Pre-Application”). The applicant is required to meet with Staff within a reasonable period of time following submission of the Pre-

Application to discuss the Qualifying Project and review the process and criteria for the submission of the complete Application and inducement of an IRB.

4.2 **Staff Review:** Staff reviews the Pre-Application and may provide technical assistance to the company in completing the information requested as needed.

#### 4.3 **Application Submission, Review Process and Fees**

4.3.1 **Submittal of Application and Project Plan.** The applicant submits a formal application for the issuance of the IRB (“Application”) to the City’s Staff in the form attached hereto as Appendix B. The Application shall include a Project Plan and all supporting documents, including an impact (cost/benefit) analysis.

4.3.2 **Staff:** Staff reviews the Application and all supporting documentation. Staff reviews and may determine one of the following: approval, rejection or conditional approval. An Application may move forward to the City Council with no recommendation. Staff review of the Application may include specific review and comment from the City’s bond counsel and (to the extent applicable) the State Department of Transportation, and it may include review by other departments and/or officials on a case-by-case basis.

4.3.3 **City Council – Inducement Resolution.** With input from Staff, the City Council will approve or disapprove the Inducement Resolution based upon the Application and supporting documentation. The City Council may approve an inducement resolution reflecting its intention to proceed with the Qualifying Project, which absent further action by the City Council, will expire 180 days following its passage.

4.3.4 **City Council – Authorizing Ordinance.** If the inducement resolution is approved, the City Council may consider a bond ordinance authorizing the issuance of the IRB and execution of related documents. Notice of intent to approve the bond ordinance will be published as provided by law, the bond ordinance will be considered by the City Council (following any necessary public hearings, which may occur at the same meeting), and if approved, notice of approval of the bond ordinance will be published as provided by law. Closing of the IRB will not occur less than 30 days following the publication of notice of approval of the bond ordinance.

4.3.5 **Fees.** No application fee or ongoing fee is currently payable in connection with an Application, but the City Council, on recommendation of the Staff, reserves the right to charge an application fee and/or ongoing fee in the case of unusually complex projects or other special circumstances.

4.4 **Fees of Professionals:** In addition to the fees set forth in this section, the applicant shall pay the City’s and its own attorneys’ fees and the expenses of attorneys reviewing the bond documents, including any refunding bond documents whether or not the bonds are issued. The applicant will sign fee letters in which the applicant will agree to pay any third-party costs incurred by the City (including legal fees). The applicant shall also reimburse the City for fees for

professional services procured by the City, including but not limited to the services of financial advisors, consultants and economists, incurred by the City in connection with bond financing. The fees of all professionals shall be paid regardless of whether the bond issue closes.

## **Section 5.0 Project Plan Requirements**

Each Project Plan must state that the Qualifying Project complies with all applicable ordinances and codes of the City and laws and codes of the State, including, without limitation, zoning, subdivision, environmental and water use, etc. (“Applicable Requirements”). The primary criterion for all IRB Qualifying Projects is the benefit to the City. The applicant shall provide as much information as is available and shall indicate whether or not further information is available upon request. If the applicant cannot respond to a criteria or it is not applicable to the Qualifying Project or the applicant wishes to supplement a response at some time in the future, the applicant should respond by indicating the reasons it is presently unable to provide the information. In addition to the required statement concerning compliance with Applicable Requirements, each Project Plan shall include, or address, the following:

5.1 **General Description:** A brief description of the Qualifying Project, including:

- 5.1.1 Type of facility (e.g., manufacturing, distribution, etc.)
- 5.1.2 Nature of Qualifying Project (e.g., new construction, expansion, relocation, etc.)
- 5.1.3 General location (street address, location map, and legal description)
- 5.1.4 Existing and proposed use(s)
- 5.1.5 Whether real property is or is expected to be exempt from property taxation
- 5.1.6 Total cost of Qualifying Project
- 5.1.7 Amount of IRB requested
- 5.1.8 Whether interest on IRB is expected to be tax-exempt
- 5.1.9 Identity of expected Bond Purchaser
- 5.1.10 Statement of the benefit to be gained by City due to Qualifying Project

5.2 **Planning and Zoning:** Evidence that Qualifying Project conforms (or will conform) to all adopted City plans, policies and the provisions of the City Code, including:

- 5.2.1 Present zoning of property being used for Qualifying Project
- 5.2.2 Required zoning change(s) (if any)
- 5.2.3 Discussion of applicable special zoning requirements (if any)

5.3 **Land Use:** Description of any disruption of local areas or adverse conditions as a result of the Qualifying Project, such as air, noise, odor, or waste pollution or traffic congestion.

