CITY OF SANTA FE, NEW MEXICO

RESOLUTION NO. 2007-32

INTRODUCED BY:

[Signature]

A RESOLUTION

DECLARING THE INTENT OF THE CITY OF SANTA FE TO ISSUE AN INDUSTRIAL
REVENUE BOND IN A PRINCIPAL AMOUNT UP TO $45,000,000 FOR A PROPOSED
OFFICE CAMPUS PROJECT LOCATED AT 2300 NORTH RIDGETOP ROAD IN
SANTA FE, NEW MEXICO, FOR THE PURPOSE OF INDUCING RIDGETOP ROAD,
LLC OR ITS SUCCESSORS OR ASSIGNS TO UNDERTAKE THE ACQUISITION,
CONSTRUCTION AND EQUIPPING OF THE PROJECT, AND AUTHORIZING THE
GIVING AND PUBLICATION OF NOTICES IN CONNECTION WITH SUCH BOND.

WHEREAS, the Industrial Revenue Bond Act, Sections 3-32-1 through 3-32-16
NMSA 1978, as amended (the “Act”), authorizes the City of Santa Fe, New Mexico (the “City”)
to issue an industrial revenue bond (the “Bond”), and to acquire “projects” as defined in the Act;
and

WHEREAS, the City desires to promote industry and develop trade or other economic
activity to secure and maintain a balanced and stable economy in the City and to promote public
health, welfare, safety, convenience and prosperity; and
WHEREAS, Ridgetop Road, LLC (the “Lessee”), proposes to acquire, construct and equip an office campus project at 2300 North Ridgetop Road in Santa Fe, New Mexico (the “Project”), which constitutes a “project” as defined in the Act; and

WHEREAS, the Project has been considered by the Governing Body and the Governing Body has concluded that the Project will promote the local health, general welfare, safety, convenience and prosperity of the inhabitants of the City, and the Governing Body desires to indicate its intent to proceed with the issuance of the Bond for the financing of the Project; and

WHEREAS, the issuance of the Bond by the City to finance the Project will constitute one of the inducements for the Lessee to proceed with the Project; and

WHEREAS, concurrently with the issuance of the Bond, the Lessee will enter into a leasing or other financing agreement with the City providing for the payment of lease rentals or other payments on the Project sufficient to pay the debt service on the Bond, subject to the prior approval of the Governing Body; and

WHEREAS, the Governing Body intends to consider an ordinance (the “Bond Ordinance”) approving the issuance of Bond to finance the Project at its regular meeting on May 30, 2007; and

WHEREAS, pursuant to Section 3-17-3 NMSA 1978, the City is required to publish notice of the title and subject matter of any ordinance proposed for adoption by the Governing Body not less than two weeks before consideration by the Governing Body of final action thereon; and

WHEREAS, pursuant to Section 3-32-6.1 of the Act, before adopting an ordinance issuing a Bond, the City is required to give notice to the Board of County Commissioners and the Santa Fe County Assessor of its intent to consider the matter, which notice is to be given at least thirty days prior to the meeting at which final action is to be taken.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE
CITY OF SANTA FE:

Section 1. All action (not inconsistent with the provisions of this resolution) heretofore taken by the Governing Body and the officers and employees of the City, related to the acquisition, construction and equipping of the Project, and the sale and issuance of the Bond therefor, be and the same hereby is ratified, approved and confirmed.

Section 2. The Governing Body finds that:

A. The Project will involve the acquisition, construction and equipping of an office campus facility.

B. The maximum aggregate face amount of obligations to be issued with respect to the Project is $45,000,000.

C. The initial developer and operator of the Project will be the Lessee or its assignee or assignees.

D. The location of the Project is 2300 North Ridgetop Road in Santa Fe, New Mexico.

Section 3. In order to promote the local health and general welfare, safety, convenience and prosperity of the inhabitants of the City, it is the Governing Body’s intent to take all necessary and advisable steps to effect the issuance of Bond in a principal amount up to $45,000,000 in order to defray part or all of the costs of the Project, provided that this expression of intent is conditioned upon the issuance of such Bond on or before one year from the date of the adoption of this resolution.

