

RESOLUTION No. 2008-10.12
**PROVIDING FOR THE REVIEW OF INDUSTRIAL REVENUE BOND
PROJECTS BY THE COUNTY OF TORRANCE; ADOPTING STANDARDS
FOR QUALIFICATION OF PROJECTS FOR COUNTY OF TORRANCE
INDUSTRIAL REVENUE BONDS; ADOPTING INDUSTRIAL REVENUE BOND
POLICIES.**

**IT IS RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF
TORRANCE COUNTY, NEW MEXICO.**

As used in this Resolution:

- A. "bonds" means any bond, debenture, note, refunding or renewal bond or note, warrant, or other security evidencing an obligations the proceeds of which, or a major portion thereof, are to be used in the trade or business carried on by someone other than the County and which are authorized to be issued by the County pursuant to: the Industrial Revenue Bond Act (Sections 3-32-1 to 3-32-16, NMSA, 1978, as amended from time to time).
- B. "Commission" means the Board of County Commissioners of Torrance County, New Mexico.
- C. "County" means Torrance County, New Mexico.
- D. "County Manager" means the person appointed by the Commission to manage the day to day business of the County.
- E. "EVEDA" means the Estancia Valley Economic Development Association which has been designated the representative of the County to assist the Commission in analysis of applications for bonds, including fiscal impact analysis.
- F. "inducement resolution" means a resolution of the Commission setting forth the good-faith intent of the Commission to issue bonds upon the prior satisfaction of all applicable land use and development requirements of the County, other than the issuance of a building permit.
- G. "project plan" means the plan describing a project, which shall include:
 - (1) a general description and location of the project;
 - (2) the number and type of new jobs to be created;
 - (3) the estimated percentage of jobs to be filled by persons who are residents of the County on the date of the project plan submission;
 - (4) identification and the processing of any product associated with the project; (if the project is an energy provider, transmission capabilities);
 - (5) any relocation of individual's or businesses;
 - (6) the present use or conditions of the project site;
 - (7) the present assessed value of the project site, if available;
 - (8) the estimated value of the project sit after completion of the project;
 - (9) the maximum amount of the bonds to be issued;
 - (10) the present and proposed zoning;

- (11) a proposed construction schedule;
 - (12) information relating to the feasibility of the proposed project including information relating to the ability of the project to generate revenues to render the project self-liquidating;
 - (13) the competition in type of commerce or industry already existing within the County and municipalities therein;
 - (14) the effect on existing industry and commerce in the County and municipalities therein including during and after the construction period;
 - (15) the amount of private investment in the project in addition to bond financing;
 - (16) the total dollar amount of the proposed improvements included as part of the project;
 - (17) a statement of when the bonds are proposed to be issued;
 - (18) resumes showing the experience of the new development entity or principals, and the experience of the architect, contractor, and leasing agent, if relevant;
 - (19) a statement of plans for project management;
 - (20) conceptual site plans for the project;
 - (21) a map locating the project area;
 - (22) information requested by the County Manager and EVEDA to conduct an independent fiscal impact analysis, including, financial statements for the past three years, pro-forma statements, and business history; and
 - (23) other matters as may be relevant to or requested by EVEDA, or the Commission.
- H. "user" means one or more persons or entities, of their successors, assigns or agents, who propose to acquire or construct a project financed by or proposed to be financed by the proceeds of bonds.

Section 2 PRELIMINARY REVIEW OF PROPOSED PROJECT.

- A. The County Manager and EVEDA shall review all bond projects to determine that proposed project plans are complete.
- B. The County Manager shall solicit input from the County Planning & Zoning Director and the superintendent of the impacted school district when reviewing the proposed project plan.
- C. A request to issue bonds for a project shall be made by filing an Inducement Resolution and submitting a project plan, fee and deposit with the County Manager, with a copy to EVEDA.

Section 3 APPROVAL OF PROJECT PLANS – RECOMMENDATIONS TO THE COMMISSION – PROTEST

- A. The County Manager and EVEDA shall present the project plan or portion thereof to the Commission for the Commission's approval, conditional approval or disapproval.
- B. The County Manager's and EVEDA's recommendation to the Commission and the Commission's final action regarding approval, conditional approval, or disapproval of a project plan and Inducement Resolution, shall take into consideration the County's development plans and policies, as they may from time to time be exist, and the promotion of the health, safety, security and general welfare of the citizens of the County and the State of New Mexico.
- C. Any person may protest any recommendation of the County Manager and EVEDA to the Commission and all protests shall be considered by the Commission prior to consideration of the Inducement Resolution for the project. Any protest shall be filed with the County Manager's office within 10 calendar days after the decision of the Commission to approve, conditionally approve, or disapprove the of the project plan and Inducement Resolution.