5.4 **Water Use:** Description of anticipated annual water usage as well as source(s) of water (e.g., City system, county, private well, etc.), and any water conservation strategies (if applicable).

5.5 **Environmental Compliance:** Evidence that the Qualifying Project is in compliance with all local, state and federal environmental regulations at all times, together with a description of the environmental impact of the Qualifying Project on the local area and the region, whether any environmental studies have been or will be undertaken in connection with the proposed Qualifying

Project, whether the Qualifying Project is located in a wellhead protection zone, and whether the Qualifying Project is subject to environmental licensing and inspection by authorities.

**5.6 Utility Extensions:** A description of whether the Qualifying Project is adequately served by existing infrastructure and utilities; and if not, whether the Qualifying Entity will require substantial infrastructure extension, replacement or upgrading; and if so, a description of the same, including type (gas, water, sewer, electrical, communications, etc.), distance & size (e.g., 650 ft. of 6" water line), estimated cost and utility provider.

**5.7 Design, Development and Conservation:** A description of other development and conservation considerations, such as whether the Qualifying Project design is appropriate to the area, whether existing and/or historic buildings are to be conserved, and whether existing buildings and site amenities are to be improved to meet current City development standards.

**5.8 Demolition:** If the Qualifying Project involves demolition, a discussion of any alternatives to demolition of viable buildings and whether those alternatives should be pursued.

**5.9 Relocation:** A description of any required relocation of individuals or businesses, and whether alternatives to relocation of individuals or business are being pursued.

**5.10 Renewable Energy Usage:** A description of the extent to which renewable energy technology is incorporated into buildings, infrastructure or equipment (such as Qualifying Projects whose buildings are LEED certified).

**5.11 Economic Impact and Job Creation:** A concise summary of the following economic impact and job creation criteria:

- 5.11.1 Number, category and average wages of jobs created by the Qualifying Project. New Mexico Department of Workforce Solutions job categories should be used.
- 5.11.2 Temporary jobs in construction and permanent full and part time jobs (broken down by the number of direct, indirect and induced jobs).
- 5.11.3 Positions which will be filled locally and those which will be filled by transfers from other facilities or by out of state recruitment. The number and type of positions expected to be filled by area residents shall be clearly stated.
- 5.11.4 Local recruitment, hiring and training programs, stating what if any opportunities for advancement will be available.
- 5.11.5 Employee benefit package or programs, including health care coverage.
- 5.11.6 The anticipated length of time that the applicant expects the Qualifying Project applicant to be located in the facility (and if less than term of bonds, explain).
- 5.11.7 Whether the Qualifying Project applicant will operate the facility (if not, explain and provide name, address and phone number of the facility operator).

**5.12 Tax abatement**

- 5.12.1 The types and levels of tax abatement being requested.
- 5.12.2 The anticipated net impact on tax revenues for the City and other affected political subdivisions (if any) (attach analysis to support answer.)

**5.13 Facility and Performance Clawbacks Criterion for Qualifying Projects located on taxable properties only.** The City shall require performance agreements (Clawbacks) to be included in all bond documents for all Qualifying Projects. The bond agreements shall have facility closure Clawbacks to provide for a pro-rata repayment of the abated property, GRT and compensating tax, depending upon the amount of time elapsed from date of issuance to date of closure of the Qualifying Project. The bond agreements may have performance Clawbacks to provide for employment, average wages or other economic benefits projected in the IRB agreement and are not achieved.

**5.14 Reporting.** Annually, on a date to be determined, the Applicant shall provide reporting to the City with respect to (a) status of construction of the Qualifying Project, (b) job creation and related information; (c) any other performance criteria set out in the Application or any related agreement; (d) any proposed changes in use or ownership of the Qualifying Project, (e) amount outstanding of the bonds as of June 30 of each year until their maturity or early redemption, and (f) such other information as may be requested by the City in connection with any Qualifying Project.

