

1 **CITY OF SANTA FE, NEW MEXICO**

2 **RESOLUTION NO. 2012-4**

3 **INTRODUCED BY:**

4
5 Councilor Bushee

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10 **A RESOLUTION**

11 **ADOPTING THE 2011 INDUSTRIAL REVENUE BOND POLICY FOR THE CITY OF**
12 **SANTA FE.**

13
14 **WHEREAS**, City of Santa Fe Resolution No. 1995-83 adopted an Industrial Revenue
15 Bond (“RB”) Policy for the City of Santa Fe; and

16 **WHEREAS**, the City *Economic Development Plan Ordinance*, Article 11.11 SFCC
17 1987, was adopted in 1996 and subsequently amended in 2008; and

18 **WHEREAS**, the IRB Policy was not updated after the adoption of *Economic*
19 *Development Plan Ordinance* or the subsequent 2008 amendment; and

20 **WHEREAS**, the City has actively encouraged the issuance of IRBs for qualifying
21 entities that meet the requirements for projects that are allowed under the City *Economic*
22 *Development Plan Ordinance* and the New Mexico *Industrial Revenue Bond Act*, Chapter 3,
23 Article 12 NMSA 1978 (the “*Act*”); and

24 **WHEREAS**, the intent of the *Economic Development Plan Ordinance* is to allow public
25 support of economic development projects to foster, promote and enhance local economic

1 development efforts while continuing to protect against the unauthorized use of public money and
2 other public resources; and

3 **WHEREAS**, Sections 3-32-1, 3-32-3, 3-32-5 and 3-32-6 of the the "*Act*" were amended
4 by the New Mexico Legislature in 2002 and again in 2005; and

5 **WHEREAS**, the legislative intent of the *Act*, is to grant municipalities the authority to:

- 6 • Acquire, own, lease or sell projects for the purpose of promoting industry and
7 trade;
- 8 • Promote the use of the agricultural products and natural resources from New
9 Mexico;
- 10 • Promote a sound and proper balance in New Mexico between agriculture,
11 commerce and industry;
- 12 • Refinance hospital or 501(c)(3) corporation projects and projects of any
13 independent, nonprofit, nonsectarian four-year college or university accredited by
14 the north central association of colleges and schools;
- 15 • Acquire, own, lease or sell projects for the purpose of promoting the local
16 economy;
- 17 • Improve local health and the general welfare by inducing private institutions of
18 higher education, nonprofit corporations engaged in health care services,
19 including nursing homes, 501(c)(3) corporations and for any small municipality
20 only, office facilities for physicians, to provide more adequate facilities of higher
21 education and to provide more adequate health care services in New Mexico; and
22 by inducing mass transit or other transportation activities, industrial parks, office
23 headquarters and research and development activities to locate or expand in this
24 state; and

25 **WHEREAS**, the *Act* is not intended to authorize any municipality to own or lease

1 projects for retail business or by itself to operate any private institution of higher education,
2 nonprofit corporation engaged in health care services, including nursing homes; 501(c)(3)
3 corporation; industrial parks; office headquarters; or research and development facilities ;
4 and

5 **WHEREAS**, there are two types of IRBs that may be issued by the City, tax exempt
6 revenue bonds and taxable revenue bonds: tax exempt revenue bonds are governed by the Federal
7 government through the IRS and taxable revenue bonds are governed by the State of New Mexico
8 through the *Act*; and

9 **WHEREAS**, in June 2011, the City as a conduit issuer, issued IRBs for a dormitory
10 construction project on behalf of St. John's College, Santa Fe, New Mexico; and

11 **WHEREAS**, during the issuance process, City staff realized that the City's current IRB
12 Policy needed to be revised because the current IRB Policy was limited to traditional IRB
13 projects located on taxable property whose entities paid property tax and would be receiving
14 property and gross receipts tax abatements; and

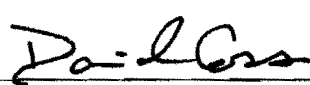
15 **WHEREAS**, the City's current IRB Policy did not have any procedures for projects
16 located on tax exempt properties whose entities did not pay property tax and were not receiving
17 any tax abatements, such as St. John's College; and

18 **WHEREAS**, there is a need to update the City's IRB policy so that the policy complies
19 with the *Act*, as amended, and Federal laws, rules and guidelines.

