

[Bracketed/Underscored Material] - New
[Bracketed/Strikethrough Material] - Deletion

1 WHEREAS, pursuant to Section 5-15-15(B) of the TIDD Act, on January 10,
2 2007 the City adopted Resolution Enactment No. R-2007-001 (the “Dedication
3 Resolution”), whereby the City dedicated 67% of certain City Gross Receipts
4 Tax Increment Revenue and City Property Tax Increment Revenue generated
5 within the Districts for the financing of Public Infrastructure for the Districts;
6 and

7 WHEREAS, on December 18, 2006, the City ratified and approved that
8 certain Tax Increment Development Plan (the “TIDD Plan”) relating to the
9 development of the Districts pursuant to the TIDD Act; and

10 WHEREAS, on August 6, 2007, the City adopted Resolution Enactment R-
11 2007-193 approving that certain Master Development Agreement for
12 Implementation of the Mesa Del Sol Tax Increment Development Districts 1
13 through 5, among the City, Mesa del Sol LLC and the Districts, effective May
14 22, 2008, as amended by the First Amendment to the Master Development
15 Agreement, effective September 17, 2009 (as amended, the “Master
16 Development Agreement”); and

17 WHEREAS, on December 17, 2018, the City adopted Resolution Enactment
18 No. R- 2018-099 consenting to an assignment of the Master Development
19 Agreement to MDS Investments, LLC, a New Mexico limited liability company
20 (the “Developer”); and

21 WHEREAS, Senate Bill 566 of the First Session of the Fifty Fourth
22 Legislature (“Senate Bill 566”) amended the TIDD Act to, among other things,
23 clarify that property tax increment revenue and municipal and county gross
24 receipts tax increment revenue may be used by tax increment for development
25 districts to finance and/or reimburse the costs of public infrastructure
26 improvements in tax increment development districts without the issuance of
27 bonds; and

28 WHEREAS, the City Council desires to amend the Formation Resolution,
29 Dedication Resolution and Master Development Agreement, and to consent to
30 an amendment to the TIDD Plan, each pursuant to this Resolution, as
31 necessary to implement the provisions of the TIDD Act, as amended by Senate
32 Bill 566; and

[Bracketed/Underscored Material] - New
[Bracketed/Strikethrough Material] - Deletion

1 WHEREAS, the City Council finds that this Resolution promotes the
2 interests, convenience or necessity of the owners and residents of the
3 Districts and citizens of the City.

4 BE IT RESOLVED BY THE CITY COUNCIL, THE GOVERNING BODY OF THE
5 CITY OF ALBUQUERQUE:

6 SECTION 1. DISTRICT DOCUMENT AMENDMENTS. In order to permit the
7 use of property tax increment revenue and City gross receipts tax increment
8 revenue by the Districts to finance and/or reimburse the costs of on site and
9 off site public infrastructure improvements without the issuance of bonds in
10 accordance with the TIDD Act as amended by Senate Bill 566, the Formation
11 Resolution, Dedication Resolution, Master Development Agreement and TIDD
12 Plan must be amended.

13 SECTION 2. FIRST AMENDMENT TO THE FORMATION RESOLUTION. The
14 definition of the term “TIDD Infrastructure Improvements” contained in the
15 Formation Resolution,

16 ““TIDD Infrastructure Improvements” means the public infrastructure
17 improvements to be financed with proceeds of District Bonds as described
18 and in the approximate locations shown in Exhibit 1 to the Tax Increment
19 Development Plan.”

20 is hereby deleted and replaced in its entirety with the following:

21 ““TIDD Infrastructure Improvements” means the public infrastructure
22 improvements to be financed with proceeds of District Bonds or other tax
23 increment revenues as authorized by the TIDD Act, as described and in the
24 approximate locations shown in Exhibit 1 to the Tax Increment
25 Development Plan.”

26 Except as provided in this Resolution, all terms and provisions of the
27 Formation Resolution shall remain unchanged and in full force and effect. The
28 Formation Resolution as modified and amended is hereby ratified and
29 confirmed in all respects. From and after the date hereof, all references to the
30 Formation Resolution shall be deemed references to the Formation Resolution
31 as amended hereby.