**5.15 Qualifying Project Feasibility:** Qualifying Projects must show the ability to maintain a solvent business, to retire the bonds in a timely manner, or evidence that financing has been guaranteed. The Application should also reflect:

- 5.15.1 That the Qualifying Project will generate sufficient cash flow to service its project debt and any other debts;
- 5.15.2 That the Qualifying Project applicant has firm financing commitment(s);
- 5.15.3 Total anticipated costs of the Qualifying Project, including land, buildings, equipment and other costs (including pre-development and development costs and costs of financing)
- 5.15.4 A proposed timeline for the Qualifying Project, including projected start and completion dates for Qualifying Project construction; projected start-up date and projected date of full capacity operations.
- 5.15.5 Whether the applicant has an application for bonds to construct this or a substantially similar Qualifying Project in another community (if yes, describe, including anticipated dates for inducement resolutions, etc.)

**5.16 Cost:** Bond amounts shall be no more than required to complete the Qualifying Project. The Qualifying Project will not be induced for an authorized maximum bond amount larger than the expected bond issue. The Application should include all sources of capital to be contributed

by the Qualifying Entity that will be used to finance the Qualifying Project, including the proposed IRB, equity investments, other debt financing and other financing sources.

5.17 **Applicant Record:** The applicant should have a good record with projects of this type, or present convincing evidence that the Qualifying Project will be completed. Reference from local financial institutions and local firms may be required. The Application should demonstrate the applicant's strong financial backing and experience relevant to the Qualifying Project.

5.18 **Management:** Long range commitment to the management of a Qualifying Project is desirable. The Application should identify the proposed manager of the Qualifying Project (including a statement of such manager's relevant experience) and the terms under which such management is to be provided.

5.19 **Evidence of Organizational Capacity:** A brief history of the applicant and any relevant affiliates, together with an organizational chart and resumes of key staff involved with the Qualifying Project.

5.20 **Disclosure Restrictions/NDAs.** If the Qualifying Project or the Application is (or is expected to be) the subject of any non-disclosure agreement or similar agreement restricting disclosure of information ("NDA"), the City must be provided with appropriate permission to obtain and share relevant information concerning the Qualifying Project from and with other governmental entities as necessary for the City and such other governmental entities to carry out their respective duties and for the City to properly evaluate the Application.

5.21 **Evidence of Financial Solvency:** The applicant shall provide the following financial information. (Audited Financials may be required and will be at the discretion of Staff):

- a. Balance sheets for past three years.
- b. Income statements for past three years.
- c. Cash flow projections for next three years.
- d. Federal tax ID number.
- e. New Mexico State Taxation and Revenue number.
- f. Business license number.

5.22 **Required Disclosures:** Applicant shall disclose the following information. If the answer to any question is yes, attach written explanation.

5.22.1 Has the company or any of its officers been involved in a bankruptcy?

5.22.2 Has the company or any of its officers ever defaulted on any loans or financial obligations?

5.23 **Qualifying Project Plan Form:**

5.23.1 All Project Plans must include the information required in Sections 5.1 to 5.22 above, with reference to the specific section or sections to which such information is responsive. To the extent possible, the information should be provided in the order set out in this Section 5.0.

- 5.23.2 All Project Plans must be signed under oath or affirmation by all applicants and must certify that the information contained in the Project Plan is true and correct, and that any information subsequently obtained by the applicant(s) which may indicate that statements contained in the Application are or were untrue or have become misleading or untrue will be promptly disclosed to the City.
- 5.23.3 All Project Plans must contain a representation that the applicant will agree to provide such other information as the City may request to evaluate the Application.
- 5.23.4 All Project Plans must contain a representation that the applicant agrees to allow the City to inspect the Qualifying Project at any time to insure compliance with the Project Plan, the requirements of this policy, and the representations contained in the Application.

### **Local Economic Development Act (LEDA) Assistance**

- 1.1 As provided in Ordinance 2022-83 of the City adopted on August 22, 2022 (as the same may be modified, amended or replaced from time to time, the “LEDA Ordinance”) and the New Mexico Local Economic Development Act, Chapter 5, Article 10 NMSA 1978, as amended (“LEDA Act”), a “qualifying entity” (as defined in the LEDA Act; referred to as a “LEDA Qualifying Entity”) may propose an economic development project to the City and apply for assistance from the City. Applications for assistance under the LEDA Act shall be submitted to Staff in the form attached hereto as Appendix C and in accordance with the requirements of the LEDA Ordinance and the LEDA Act. If approved, the LEDA Qualifying Entity will enter into a project participation agreement under the LEDA Act, which shall at a minimum set forth the terms required by the LEDA Ordinance. All applications for assistance under the LEDA Act, and related project participation agreements, shall be subject to the requirements of the LEDA Act and the LEDA Ordinance.
- 1.2 Priority in awarding financial assistance for applications under the LEDA Act will be given to a LEDA Qualifying Entity that is located or is willing to locate in the underserved area of the City and increases economic development impact in the following manner:
  - 1.2.1 Creates wealth and capital investment,
  - 1.2.2. Increases wages and creates jobs,
  - 1.2.3. Positively influences and supports the community,
  - 1.2.4. Produces environmentally sustainable outcomes,
  - 1.2.5. Increases health and/or safety of the community, and
  - 1.2.6. Increases the diversity of the local economy.