20 **NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF**
21 **THE CITY OF SANTA FE** that the *City of Santa Fe 2011 Industrial Revenue Bond Policy*,
22 attached as *Exhibit A*, is adopted and supersedes the IRB Policy adopted by Resolution 1995-83.

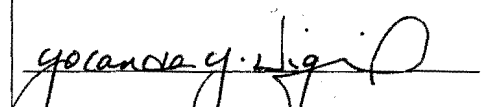
23 PASSED, APPROVED, and ADOPTED this 11th day of January, 2012.
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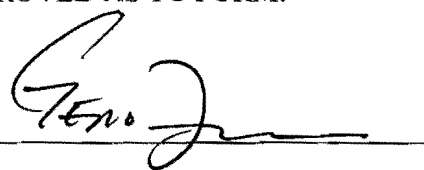
ATTEST:

DAVID COSS, MAYOR



YOLANDA Y. VIGIL, CITY CLERK

APPROVED AS TO FORM:



GENO ZAMORA, CITY ATTORNEY

City of Santa Fe

Industrial Revenue Bond Policy

January 11, 2012

Industrial Revenue Bonds (IRBs)

Section 1.0. Policy Statement and Overview of the IRB Process

The City of Santa Fe (“City”) actively encourages the issuance of Industrial Revenue Bonds (“IRBs”) for qualifying projects with a minimum of \$2 million capital investment for:

1.1 Qualifying Projects that meet;

- the City’ Economic Development Ordinance, Article 11.11; and
- the City’s Cultivating Santa Fe’s Future Economy – Economic Development Strategy (Angelou Report); and
- the City’s Economic Development Implementation Strategy;
- the requirements under New Mexico’s Industrial Revenue Bond Act, Section 3-32-1 NMSA 1978, et seq. (“Qualifying Project”).

1.2 Certain Qualifying Projects do not receive property tax abatements and will be utilizing the City as a conduit issuer of Industrial Revenue Bonds to finance a Qualifying Project and will follow the procedures set forth in Section 5. Other Qualifying Projects that do receive property tax abatements will follow the procedures set forth in Section 4. All Qualifying Projects are required to submit an application, pay an application fee, submit a Project Plan and proceed through the City Committee and Governing Body review process for issuance of the IRB bond ordinance.

Section 2.0. Summary of IRB’s typical benefits and subsidies/tax exemptions for Qualifying Projects located on land subject to property tax

2.1 An Industrial Revenue Bond is an issuance of bonds by the City for a City-owned Qualifying Project and then a loan of the proceeds from the bond purchasers to a company, non-profit corporation, private higher educational institution or hospital (“Qualifying Entity” or Q/E) where the bond proceeds and bond repayments flow through a local governmental “issuer” such as the City. Typically, the Qualifying Entity enters into an lease agreement with the City/Issuer to lease the facility from the City/Issuer and, at the end of the lease term, purchase the facility, from the City/Issuer for a nominal amount.. The Q/E’s lease payments are pledged as repayment of the IRB. For IRB project located on taxable properties only, tax benefits typically are received by the Q/E in the form of property tax abatements and gross receipts or compensating tax exemptions. The term of an industrial revenue bond may be for up to 30 years. The City may abate the property tax for up to 100% of the mill rate at the sole discretion of the City. The City may also negotiate a payment in lieu of taxes (“PILOT”) for any portion of the bond it deems

necessary. The PILOT is in the form of an agreement with the Qualifying Entity to make payments to the City to offset a portion of the property taxes that the City deems necessary to be paid, such as the property taxes for the school district.

2.2 For Qualifying Projects located on land subject to property tax, there are three potential benefits of industrial revenue bonds: a property tax exemption, an gross receipts and compensating tax deduction given to governmental subdivisions [Sections 7-9-14 and 7-9-54 NMSA 1978] and, for tax-exempt IRBs, tax-exempt interest.

2.2.1 Property Tax Exemption. The property tax exemption results from legal title to the project property being held, while the bonds are outstanding, by the City as issuer. The City may limit the property tax subsidy in other respects. The City, may not want a property tax exemption to reduce the revenues of the local school district, and therefore may requires an annual payment-in-lieu-of-taxes, or PILOT, corresponding to what the district would receive as a result of the project if the property tax exemption were not in place. In addition, the City/issuer may choose to limit the amount and type of personal and real property included in the "project property".

