

**CURRY COUNTY, NEW MEXICO**  
**Resolution No. 2016-35**

**A RESOLUTION PROVIDING POLICIES AND PROCEDURES FOR THE EVALUATION OF PROPOSED INDUSTRIAL REVENUE BOND PROJECTS BY CURRY COUNTY.**

**WHEREAS**, the County Industrial Revenue Bond Act (hereinafter referred to as the "Act") authorizes counties to acquire, own, lease, or sell Projects for the purpose of promoting industry and trade by inducing manufacturing, industrial and commercial enterprises to locate and expand in New Mexico; and

**WHEREAS**, the Act also authorizes counties to issue Industrial Revenue Bonds to finance the acquisition and/or construction of Projects; and

**WHEREAS**, Curry County supports the use of Industrial Revenue Bonds as a tool to induce manufacturing, industrial and commercial enterprises to locate and expand in the County or expand existing operations in the County in accordance with the policies and procedures set forth in this resolution;

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF CURRY COUNTY, NEW MEXICO:**

Section 1. Definitions. As used in this Resolution:

A. "Act" means the County Industrial Revenue Bond Act, sections 4-59-1 through 4-59-16, NMSA 1978, as amended;

B. "Applicant" means one or more entities, or their successors, assigns or agents, who propose to acquire or construct a Project financed by the proceeds of Bonds in Curry County

C. "Board" means the Board of County Commissioners of Curry County;

D. "Bond Counsel" means an attorney or firm of attorneys nationally recognized for expertise in the area of municipal bonds, the Act and the exemption of interest on municipal bonds from federal income taxation and listed in the most recent edition of the Bond Buyer's Municipal Marketplace;

E. "Bonds" means any bond, debenture, note, refunding, or renewal bond or note, warrant or other security evidencing an obligation 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 Act;

F. "County" means the County and body corporate and politic known as Curry County, New Mexico

G. "Inducement Resolution" means a resolution of the Board setting forth the good faith intent of the Board to issue Bonds upon the prior satisfaction of all of the applicable requirements of the County with regard to the Project;

H. "Project" means a commercial or industrial facility, a facility owned and/or operated by the Applicant, or portions thereof which qualify as a Project under the Act.

## Section 2. Application Process

If an Applicant wishes to request that the County issue a Bond under the Act to finance a Project on behalf of the Applicant, the Applicant shall submit a written and electronic application, in the form of Exhibit A, to the County Manager at least five (5) weeks prior to the date of the Board meeting at which the Applicant would like its application considered. The Applicant must attach to the application the proposed form

of Inducement Resolution which the Applicant is requesting that the County adopt at the meeting at which the application is considered. Concurrently with the filing of the application, the Applicant shall submit to the County a non-refundable application fee of two thousand five hundred dollars (\$2,500.00) together with an initial due diligence check in the amount of twelve-thousand five hundred dollars (\$12,500.00). County may request an additional due diligence payment from Applicant of fifteen thousand dollars (\$15,000.00) once eighty percent (80%) of the original due diligence payment has been used by County, and if determined by County to be necessary. Any amount of the due diligence deposit not used by County will be refunded to Applicant. The County shall use the due diligence payments to pay the fees and costs of County's review.

The County will consider each financing request on a case by case basis after reviewing among other things: the nature of the proposed Project; the number and nature of jobs that will be produced by the Project; infrastructure needs; the nature of any credit enhancement that will support the payment of the Bonds; and the operating history of the Applicant. The County reserves the right to decline a financing request for any reason it deems appropriate. Any agreement by the County to proceed with a financing does not constitute a recommendation by the County regarding the credit-worthiness of the financing.

The Applicant shall be responsible for retaining and paying the fees of its own Bond Counsel. The loyalty of the applicants Bond Counsel shall run to the Applicant.

Section 4. Payment in Lieu of Taxes

Based upon the information submitted by the Applicant, County shall determine the value of property, if any, constituting the Project which will be exempt from taxations as a result of the financing and the estimated amount of taxes to the City, County, the school district and the Community College District, if the Project is located within the boundaries of the Community College District. The Applicant shall be required to pay to the County, as a condition of obtaining the Bond financing, payments in lieu of taxes in an amount established by the County, commencing in the first full calendar year after completion of the Project for operational purposes. If there is an expansion of the buildings and improvements which are exempt from taxation, the amount of payments in lieu of taxes allocable to the buildings and improvements shall automatically increase by a percentage equal to the percentage increase in the square footage of the buildings and improvements. County staff and the Applicant shall agree at least one week prior to the date of consideration of the Ordinance of the amount of the payments in lieu of taxes.

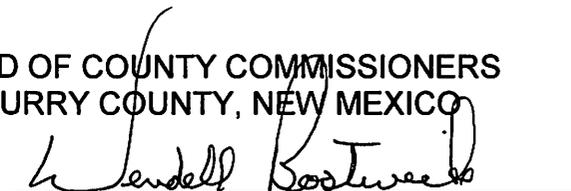
Section 5. Document Review. All resolutions, ordinances, financing agreements, closing documents, and other documents relating to the County and relating to the Bonds and the issuance thereof, including any documents submitted to the State Board of Finance as an application for volume cap related to the Bonds, shall be submitted by Applicant's Bond Counsel to the County Manager at least five (5) weeks prior to any required action on such documents or execution of the documents by County officials, as applicable. The Bond must reflect the payments in lieu of taxes as determined by the County.

Section 6. Status of Bonds. The principal and interest of the Bonds approved by the Board shall be payable solely out of the revenue derived from the financing, sale, or leasing of the Project with respect to which the Bonds are issued or from a guarantee agreement or agreements or a credit enhancement device or devices upon which the guarantor or obligator 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 or any statutes of the State of New Mexico. In addition, the Bonds shall not constitute nor give rise to any pecuniary liability of the County or constitute or become a charge against its general credit or taxing powers.

Section 7. 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 Board hereby declares that it would have passed this Resolution and such section, subsection, clause, word, or phrase thereof irrespective of any one or more sections, subsections, sentences, words, or phrases being declared unconstitutional or otherwise invalid.

The foregoing policies and procedures relating to industrial revenue bonds are hereby adopted the 17th day of May, 2016.

BOARD OF COUNTY COMMISSIONERS  
OF CURRY COUNTY, NEW MEXICO

A handwritten signature in black ink, appearing to read "Wendell Bostwick", is written over a horizontal line.

Wendell Bostwick, Chairman

ATTEST:

 Chief Deputy

Rosalie Riley, County Clerk