- 1.3 The City and a LEDA Qualifying Entity shall enter into a project participation agreement. The project participation agreement shall set out, at a minimum:
- 1.3.1. The contributions to be made by the City, including,
    - 1.3.1.1. LEDA grants provided by the State of New Mexico; and
    - 1.3.1.2. LEDA grants provided by the City; and/or
    - 1.3.1.3. LEDA funds contributed by the City from an increment of gross receipts taxes received by the City as a result of construction and other activities related to an economic development project.
  - 1.3.2. The substantive contribution to be made by the LEDA Qualifying Entity which contribution must be of value and may be paid in money, in-kind services, jobs, expanded tax base, property or other things or services of value for the expansion of the economy.
    - 1.3.2.1. If a LEDA Qualifying Entity fails to make its substantive contribution, the City will enforce the project participation agreement to recover that portion of the contribution that the LEDA Qualifying Entity failed to make.
    - 1.3.2.2. The recovery shall be proportional to the failed performance of the substantive contribution and will take into account all previous substantive contributions for the economic development project performed by the LEDA Qualifying Entity.
  - 1.3.3. The security provided to the City that provides public support for an economic development project by the LEDA Qualifying Entity in the form of a lien, mortgage or other indenture and the pledge of the qualifying business's financial or material participation and cooperation to guarantee the LEDA Qualifying Entity's performance pursuant to the project participation agreement,
  - 1.3.4. A schedule for project development and completion, including measurable goals and time limits for those goals, and
  - 1.3.5. Provisions for performance review and actions to be taken upon a determination that project performance are unsatisfactory.
  - 1.3.6. Such other information and statements as may be required under the terms of the LEDA Ordinance and the LEDA Act.
- 1.4. All LEDA grants must be approved by the City Council and are funded strictly on a reimbursable basis.
- 1.5 LEDA Qualifying Entities meeting the requirements in Section 1.1 through 1.5 inclusive may receive the following incentives:



- a. LEDA grants and/or contributions from a gross receipt tax increment received by the City.
- b. The City may defer or delay impact fees in whole or in part upon start up until the business generates income. To qualify for the incentive the entity receiving this incentive must create a number of jobs to be determined by the review committee.
- c. The City may provide water and sewer tap meter materials, labor and equipment to install water and sewer lines to the property line. The review committee will determine if an entity qualifies for this incentive which may include only a partial provision of the materials, labor and equipment necessary for the entire project.
- d. The City may waive or reduce certain fees to induce economic development if an entity meets the definition of economic development projects established in this section. The review committee will consider requests for fee reductions and make a recommendation to the City Council and City Manager who must give their approval.
- e. The City will install and pay for part or all of the landscaping for an entity provided the entity will dedicate a permanent/temporary landscape easement to the City for the improvements and consent to maintain the landscape improvements. The entity must agree to maintain said installed landscape on both the private and public right-of-way areas. The review committee will consider companies that provide a positive economic impact based on the number of jobs created and the pay scale.
- f. The City may provide right-of-way, construction, paving and/or other improvements necessary for the provision of roads/streets to the site.
- g. The City may waive or reduce water rights requirements if an entity meets the definition of economic development projects established in this section. The review committee will consider requests for water rights waiver or reduction and make a recommendation to the City Council and City Manager who must give their approval.

2.1 As provided in the LEDA Act as amended in 2021, a LEDA Qualifying Entity that meets the additional qualifications listed in Section 2.2 may receive financial assistance for a maximum period of ten years in the form of a percentage of the revenue from gross tax receipts and compensating tax on the expenses related to the construction of an economic development project as detailed in Section 2.3 (Sections 5-10-14 & -17 NMSA 1978).