Section 4. The City understands that the Lessee does not intend that the Bond be a “qualified private activity bond” as that term is defined in the Internal Revenue Code of 1986, as amended.

Section 5. The Bond will be payable from the revenues of the Project and by the Lessee and will not constitute a debt or indebtedness of the City within the meaning of any
provision or limitation of the Constitution or statutes of the State of New Mexico. Nothing
contained in this resolution or in any other instrument will be considered as obligating the City to
any pecuniary liability or a charge upon the general credit of the City or against its taxing power,
it being understood that no costs are to be borne by the City and that all costs incurred by the City
in connection with the Bond are to be promptly reimbursed by the Lessee.

Section 6. The City agrees that the Project will not be subject to property tax nor
any payments in lieu of property tax during the period beginning on the acquisition, construction
and/or installation of the Project by the City and ending on the earlier of 30 years from that date
or the full retirement of the Bond, provided that the Lessee will pay to the City an annual
payment in lieu of taxes of $25,000. The city will work with the school board and the
Thornburg Corporation to explore opportunities to continue and to expand philanthropic
support for the public schools in Santa Fe through the Partners in Education Foundation.
In addition, if the Bond is issued, the Lessee shall indemnify and hold harmless the City, the
Governing Body and their respective officers, employees, designated representatives and agents
(collectively, the “Indemnified Persons”) from and against any liability to the Lessee, or to any
third parties that may be asserted against the City with respect to the City’s ownership of or
leasehold interest in the Project or the issuance of the Bond. The City’s adoption of this
resolution shall not be deemed a conclusion or expression of approval by the City or by any
Indemnified Person of the Lessee or the Project.

Section 7. The Lessee as agent for the City and consistent with Taxation and
Revenue Department Regulation 3.2.212.22 NMAC Renumbered, will acquire the Project. The
City will, consistent with New Mexico State Law, deliver to the Lessee Type 9 Nontaxable
Transaction Certificates (“Certificates”) that have been issued to the City by the Taxation and
Revenue Department. The Lessee will deliver a Certificate to each person selling tangible
personal property to the City for the Project as applicable under the New Mexico Gross Receipts
Tax and Compensating Tax Act. For this purpose, by adoption of this Resolution, the City
authorizes the Lessee to act as agent for the City. The Lessee shall not use the Certificates other
than for the purpose of capital equipment and other tangible personal property, nor shall the
Lessee use such Certificates after completion of the Project. Prior to the use of such Certificates
by the Lessee, as agent for the City, the City Manager and the Lessee will agree to certain
procedures regarding the use of the Certificates and protection of the City from any unfunded tax
liability.

Section 8. The Governing Body directs that the following notice be published one
time in The Santa Fe New Mexican, a newspaper of general circulation in the City, as soon as is
practicable following the adoption of this resolution and, in any event, not later than May 15,
2007:

(Form of Notice to be Published)

NOTICE OF CONSIDERATION OF ORDINANCE

CITY OF SANTA FE, NEW MEXICO

NOTICE IS GIVEN that the Governing Body of the City of Santa Fe, New Mexico (the
“City”), will consider the adoption of an ordinance (the “Ordinance”) authorizing the issuance of
an industrial revenue bond in a principal amount not to exceed $45,000,000 (the “Bond”) to
finance the acquisition, construction and equipping of an office campus facility (the “Project”),
and all costs incidental to the foregoing and the issuance of the Bond, and otherwise relating to
the Project, at a regular meeting of the Governing Body on Wednesday, May 30, 2007, at 7:00
p.m. or as soon thereafter as the matter may be heard, in the City Hall Council Chambers, City
Hall, 200 Lincoln Avenue, Santa Fe, New Mexico, in the City, being the regular meeting place of
the Governing Body. The title and subject matter of the Ordinance are as follows:

AUTHORIZING THE ISSUANCE AND SALE OF A CITY OF SANTA FE, NEW
MEXICO INDUSTRIAL REVENUE BOND (RIDGE TOP ROAD, LLC PROJECT)
SERIES 2007 IN THE MAXIMUM PRINCIPAL AMOUNT OF $45,000,000 TO PROVIDE
FUNDS TO FINANCE THE ACQUISITION, CONSTRUCTION AND EQUIPPING OF A
PROPOSED OFFICE CAMPUS PROJECT LOCATED AT 2300 NORTH RIDGETOP
ROAD; AUTHORIZING THE EXECUTION AND DELIVERY OF AN INDENTURE,
LEASE AGREEMENT, BOND PURCHASE AGREEMENT, THE BOND AND OTHER
DOCUMENTS IN CONNECTION WITH THE ISSUANCE OF THE BOND AND THE
PROJECT; MAKING CERTAIN DETERMINATIONS AND FINDINGS RELATING TO
THE BOND AND THE PROJECT; RATIFYING CERTAIN ACTIONS TAKEN
PREVIOUSLY; AND REPEALING ALL ACTIONS INCONSISTENT WITH THIS
ORDINANCE.

The principal of, interest on and redemption price, if any, of the Bond will never
constitute an indebtedness of the City within the meaning of the provision or limitation of the
Constitution or laws of the State of New Mexico. The Bond will never constitute nor give rise to
pecuniary liability of the City or a charge against its general credit or taxing powers. The Bond
will mature, bear interest and be subject to prior redemption all in accordance with the Ordinance.
A copy of the Ordinance is on file and available for inspection during normal business hours at
the office of the City Clerk at City Hall, 200 Lincoln Avenue, Santa Fe, New Mexico.
Yolanda Y. Vigil
City Clerk
City of Santa Fe, New Mexico
(End of Form of Notice to be Published)

Section 9. The Governing Body directs that the following notice be mailed by
registered or certified mail, return receipt requested, to the Santa Fe County Commission and the
Santa Fe County Assessor, as soon as is practicable following the adoption of this resolution and,
in any event, not later than April 27, 2007:

(Form of Notice to be Mailed)

[CITY OF SANTA FE LETTERHEAD]

April 12, 2007

REGISTERED MAIL
RETURN RECEIPT REQUESTED

Board of County Commissioners
Santa Fe County
c/o Mr. Roman Abeyta, County Manager
102 Grant Avenue
Santa Fe, New Mexico 87504

Hon. Benito J. Martinez, Jr.
Santa Fe County Assessor
102 Grant Avenue
Santa Fe, New Mexico 87504

Ladies and Gentlemen:

Pursuant to Section 3-32-6.1 NMSA 1978, we write to give you notice that the City of Santa Fe, New Mexico (the “City”) intends to consider the issuance of an industrial revenue bond in a principal amount not to exceed $45,000,000 (the “Bond”) to defray the cost of acquiring, constructing and equipping of an office campus facility at 2300 North Ridgetop Road in Santa Fe, New Mexico (the “Project”), for use by Ridgetop Road, LLC. The ordinance under which the
Bond would be issued will be considered by the Governing Body of the City on or after May 30, 2007, which is at least thirty days after the date of this letter. You may forward your comments and concerns with respect to the Bond or the Project to the Governing Body, but no approval of the Bond is required from you and you do not have a veto over the proposed issuance of the Bond.

Very truly yours,

CITY OF SANTA FE, NEW MEXICO

By ____________________________

Galen Buller
City Manager

(End of Form of Notice to be Mailed)

Section 10. The Mayor and the City Manager or Acting City Manager are each authorized and empowered to take such steps and to do such things as may be necessary to achieve the purposes of this resolution; provided, however, the issuance of the Bond and the execution and delivery of any documents to which the City is a party in connection therewith are subject to the approval and authorization by ordinance of the Governing Body.

Section 11. If any section, paragraph, clause or provision of this resolution is for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision will not affect any of the remaining provisions of this resolution.

Section 12. All resolutions, or parts thereof, in conflict with this resolution, are repealed; this repealer is not to be construed to revive any order, resolution or part thereof, heretofore repealed.

PASSED, APPROVED AND ADOPTED this 11th day of April, 2007.
DAVID COSS, MAYOR

ATTEST:

YOLANDA Y. VIGIL, CITY CLERK

APPROVED AS TO FORM:

FRANK D. KATZ, CITY ATTORNEY