2.2.2 Gross Receipts Tax and Compensating Tax Deductions. Another potential tax benefit and subsidy to Q/Es are gross receipts and compensating tax deductions for Q/Es. For example, when the Q/E purchases of project furniture, computer equipment, manufacturing equipment but not personal property that becomes part of the project real estate, these purchases are not subject to either the gross receipts or the compensating tax. As with the property tax exemption, the City/issuer may limit the tax subsidy by limiting the definition of project property.

2.2.3 Tax exempt bonds interest may be excluded from gross income of bondholder. The third potential benefit of industrial revenue bonds is that interest on tax-exempt IRBs may be excludable from federal and (for New Mexico resident/bond purchasers also New Mexico) gross income of the bond purchasers. This can be a very significant benefit and may reduce interest expense of 2% or more.

Section 3.0. Definitions

3.1.Industrial Revenue Bonds or "IRBs": means two types of IRBs--tax exempt revenue bonds and taxable revenue bonds issued by a local governmental entity under the authority granted by the Industrial Revenue Bond Act [Chapter 3, Article 32 NMSA 1978]. These two types of bonds are similar except that are governed by different entities. Tax exempt bonds are governed by the federal government through the Internal Revenue Service ("IRS"). Taxable bonds are governed by the State of New Mexico through the Industrial Revenue Bond Act [Industrial Revenue Bond Act [Chapter 3, Article 32 NMSA 1978].

3.1.1 Tax Exempt IRBs: Tax Exempt IRBs are governed by the IRS. The Internal Revenue Code imposes numerous restrictions on tax-exempt issues and the projects that they finance. Some of these restrictions are that tax-exempt IRBs can be used only for manufacturing operations and shall be limited to a Qualifying Project with a \$2 million minimum and a maximum of a \$20 million capital investment by the Qualifying Entity in the IRB project. The process for tax exempt IRBs requires the bonds to be approved

by the City of Santa Fe Governing Bodies and also by the State Board of Finance. There is also a statewide cap on the amount of tax exempt IRBs that each state is allowed to issue. The state board of finance monitors that cap for the State of New Mexico.

3.1.2. Taxable IRBs: Taxable IRBs are the most common type of IRBs issued in New Mexico. Taxable IRBs may be sold privately or to third parties. Taxable IRBs are utilized to abate personal and property taxes on land building and infrastructure as well provide an exemption on compensating and gross receipts taxes for the purchase of equipment for a project. Taxable IRBs are not limited by the size of the capital investment on a Qualifying Project except as set forth in the City's IRB Policies and Procedures.

3.2 Qualifying Projects means any land and building or other improvements thereon, the acquisition by or for a New Mexico corporation of the assets or stock of an existing business or corporation located outside the state of New Mexico to be relocated within or near the municipality in the state of New Mexico and all real and personal properties deemed necessary in connection therewith, whether or not now in existence, which shall be suitable for use by the following or by any combination of two or more thereof: (1) any industry for the manufacturing, processing or assembling of any agricultural or manufactured products; (2) any commercial enterprise in storing, warehousing, distributing or selling products of agriculture, mining or industry but does not include facilities designed for the sale of goods or commodities at retail or distribution to the public of electricity, gas, water or telephone or other services commonly classified as public utilities; (3) any business in which all or part of the activities of the business involve the supplying of services to the general public or to governmental agencies or to a specific industry or customer but does not include establishments primarily engaged in the sale of goods or commodities at retail; (4) any water distribution or irrigation system, including without limitation, pumps, distribution lines, transmission lines, towers, dams and similar facilities and equipment, designed to provide water to any vineyard or winery; (5) any electric generation facility other than one for which both location approval and a certificate of convenience and necessity are required prior to commencing construction or operation of the facility, pursuant to the Public Utility Act [62-13-1 NMSA 1978] and Electric Utility Industry Restructuring Act of 1999 [62-3A-1 NMSA 1978]; (6) any 501(c)(3) corporation; (7) any land and buildings or other improvements thereon and all real and personal property deemed necessary in connection therewith whether or not now in existence which shall be suitable for use by any private institution of higher education or any nonprofit corporation engaged in health care services, including nursing homes, and, for any small municipality only, office facilities for physicians, any mass transit or other transportation activity involving the movement of passengers, any industrial park, any office headquarters and any research and development facility; and (8) urban transit buses, whether or not already in existence, that are manufactured or assembled in New Mexico; equipped to hold at least thirty passengers; and suitable for use by a commercial enterprise for leasing

3.3. Health Care Coverage Requirement: IRBs issued to employers of Qualifying Projects of \$8 million or more, require the employer to provide to its employees' health care

coverage benefits where the employer's contribution is fifty percent or more of the premium.