2.2 To receive the financial assistance described in Section 2.1 a LEDA Qualifying Entity must:

- a. Sign a project participation agreement with the governing body of each local government that has jurisdiction of the area in which the LEDA Qualifying Entity's economic development project is located and the local government has passed an ordinance dedicating local government gross receipts tax revenue
- b. Develop an economic development project that has a reasonable expectation to incur, within ten years of the date of execution of the project participation agreement described in 2.2(a), at least \$350,000,000 in expenses related to the construction and infrastructure of the project outlined the agreement
- c. The LEDA Qualifying Entity meets all other requirements to generally receive public support pursuant to LEDA
- d. Prior to the end of each month, the qualifying entity must submit documents including tax documents of the qualifying entity and its contractors to the taxation and revenue department, to the department and to the local governments with which the qualifying entity signed a project participation agreement, on forms and in a manner determined by the department, of the taxable expenses related to the construction of the economic development project for the previous month

2.3 LEDA Qualified Entities meeting the requirements in Section 2.2 may be provided with the following financial assistance from funds in the "Local Economic Development Act fund" (as defined in the LEDA Act):

- a. Fifty percent of the tax revenue attributable to the state gross receipts tax and the state compensating tax imposed on the expenses related to the construction of the Qualifying Entities' project
- b. After dedication by ordinance of the City, the portion of the tax revenue attributable to the local option gross receipts tax and municipal compensating tax imposed by the City on the expenses related to the construction of the Qualifying Entities' project

# Appendix A

## Form of Pre-Application

### City of Rio Communities – IRB Pre-Application Form

Name of Qualifying Project: \_\_\_\_\_

Location of Qualifying Project: \_\_\_\_\_

Short Description: Provide a one-page description/summary of the proposed Qualifying Project. Include all relevant information related to the Qualifying Project including, but not limited to: zoning, square footage of facility, neighborhood and environmental impacts and infrastructure needs.

Applicant: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_

Agent: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_

Bond Counsel: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_

Bond Amount Requested: \_\_\_\_\_

For Staff Use

Date: \_\_\_\_\_ IRB Number: \_\_\_\_\_

Staff Pre-Application Meeting: \_\_\_\_\_

City Council Review Dates:

Inducement Resolution: \_\_\_\_\_

Council Hearing: \_\_\_\_\_

Ordinance Approval: \_\_\_\_\_

## Appendix B

### Form of IRB Application

#### City of Rio Communities Industrial Revenue Bond Application and Project Plan

[City of Rio Communities Logo]

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Name of Project:

Bond Amount Requested:

Applicant:

Address:

Telephone:

Email Address:

Applicant Website:

NAICS Code:

Bond Counsel for the City | Sherman & Howard LLC  
500 Marquette Avenue Suite 1203 | Albuquerque, NM 87102 | 505-814-6958

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#### **Fees:**

The Applicant shall be responsible for the following fees:

1. Application fee, if any
  2. City and Applicant legal fees
  3. Third party review fees
- 

#### **Submit Completed Application and applicable Fees to:**

[APPLICATION RECIPIENT ADDRESS]

**Section 1.0** **General Description of Project:** Please provide a description of the proposed Project. Include all relevant information related to the Project, including but not limited to zoning, subdivision, environmental and water use, etc. (“Applicable Requirements”). In addition to a statement concerning compliance with Applicable Requirements, include, or address, the following:

- 1.1. Type of facility (e.g., manufacturing, distribution, etc.)
- 1.2. Nature of Project (e.g., new construction, expansion, relocation, etc.)
- 1.3. General location (street address, location map, and legal description)
- 1.4. Existing and proposed use(s)
- 1.5. Whether real property is or is expected to be exempt from property taxation
- 1.6. Total cost of Project
- 1.7. Amount of IRB requested
- 1.8. Whether interest on IRB is expected to be tax-exempt
- 1.9. Identity of expected Bond Purchaser
- 1.10. Statement of the benefit to be gained by City due to Project

**Section 2.0** **Planning and Zoning:** Provide evidence that the Project conforms, or will conform, to all adopted City plans, policies and the provisions of the City Code, including:

- 2.1. Present zoning of property being used for the Project
- 2.2. Required zoning change(s), if any
- 2.3. Discussion of applicable special zoning requirements, if any

**Section 3.0** **Land Use:** Describe any disruption of local areas or adverse conditions as a result of the Project, such as air, noise, odor, or waste pollution or traffic congestion, and how the Project will address them.