Section 4 ZONING COMPLIANCE.

After adoption of the Inducement Resolution by the Commission and prior to the Commission adopting an ordinance authorizing the issuance of the bonds, the following steps shall be followed:

- A. Any required site development or landscape plans shall be submitted to the Planning & Zoning Department of the County and shall be reviewed by the Planning & Zoning Board in accordance with established zoning procedures;
- B. As evidence of compliance with all zoning requirements, the user shall provide at any time prior to the issuance of the bonds, a certificate of zoning compliance signed by the Planning & Zoning Director or his designee.

Section 5. COUNTY ATTORNEY REVIEW.

All resolutions and ordinances, financing agreements, closing documents and other documents relating to the County and relating to the bonds and the issuance thereof shall be submitted to the County Attorney and Bond Counsel for the County in sufficient time for review by such attorneys prior to the Commission taking any required action on such documents or execution of the documents by County officials, as applicable.

Section 6. RULES.

The County Manager, in conjunction with EVEDA, may establish such rules, not inconsistent with County ordinance of this resolution, as they shall deem necessary to carry out the powers granted to them hereunder.

Section 7. STATUS OF BONDS.

The principal and interest of the bonds approved by the Commission shall be payable solely out of the revenue derived from the financing, sale, leasing, or operations of the project with respect to which the bonds are issued or from a guarantee agreement, or agreements, or a credit enhancement device, upon which the guarantor or obligor is other than the County. The bonds shall never constitute a debt or indebtedness of the County within the meaning of any provision or limitation of the New Mexico Constitution, statutes of the State of New Mexico or the ordinances and charter of the County and such bonds shall not constitute nor give rise to pecuniary liability of the County or a charge against its general credit or taxing powers.

Section 8. FEES.

In addition to any other fee imposed pursuant to ordinance or resolution, the user shall pay to the County a fee equal to one-tenth of one percent of the face amount of the bonds to be issued to compensate the County for its reasonable administrative expenses incurred in the approval of the project and the issuance of the bonds provided that the fee shall not be less than \$500.00 nor more than \$2,500.00 plus a deposit of \$500.00 to be applied against the payment of attorney fees. In addition to the fee set forth in this Section, the user shall pay all attorney's fees and expenses of the attorney's for reviewing the bond documents, including any refunding bond documents whether or not the bonds are issued.

Section 9. SUNSET DATE – DATE OF ISSUE.

- A. The Inducement Resolution shall set a final date for issuance of the proposed bonds, which shall constitute a "sunset date" or termination date for the Inducement Resolution if the bonds are not issued within the specified time. The "sunset date" may be extended if the user presents a revised project schedule with supporting evidence to the satisfaction of the Commission that the extension is justified for good cause and necessary for project completion.
- B. The ordinance shall state the year in which the bonds will be issued and the bonds shall not be issued in a year other than that stated in the ordinance except upon approval by the Commission.

Section 10. TAX ABATEMENT.

- A. No property tax abatement shall be given for any bond project exceeding: (1) if the bonds are industrial revenue bonds, thirty (30) years from the date the bonds are issued; or (2) The user will have the property assessed in the user's name on or before the first January following thirty years from the date the bonds were originally issued and the user will pay all ad valorem taxes on the project from and after such first January.

- B. The financing agreement relating to the industrial revenue bonds shall contain agreements that, as a condition for the issuance of the bonds; (1) the user will pay all special assessments on the project; (2) the user will have the property assessed in the user's name on or before the first January following thirty years from the date the bonds were originally issued and the user will pay all ad valorem taxes on the projects from and after such first January or otherwise specified; and, (3) all negotiated provisions for "clawbacks" and Payments In Lieu of Taxes (PILOT)..

Section 11. TEMPORARY PROVISION.

This Resolution shall govern any project for which an Inducement Resolution has been introduced or adopted by the Commission after January 1, 2008.

Section 14. SEVERABILITY CLAUSE.

If any section, subsection, sentence, clause, word or phrase of this resolution is for any reason held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this resolution. The Commission hereby declares that it would have passed this resolution and such section, subsections, clause, word or phrase thereof irrespective of any one or more sections, subsections, clauses, words or phrases being declared unconstitutional or otherwise invalid.



Attest:

Linda Kasper
County Clerk

TORRANCE COUNTY COMMISSION

Jim Frost, District 1

Tito Chavez

Paul M. (Tito) Chavez, District 2

LeRoy M. Candelaria

LeRoy M. Candelaria, District 3