



City of Rio Communities Council Workshop
City Council Chambers - 360 Rio Communities Blvd
Rio Communities, NM 87002
Monday, July 10, 2023 3:00 PM
Agenda

Please silence all electronic devices.

Call to Order

Attendees

Discussion/Agenda Items

1. **Accounts payable report** (Finance Department)
2. **Court Clerk Wages and Hours** (Manager/Finance Department)
3. **Legal Services for Economic Development and LEDA Policies** (Manager/Council)
4. **Rules for Trash Day** (Manager/Council)

Public Comment: The Council will take public comments in written format. These should be emailed to admin@riocommunities.net through 2:00 PM on Monday, July 10 23. 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

Council General Discussion & Future Agenda Items

Adjourn

Thank you - Joshua Ramsell - Mayor of Rio Communities

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

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.



By Check Number

Vendor Number	Vendor Name	Payment Date	Payment Type	Discount Amount	Payment Amount	Number
Bank Code: AP BANK CODE-AP BANK CODE						
VEN04171	Administrative Office of the Courts	06/30/2023	Regular	0.00	18.00	4211
VEN04203	Artesia Fire Equipment Inc.	06/30/2023	Regular	0.00	1,194.00	4212
VEN04558	Thomas S. Adair	06/30/2023	Regular	0.00	180.00	4213
VEN04559	Thomas Scroggins	06/30/2023	Regular	0.00	30.00	4214
VEN04563	TLC Uniforms	06/30/2023	Regular	0.00	372.35	4215
VEN04801	Adelina Benavidez	06/30/2023	EFT	0.00	90.00	100606
VEN04804	Chad Good	06/30/2023	EFT	0.00	150.00	100607
VEN04783	Construction Coordinators Inc.	06/30/2023	EFT	0.00	13,202.16	100608
VEN04726	H&E Equipment	06/30/2023	EFT	0.00	1,268.38	100609
VEN04800	Magdalena Giron	06/30/2023	EFT	0.00	183.91	100610
VEN04718	Melodie Good	06/30/2023	EFT	0.00	150.00	100611
VEN04831	Nationwide Transport Services LLC	06/30/2023	EFT	0.00	11,020.00	100612
VEN04819	Roadsafe Traffic Systems, Inc.	06/30/2023	EFT	0.00	2,985.00	100613
VEN04698	Target Solutions Learning LLC	06/30/2023	EFT	0.00	1,924.55	100614
VEN04812	Triton Electric Inc	06/30/2023	EFT	0.00	9,150.00	100615

Bank Code AP BANK CODE Summary

Payment Type	Payable Count	Payment Count	Discount	Payment
Regular Checks	6	5	0.00	1,794.35
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	10	10	0.00	40,124.00
	16	15	0.00	41,918.35

Fund Summary

Fund	Name	Period	Amount
99000	Pooled Cash Fund	6/2023	41,918.35
			<hr/> 41,918.35

Authorization Signatures

CHECK REGISTER

This check register has been reviewed and verified for accuracy.

First Signor

Date

Second Signor



Rio Communities, NM

Accounts Payable Approval Report

Item 1.