**Section 4.0** **Water Use:** Describe anticipated annual water usage as well as source(s) of water (e.g., City system, county, private well, etc.) and any water conservation strategies, if applicable.

**Section 5.0** **Environmental Compliance:** Provide evidence that the Project complies, and will comply, with all local, state and federal environmental regulations at all times and describe the environmental impact of the Project on the local area and the region.

Have or will environmental studies be undertaken in connection with the proposed Project? Indicate whether the Project is located in a wellhead protection zone, and whether the Project is subject to environmental licensing and inspection by authorities.

- Section 6.0** **Utility Extensions:** Describe whether the Project is adequately served by existing infrastructure and utilities; and if not, whether the Applicant will require substantial infrastructure extension, replacement or upgrading. If so, describe the same, including type (gas, water, sewer, electrical, communications, etc.), distance & size (e.g., 650 ft. of 6" water line), estimated cost and utility provider.
- Section 7.0** **Design:** Describe other development and conservation considerations, such as whether the Project design is appropriate to the area, whether existing and/or historic buildings are to be conserved, and whether existing buildings and site amenities are to be improved to meet current City development standards.
- Section 8.0** **Demolition:** If the Project involves demolition, discuss any alternatives to demolition of viable buildings and whether those alternatives should be pursued.
- Section 9.0** **Relocation:** Describe any required relocation of individuals or businesses, and whether alternatives to relocation of individuals or business are being pursued.
- Section 10.0** **Renewable Energy Usage:** Describe the extent to which renewable energy technology is incorporated into buildings, infrastructure or equipment (such as Projects whose buildings are LEED certified).
- Section 11.0** **Economic Impact and Job Creation:** Summarize the following economic impact and job creation criteria:
- 11.1. Number, category and average wages of jobs created by the Project. New Mexico Department of Workforce Solutions job categories should be used.
  - 11.2. Temporary jobs in construction and permanent full and part time jobs (broken down by the number of direct, indirect and induced jobs).
  - 11.3. Positions which will be filled locally and those which will be filled by transfers from other facilities or by out of state recruitment. Clearly state the number and type of positions expected to be filled by area residents.
  - 11.4. Local recruitment, hiring and training programs, stating what if any opportunities for advancement will be available.
  - 11.5. Employee benefit package or programs, including health care coverage.
  - 11.6. The anticipated length of time that the Applicant expects the Project to be located in the facility (and if less than term of bonds, explain).

- 11.7. Whether the Project Applicant will operate the facility (if not, explain and provide name, address and phone number of the facility operator).

**Section 12.0 Tax Abatement:**

- 12.1. What types and levels of tax abatement are being requested (real property tax, personal property tax, gross receipts and compensating taxes)?
- 12.2. What is the anticipated net impact on tax revenues for the City and other affected political subdivisions, if any (attach analysis to support answer.)

**Section 13.0 Facility and Performance Clawbacks Criterion for Projects Located on Taxable Properties Only:** Acknowledge that performance agreements and clawbacks will be included in the bond documents.

**Section 14.0 Reporting:** Confirm willingness to provide reporting to the City with respect to (a) status of construction of the Project, (b) job creation and related information; (c) any other performance criteria set out in the Application or any related agreement; (d) any proposed changes in use or ownership of the Project, and (e) such other information as may be requested by the City in connection with any Project.

**Section 15.0 Project Feasibility:** Demonstrate the ability of the Project to maintain a solvent business and to retire the bonds in a timely manner, or provide evidence that financing has been guaranteed. Specifically, demonstrate:

- 15.1. That the Project will generate sufficient cash flow to service its project debt and any other debts;
- 15.2. That the Project Applicant has firm financing commitment(s);
- 15.3. Total anticipated costs of the Project, including land, buildings, equipment and other costs (including pre-development and development costs and costs of financing);
- 15.4. A proposed timeline for the Project, including projected start and completion dates for Project construction; projected start-up date and projected date of full capacity operations;
- 15.5. Whether the Applicant has an application for bonds to construct this or a substantially similar Project in another community (if yes, describe, including anticipated dates for inducement resolutions, etc.).

**Section 16.0 Cost:** Show all sources of capital that will be used to finance the Project, including the proposed IRB, equity investments, other debt financing and other financing sources, including state and local incentives.

