

1 **BERNALILLO COUNTY, NEW MEXICO**

2 **RESOLUTION NO. AR 10-2008**

3  
4 RELATING TO THE DEVCO TAX INCREMENT DEVELOPMENT  
5 DISTRICTS 1 THROUGH 9 ("TIDDS 1 THROUGH 9" OR THE "TIDDS")  
6 FORMED PURSUANT TO THE TAX INCREMENT FOR DEVELOPMENT  
7 ACT, SECTIONS 5-15-1 THROUGH 5-15-28, NMSA 1978 ("TIDD ACT")  
8 COUNTY COMMISSION ORDINANCE NO. 2007-20 ("TIDD ORDINANCE")  
9 AND COUNTY COMMISSION RESOLUTION NO. 73-2007 ("TIDD  
10 FORMATION RESOLUTION"); DEDICATING ALL OF THE THIRD ONE-  
11 EIGHTH COUNTY GROSS RECEIPTS TAX INCREMENT; ALL OF THE  
12 COUNTY ENVIRONMENTAL SERVICES GROSS RECEIPTS TAX  
13 INCREMENT, AND TEN PERCENT (10%) OF THE PROPERTY TAX  
14 INCREMENT REVENUE, ALL WITHIN THE TIDDS, FOR THE FINANCING  
15 OF PUBLIC INFRASTRUCTURE FOR THE TIDDS; RATIFYING CERTAIN  
16 ACTIONS HERETOFORE TAKEN; REPEALING ALL ACTIONS  
17 INCONSISTENT WITH THIS RESOLUTION.  
18

19 Capitalized terms in the following preamble shall have the meanings assigned in Section  
20 1 of the TIDD Formation Resolution, unless the context clearly requires otherwise.

21 **WHEREAS**, the TIDD Act provides in part that the owners of real property may petition  
22 the governing body of the County in which the real property is located for the formation of a tax  
23 increment development district (a "TIDD") to provide gross receipts tax increment financing and  
24 property tax increment financing for public infrastructure in order to support economic  
25 development and job creation; that the governing body shall hold a hearing to determine whether  
26 a TIDD should be formed; and, upon determination that formation of a TIDD is in the interest of  
27 the property owner and the citizens of the governing body's jurisdiction, shall order that the  
28 TIDD be formed; and that an election for the formation of the TIDD by owners of real property  
29 and residents qualified within the TIDD may be waived and the TIDD formed if the petition was  
30 submitted by the owner(s) of 100% of the real property proposed to be included within the  
31 TIDD; and

32 **WHEREAS**, Westland DevCo, LP, a Delaware limited partnership (the "Applicant") has  
33 submitted to the County a petition and application for the formation of DevCo Tax Increment  
34 Development Districts 1 through 9 for the purpose of financing public infrastructure (the "TIDD  
35 Infrastructure") through the proceeds of Tax Increment Revenue Bonds issued by DevCo Tax  
36 Increment Development Districts 1 through 9, as provided in the TIDD Act and the TIDD

1 Ordinance, for the purpose of serving, in part, approximately 3950 acres of land known as the  
2 Upper Petroglyphs; and

3 WHEREAS, the Applicant has submitted to the County the Application and such other  
4 documents as are required by the TIDD Act and the TIDD Ordinance to be submitted by an  
5 applicant in connection with a petition for the formation, implementation and governance of the  
6 TIDDs the "Formation Documents"); and

7 WHEREAS, the County Commission has considered the Formation Documents and related  
8 submittals by the Applicant, has conducted a public hearing as provided by Sections 5-15-6 and  
9 5-15-7 NMSA 1978 of the TIDD Act, and has determined in the Formation Resolution that the  
10 formation of the TIDDs is consistent with the TIDD Ordinance and promotes the interests,  
11 convenience or necessity of the owners and residents of the TIDDs and citizens of the County  
12 thus forming the TIDDs; and