By Fund

Vendor Name	Payable Number	Post Date	Description (Item)	Amount
Fund: 11000 - General Operating Fund				
Department: 1009 - Municipal Court				
Magdalena Giron	INV0004196	06/28/2023	Translation Srevices	183.91
Department 1009 - Municipal Court Total:				183.91
Department: 2002 - General Administration				
H&E Equipment	97400072	06/28/2023	street sweeper	1,268.38
Department 2002 - General Administration Total:				1,268.38
Department: 2012 - Planning & Zoning				
Melodie Good	INV0004198	06/29/2023	P & Z Qtr 4	150.00
Thomas S. Adair	INV0004199	06/29/2023	P & Z QTR 4	180.00
Adelina Benavidez	INV0004200	06/29/2023	P & Z QTR 4	90.00
Thomas Scroggins	INV0004201	06/29/2023	P & Z QTR 4	30.00
Chad Good	INV0004202	06/29/2023	P & Z QTR 4	150.00
Department 2012 - Planning & Zoning Total:				600.00
Department: 3002 - Fire Protection				
Nationwide Transport Service	46709	06/28/2023	Transport of Ladder Truck fro	11,020.00
Department 3002 - Fire Protection Total:				11,020.00
Fund 11000 - General Operating Fund Total:				13,072.29
Fund: 20100 - Corrections				
Department: 0001 - No Department				
Administrative Office of the C	INV0004195	06/28/2023	June 2023	18.00
Department 0001 - No Department Total:				18.00
Fund 20100 - Corrections Total:				18.00
Fund: 20900 - Fire Protection				
Department: 3002 - Fire Protection				
Target Solutions Learning LLC	INV66535	06/29/2023	Maint. Fee/Premier Members	1,924.55
TLC Uniforms	262389	06/30/2023	Uniforms for Fire Department	299.97
TLC Uniforms	262390	06/30/2023	Uniforms for Fire Department	72.38
Department 3002 - Fire Protection Total:				2,296.90
Fund 20900 - Fire Protection Total:				2,296.90
Fund: 26000 - American Rescue Plan Act				
Department: 2002 - General Administration				
Artesia Fire Equipment Inc.	79026	06/26/2023	Equipment for Service Truck /	1,194.00
Construction Coordinators Inc	1257	06/28/2023	Police Department Security W	13,202.16
Department 2002 - General Administration Total:				14,396.16
Fund 26000 - American Rescue Plan Act Total:				14,396.16
Fund: 39900 - Other Capital Projects				
Department: 2002 - General Administration				
Roadsafe Traffic Systems, Inc.	0032758-IN	06/26/2023	speed bumps	2,985.00
Triton Electric Inc	1719	06/28/2023	Electric For Server Room & CI	9,150.00
Department 2002 - General Administration Total:				12,135.00
Fund 39900 - Other Capital Projects Total:				12,135.00
Grand Total:				41,918.35

Report Summary

Fund Summary

Fund	Expense Amount
11000 - General Operating Fund	13,072.29
20100 - Corrections	18.00
20900 - Fire Protection	2,296.90
26000 - American Rescue Plan Act	14,396.16
39900 - Other Capital Projects	12,135.00
Grand Total:	41,918.35

Account Summary

Account Number	Account Name	Expense Amount
11000-1009-55999	Contract - Other Service	183.91
11000-2002-57998	City Wide Clean-Up	1,268.38
11000-2012-51030	Salaries - Term Position	600.00
11000-3002-55999	Contract - Other Service	11,020.00
20100-0001-21040	Admin Office of Courts P	18.00
20900-3002-56110	Supplies - Uniforms/Line	372.35
20900-3002-57050	Employee Training	1,924.55
26000-2002-58010	Buildings & Structures	13,202.16
26000-2002-58080	Vehicles	1,194.00
39900-2002-58010	Buildings & Structures	9,150.00
39900-2002-58100	Street Lighting/Traffic Si	2,985.00
Grand Total:	41,918.35	

Project Account Summary

Project Account Key	Expense Amount
None	32,768.35
2023-003-50000	9,150.00
Grand Total:	41,918.35

Authorization Signatures

MAYOR & COUNCILORS

JOSHUA RAMSELL, MAYOR

MARGARET "PEGGY" GUTJAHR, MAYOR PRO-TEM

LAWRENCE GORDON, COUNCILOR

ARTHUR APODACA, COUNCILOR

JIM WINTERS, COUNCILOR

ATTEST:

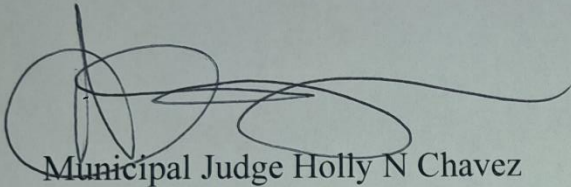
June 27, 2023

Dear Dr. Martin Moore and City of Rio Communities,

Upon consideration of Linda Montano's exemplary 6-month review (included in this packet), I would like the City of Rio Communities to consider an increase in pay to \$19.38 per hour. This increase covers a dollar raise as well as a 2% increase.

In addition, upon further discussion with Linda, we would like to keep the hours at 10 per week until the police department is fully established. At that time, we would like to evaluate the need and adjust hours from there. This will also help cover the cost of the hourly increase.

Please feel free to reach out with any questions!