**Section 17.0 Applicant Record:** Describe projects of this type undertaken by the Applicant, or present convincing evidence that the Project will be completed. Reference from local financial institutions and local firms may be required. Demonstrate the Applicant's strong financial backing and experience relevant to the Project. Provide Applicant's Corporate Citizenship Policy/Plan, if any.

**Section 18.0 Management:** Identify the proposed manager of the Project (including a statement of such manager's relevant experience) and the terms under which such management is to be provided.

**Section 19.0 Evidence of Organizational Capacity:** Provide a brief history of the Applicant and any relevant affiliates, together with an organizational chart and resumes of key staff involved with the Project.

**Section 20.0 Disclosure Restrictions/NDAs:** Is the Project or the Application subject to, or expected to be subject to, any non-disclosure agreement or similar agreement restricting disclosure of information ("NDA")?

**Section 21.0 Evidence of Financial Solvency:** Provide the following financial information. (Audited Financials may be required and will be at the discretion of Staff):

- 21.1. Balance sheets for past three years.
- 21.2. Income statements for past three years.
- 21.3. Cash flow projections for next three years.
- 21.4. Federal tax ID number.
- 21.5. New Mexico State Taxation and Revenue number.
- 21.6. Business license number.

**Section 22.0 Required Disclosures:** Respond to the questions below. If the answer to any question is yes, attach written explanation.

- 22.1. Has the Applicant or any of its officers been involved in a bankruptcy?
- 22.2. Has the Applicant or any of its officers ever defaulted on any loans or financial obligations?

**Section 23.0 Councilor Sponsorship**

- 23.1 Name of Councilor sponsoring project
- 23.2 Date and nature (e.g., written, via meeting, etc.) of notice given to Councilor

**Section 24.0 Project Plan Form Certification:** Applicant certifies that the information contained in the Project Plan is true and correct, and that any information



subsequently obtained by the Applicant which may indicate that statements contained in the Application are or were untrue or have become misleading or untrue will be promptly disclosed to the City. Applicant agrees to provide such other information as the City may request to evaluate the Application. Applicant agrees to allow the City to inspect the Project at any time to ensure compliance with the Project Plan, the requirements of the Policy and the representations contained in the Application.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

Title: \_\_\_\_\_

Date: \_\_\_\_\_

# Appendix C

## Form of LEDA Application

### City of Rio Communities Local Economic Developer Act Assistance Application and Project Plan

[City of Rio Communities Logo]

RIO COMMUNITIES APPLICATION  
For  
LOCAL ECONOMIC DEVELOPMENT ACT (LEDA)  
Project Approval

Name of Project:

LEDA Assistance Amount Requested:

Applicant:

Address:

Telephone:

Email Address:

Applicant Website:

NAICS Code:

**Fees:**

The Applicant shall be responsible for the following fees:

1. Application fee, if any
2. City and Applicant legal fees
3. Third party review fees

**Submit Completed Application and applicable Fees to:**

[APPLICATION RECIPIENT ADDRESS]

The purpose of this LEDA Application and Project Plan is to identify the project, the project area and to present the plan and the uses to which the proceeds of the LEDA funds will be put if issued. This Application is presented to demonstrate to the City of Rio Communities the public benefits of this project and to help the City evaluate its merit in comparison to other projects submitted. The Applicant and its agent will endeavor to provide the City any additional information reasonably requested.

**Section 1.0 General Description of Project:** Please provide a description of the proposed Project.

**Section 2.0 Site and Existing Conditions:** Please provide the following information relating to the Project Site and its existing condition:

2.1 A legal description of the property on which the Project would sit, including:

- Parcel numbers;
- The physical address of the property; and
- The condition of the Project site

2.2 What is the present assessed value of the property?

2.3 Provide evidence that the Project conforms, or will conform, to all adopted City plans, policies and the provisions of the City Code, including:

- Present zoning of property being used for the Project;
- Required zoning change(s), if any; and
- Discussion of applicable special zoning requirements, if any

2.4 Describe the extent to which renewable energy technology is incorporated into buildings, infrastructure or equipment (such as Projects whose buildings are LEED certified).

**Section 3.0 Project Plan:** Please provide the following information regarding the proposed Project.

3.1 Information relating to the Applicant:

- Provide a brief history of the Applicant and any relevant affiliates, together with an organizational chart and resumes of key staff involved with the Project; and
- Describe projects of this type undertaken by the Applicant, or present convincing evidence that the Project will be completed.

3.2 What is the anticipated net impact on tax revenues for the City and other affected political subdivisions, if any (attach an analysis to support your answer).