13 WHEREAS, pursuant to Sections 5-15-15(E) and 5-15-17(H) NMSA 1978, the Applicant  
14 requests the dedication of a portion of the County's local option gross receipts tax increment  
15 revenues and a portion of the County's property tax increment revenues generated within the  
16 TIDDs; and

17

18 NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF  
19 BERNALILLO COUNTY, NEW MEXICO, THE GOVERNING BODY (THE "COMMISSION") OF THE  
20 COUNTY:

21 **Section 1.** Dedication of Gross Receipts Tax and Property Tax Increments. Pursuant  
22 to Sections 5-15-15(E) and 5-15-17(H) NMSA 1978 of the TIDD Act and at the request of the  
23 Applicant, the County hereby dedicates all of the third one-eighth County gross receipts tax  
24 increment and all of the County environmental services gross receipts tax increment, and ten  
25 percent (10%) of the property tax increment revenue, all within the TIDDs, for the financing of  
26 public infrastructure for the TIDDs. TIDD Bonds may be issued from time to time, pursuant to  
27 the adoption of this Resolution, and subject to County approval of Subsequent Development  
28 Agreements as set forth in the Master Development Agreement. The gross receipts tax  
29 increments dedicated are the County's local option gross receipts taxes currently imposed;

1 provided that gross receipts tax increment generated through any voter approved gross receipts  
2 tax must be used consistent with the authorized purpose. The TIDDs are hereby authorized to  
3 impose a property tax within the TIDDs at a rate not to exceed 5.000 mills.

4 **Section 2.** **Amendments.** This Dedication Resolution may be amended or  
5 supplemented by ordinance or resolution adopted by the County Commission in accordance with  
6 the laws of the County and the State.

7 **Section 3.** **Repealer.** All resolutions, or parts thereof, in conflict with the provisions  
8 of this Dedication Resolution, are hereby repealed to the extent only of such inconsistency. This  
9 repealer shall not be construed to revive any resolution, or part thereof, heretofore repealed.

10 **Section 4.** **Severability.** If any section, paragraph, clause or provision of this  
11 Dedication Resolution shall for any reason be held to be invalid or unenforceable, the invalidity  
12 or unenforceability of such section, paragraph, clause or provision shall in no manner affect any  
13 remaining provisions of this Dedication Resolution.

14 **Section 5.** **Publication of Notice of Adoption of Dedication Resolution.** The Clerk is  
15 hereby directed to publish a notice of this Dedication Resolution, in substantially the following  
16 form:

17 Notice is hereby given of the title and general summary of the subject matter contained in  
18 a resolution duly adopted and approved by the County Commission of Bernalillo County, New  
19 Mexico relating to the approval of the DevCo Tax Increment for Development Districts 1  
20 through 9. Complete copies of the resolution are available for public inspection during the  
21 regular business hours of the County Clerk, Bernalillo County, New Mexico.

22 The title of the Formation Resolution is as follows:

23 **BERNALILLO COUNTY, NEW MEXICO**

24 **RESOLUTION NO. \_\_\_\_\_**

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26 DISTRICTS 1 THROUGH 9 ("TIDDS 1 THROUGH 9" OR THE "TIDDS")  
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10 ACTIONS HERETOFORE TAKEN; REPEALING ALL ACTIONS  
11 INCONSISTENT WITH THIS RESOLUTION.  
12

13 (End of Form of Summary of Resolution for Publication)

1 ADOPTED ON THIS 22<sup>nd</sup> day of January, 2008

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3

**BOARD OF COUNTY COMMISSIONERS  
BERNALILLO COUNTY, NEW MEXICO**

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5

Alan B. Armijo  
Alan B. Armijo, Chair

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Deanna Archuleta  
Deanna Archuleta, Vice Chair

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Teresa L. Cordova  
Teresa L. Cordova, Ph.D, Member

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11

E. Tim Cummins  
E. Tim Cummins, Member

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13

Michael Brasher  
Michael Brasher, Member



14 [SEAL]

15 Attest:

16 Maggie Toulouse  
17 Maggie Toulouse, Clerk  
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