Municipal Judge Holly N Chavez

505-388-3547



Sherman & Howard L.L.C.
500 Marquette Avenue NW, Suite 1203
Albuquerque, New Mexico 87102
Telephone: 505.814.6958

shermanhoward.com



June 22, 2023

City of Rio Communities, New Mexico
Martin Moore, City Manager
360 Rio Communities Blvd.
Rio Communities, New Mexico 87002

Re: Agreement for Legal Services;
Economic Development and LEDA Policies

Dear Mr. Moore:

As we discussed, we are sending you this engagement letter for your consideration.

1. *Scope of Representation; Engagement.* This is to confirm the engagement of Sherman & Howard L.L.C. by the City of Rio Communities, New Mexico (the "City") to serve as counsel to the City in connection with the development of economic development policies and procedures, including policies relating to industrial revenue bonds and Local Economic Development Act transactions. This engagement has been made pursuant to the State Procurement Code, regulations promulgated thereunder, and in particular Section 13-1-125, NMSA relating to small purchases.

Jill Sweeney is primarily responsible for this engagement and may be assisted by other attorneys and paralegals in the firm as deemed necessary.

1. *Term of Engagement.* You shall at all times have the right to terminate our firm's services upon written notice. Our firm shall at all times have the right to terminate our representation of you upon written notice if you do not pay our costs, or if we determine that our continued representation of you would be unethical or inappropriate, or if we have another reasonable basis for termination consistent with our professional duties to you.
2. *Fees and Expenses.* Our fees, including fees for any services which have heretofore been rendered, will be \$495 per hour plus gross receipts tax. It is anticipated that I will perform most of the day to day work in the matter, with the assistance of Alejandro Armelles Bello and other associates and paralegals in our office.

If the foregoing terms are acceptable, kindly execute this engagement agreement by signing your name on behalf of the City and return the signed page to our office at your earliest convenience.



Sherman & Howard L.L.C.
500 Marquette Avenue NW, Suite 1203
Albuquerque, New Mexico 87102
Telephone: 505.814.6958

shermanhoward.com



June 22, 2023

City of Rio Communities, New Mexico
Martin Moore, City Manager
360 Rio Communities Blvd.
Rio Communities, New Mexico 87002

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CITY OF RIO COMMUNITIES, NEW MEXICO
Ordinance No: 2023 – []

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 RIO COMMUNITIES, 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 ____ DAY OF _____ 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
RESOLUTION NO. _____**

A RESOLUTION 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 _____ day of _____, 2023.

MAYOR

ATTEST:

CITY MANAGER

APPROVED AS TO FORM:

CITY ATTORNEY

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.][CONFIRM WITH CITY]

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 or amended 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.

Ask Lisa to confirm with City

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[CONFIRM PRIORITIES WITH CITY]:

- 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: Appendix B

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]

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

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.

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, 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 to be contributed by the Applicant 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.

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 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 Development 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	
Location of Project	
Company Name	
Contact Person	
Address	
Company Telephone	
Project Address	
Project Email	
Project Counsel	
Project Counsel Address	
Amount Requested	

The purpose of the Plan is to identify 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 Plan 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.

APPLICATION DESCRIPTION

I. GENERAL DESCRIPTION

II. SITE AND EXISTING CONDITIONS

- A. Legal Description (including Parcel Numbers)

The physical address is:

- B. Prevailing Site Conditions

- C. Present Assessed Value

- D. Present and Proposed Zoning (including Zonal Certification(s))

- E. Renewable Energy

III. PROJECT PLAN

- A. Information Concerning Applicant

- B. Tax Issues (Federal, State, and Local)

- C. Information Concerning Products and Process

- D. Competition

- E. Effect on Existing Industry and Commerce during and after Construction

- F. Land Acquisition

- G. Description of Proposed Development

- H. Infrastructure

- I. Area Enhancement

- J. Local Purchasing

- K. Water Conservation

L. Relocation of Individuals or Businesses

M. Number and Types of Jobs Created

In addition, below is a table of job classifications and average salary.

Position	Average Salary

N. Benefits associated with the jobs to be created

O. Corporate Citizenship Policy/Plan

P. Management

IV. PROJECT FINANCING

A. Cost of Improvements, Bond Amount and Private Financing

B. Estimated Value After Completion

C. The type and amount of assistance sought from the City

D. Feasibility

E. Construction Schedule

F. Issuance of Bonds

V. COUNCILOR COMMUNICATION

A. Date and Nature of Notice Provided to Councilor

B. Name of Councilor Sponsoring