- 3.3 Please provide information regarding the product to be manufactured or the business process to be engaged in.
- 3.4 Describe the number and type of competitors in the marketplace.
- 3.5 What is the anticipated effect of the Project on existing industry and commerce both during and after construction.
- 3.6 Is land acquisition expected to be part of the Project?
- 3.7 Describe the proposed development to take place.
- 3.8 Is infrastructure development expected to be part of the Project?
- 3.9 How will the Project enhance the local area?
- 3.10 To the extent practicable, will the Applicant purchase and procure labor and supplies locally?
- 3.11 Describe anticipated annual water usage as well as source(s) of water and any water conservation strategies, if applicable.
- 3.12 Describe any required relocation of individuals or businesses and whether alternatives to relocation of individuals or business are begin pursued.
- 3.13 Summarize the following economic impact and job creation criteria:
- Public infrastructure that will be built as part of the Project;
  - Other general enhancements to the area as a result of the Project;
  - Effect on existing industry and commerce in the area during and after construction;
  - Effect on local, in state, and out of state industry competition as a result of the Project (e.g., increased competition, consolidation of dominant position, etc.);
  - Number, category and average wages of jobs created by the Project. New Mexico Department of Workforce Solutions job categories should be used;
  - Temporary jobs in construction and permanent full and part time jobs (broken down by the number of direct, indirect and induced jobs);
  - Positions which will be filled locally and those which will be filled by transfers from other facilities or by out of state recruitment. Clearly state the number and type of positions expected to be filled by area residents;
  - Local recruitment, hiring and training programs, stating what if any opportunities for advancement will be available;

- Employee benefit package or programs, including health care coverage;
- The anticipated length of time that the Applicant expects the Project to be located in the facility;
- Whether the Applicant will operate the facility (if not, explain and provide name, address and phone number of the facility operator);
- Identify the proposed manager of the Project (including a statement of the manager's relevant experience) and the terms under which such management is to be provided; and
- Provide the Applicant's corporate citizenship plan, if any.

**Section 4.0 Project Financing and Feasibility:**

- 4.1 What is the cost of the improvements included in the Project?
- 4.2 Show all sources of capital that will be used to finance the Project, including the proposed LEDA assistance, equity investments, other debt financing and other financing sources, including state and local incentives.
- 4.3 What is the estimated value of the Project after completion?
- 4.4 Please describe the type and amount of LEDA assistance sought from the City.
- 4.5 Demonstrate the ability of the Project to maintain a solvent business and provide evidence that financing has been guaranteed. Specifically, demonstrate:
  - That the Project will generate sufficient cash flow to service its project debt and any other debts;
  - That the Project Applicant has firm financing commitment(s);
  - Total anticipated costs of the Project, including land, buildings, equipment and other costs (including pre-development and development costs and costs of financing);
  - Estimated value of the Project and associated public infrastructure and general area improvements, if applicable, after completion;
  - A proposed timeline for the Project, including projected start and completion dates for Project construction; projected start-up date and projected date of full capacity operations; and
  - Whether the Applicant also has a pending application for industrial revenue bonds to construct this or a substantially similar Project in another community (if yes, describe, including anticipated dates for inducement resolutions, LEDA ordinances, etc.).

4.6 Provide the following financial information. (Audited Financials may be required and will be at the discretion of Staff):

- Balance sheets for past three years. Provide the following financial information. (Audited Financials may be required and will be at the discretion of Staff);
- Income statements for past three years;
- Cash flow projections for next three years;
- Federal tax ID number;
- New Mexico State Taxation and Revenue number; and
- Business license number.

**Section 5.0 Councilor Sponsorship**

5.1 Which Councilor will be sponsoring the Project?

5.2 When and how was notice given to the Councilor of the pending Application (e.g., written, via meeting, etc.)?

**Section 6.0 Project Plan Form Certification:** Applicant certifies that the information contained in the Project Plan is true and correct, and that any information subsequently obtained by the Applicant which may indicate that statements contained in the Application are or were untrue or have become misleading or untrue will be promptly disclosed to the City. Applicant agrees to provide such other information as the City may request to evaluate the Application. Applicant agrees to allow the City to inspect the Project at any time to ensure compliance with the Project Plan, the requirements of the Policy and the representations contained in the Application.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

Title: \_\_\_\_\_

Date: \_\_\_\_\_