32 SECTION 3. FIRST AMENDMENT TO THE DEDICATION RESOLUTION. The
33 first sentence of Section 3 of the Dedication Resolution,

[Bracketed/Underscored Material] - New
[Bracketed/Strikethrough Material] - Deletion

1 “Pursuant to Sections 5-15-15(E) and 15-15-16(H) NMSA 1978, the City
2 hereby dedicates 67% of the gross receipts tax increment revenues of the
3 City’s local option gross receipts tax revenues (excluding the
4 Transportation Infrastructure Tax), state-shared gross receipts tax
5 revenues, and 67% of the property tax revenues (which shall not include
6 any property tax intended to pay debt service but shall include 100% of any
7 operating property tax) generated within each of Districts 1 through 5 for
8 the purpose of securing the payment of District Bonds.”

9 is hereby deleted and replaced in its entirety with the following:

10 “Pursuant to Section 5-15-15(E) NMSA 1978, the City hereby dedicates 67%
11 of the gross receipts tax increment revenues of the City’s local option
12 gross receipts tax revenues (excluding the Transportation Infrastructure
13 Tax), state-shared gross receipts tax revenues, and 67% of the property tax
14 revenues (which shall not include any property tax intended to pay debt
15 service but shall include 100% of any operating property tax) generated
16 within each of Districts 1 through 5 for the purpose of financing Public
17 Infrastructure.”

18 Except as provided in this Resolution, all terms and provisions of the
19 Dedication Resolution shall remain unchanged and in full force and effect. The
20 Dedication Resolution as modified and amended is hereby ratified and
21 confirmed in all respects. From and after the date hereof, all references to the
22 Dedication Resolution shall be deemed references to the Dedication
23 Resolution as amended hereby.

24 **SECTION 4. SECOND AMENDMENT TO THE MASTER DEVELOPMENT**
25 **AGREEMENT.** The City Council hereby approves the Second Amendment to
26 Master Development Agreement, in substantially the form attached hereto as
27 Exhibit A. Except as provided in the Second Amendment to Master
28 Development Agreement, all terms and provisions of the Master Development
29 Agreement shall remain unchanged and in full force and effect. The Master
30 Development Agreement as modified and amended is hereby ratified and
31 confirmed in all respects. From and after the date hereof, all references to the
32 Master Development Agreement shall be deemed references thereto as
33 amended hereby.

[Bracketed/Underscored Material] - New
[Bracketed/Strikethrough Material] - Deletion

1 **SECTION 5. FIRST AMENDMENT TO THE TIDD PLAN.** The City Council
2 hereby consents to the First Amendment to TIDD Plan, in substantially the
3 form attached hereto as Exhibit B. Except as provided in the First Amendment
4 to TIDD Plan, all terms and provisions of the TIDD Plan shall remain
5 unchanged and in full force and effect. The City’s consent to the TIDD Plan as
6 modified and amended is hereby ratified and confirmed in all respects. From
7 and after the date hereof, all references to the TIDD Plan shall be deemed
8 references thereto as amended hereby.

9 **SECTION 6. PRIOR CONSISTENT ACTIONS RATIFIED; INCONSISTENT**
10 **ACTIONS REPEALED.** All prior actions of the City Council or its officers taken
11 in connection with the matters addressed in this Resolution are ratified,
12 except to the extent that such actions are inconsistent with the matters
13 authorized in this Resolution. Prior actions of the City Council in conflict with
14 this Resolution are hereby repealed, but only to the extent of such
15 inconsistency.

16 **SECTION 7. GENERAL AUTHORIZATION.** The Chief Administrative Officer
17 of the City or her designee are hereby authorized and directed to execute the
18 Second Amendment to the Master Development Agreement and take all action
19 necessary to carry out the amendments to the Formation Resolution and
20 Dedication Resolution, and the consent to the First Amendment to TIDD Plan,
21 and to perform such obligations of the City and such other actions as, in
22 consultation with Bond Counsel and advisors to the City in connection with
23 the First Amendment to the Formation Resolution, the First Amendment to the
24 Dedication Resolution, the Second Amendment to the Master Development
25 Agreement or First Amendment to the TIDD Plan, shall be necessary or
26 advisable in connection with this Resolution.

27
28
29
30
31
32