3.4 Clawbacks and Springing PILOTS (Payments in Lieu of Taxes):

Clawbacks and/or Springing PILOTS are provisions for Qualifying Projects located on taxable properties and may be required by the City to protect against early closure of facilities or for the failure to achieve projected job growth goals or other performance goals. Clawbacks are provisions that require the company to repay a percent of the taxes avoided by use of an IRB in the event of an early facility closure. Springing PILOTS require that payments be made in future years if job creation estimates (or other promises) are not met or maintained by the company as set forth and defined in the agreement between the City and the applicant

3.5. Project Plan:

The Project Plan is the format for applicants to submit their IRB application to the City of Santa Fe to ensure that all plans present the same sequence of information and contains information and responses to all applicable questions as set forth in Section 6.1 through 6.26 herein.

4.0 IRB Procedures for Qualifying Projects Located on Taxable Property

4.1.Pre-Applications Discussion: The applicant shall submit to the Economic Development Division a completed original *City of Santa Fe IRB Pre- Application* and a 1-page summary/description of the Project. The applicant is required to meet with Economic Development Division Staff. The purpose of this meeting is to discuss the Project and review the process and criteria for the inducement of an Industrial Revenue Bond. The specific Project will be reviewed and advice will be provided on the process and a meeting or meetings will be suggested with neighborhood groups, policy makers, City agencies or other interested parties that may be needed.

4.2 Staff Review: Staff reviews the preliminary application and may provide technical assistance to the company in completing the information requested as needed.

4.3 Application Submission, City Governing Body Review Process and Fees - The total estimated time: 16-18 weeks:

4.3.1. Submittal of IRB Application. The applicant submits a formal IRB application to the Economic Development Division and pays a non-refundable application fee of \$1,000. A proposed draft application includes a Project Plan and all supporting documents, an impact (cost/benefit) analysis, application fee, proposed draft inducement resolution, and a proposed draft IRB ordinance. Upon receipt of a completed application and fee, the Economic Development Staff will then request that the Economic Development Review ("EDRC") Subcommittee schedule a date to review the IRB Application, inducement resolution, bond ordinance and any other documents necessary to make a determination on the IRB. **Time frame: Three weeks.**

4.3.2. Economic Development Review Subcommittee: EDRC Subcommittee reviews the Project Plan, proposed draft inducement resolution, bond ordinance and all

supporting documentation. EDRC Subcommittee reviews and forwards the application, inducement resolution, bond ordinance and supporting documentation and the minutes of EDRC Subcommittee to the Committee on Business and Quality of Life ("CBQL"), and may determine one of the following: approval, rejection or conditional approval. An application may move forward to CBQL with no recommendation. **Time frame: three weeks.**

4.3.3. Committee on Business and Quality of Life: The CBQL reviews the Project Plan, bond ordinance, proposed draft inducement resolution, supporting documents and recommendation by EDRC. The CBQL may determine one of the following: approval, rejection or conditional approval or no recommendation and their determination or recommendation is forwarded to the Finance Committee for their consideration. An application may also move forward to the Finance Committee with no recommendation. **Time frame: three weeks**

4.3.4. Finance Committee: The Finance Committee reviews the Project Plan, proposed draft inducement resolution and bond ordinance and may determine one of the following: approval, rejection or conditional approval or no recommendation and makes a determination or recommendation to the City Council. An application may also move forward to the City Council with no recommendation. **Time frame: three weeks.**

4.3.5. City Council: The City Council will decide to approve or disapprove based upon the Project Plan, supporting documentation, the proposed draft inducement resolution and the bond ordinance. If the resolution and request to publish a bond ordinance is approved, the bond ordinance will be published in the newspaper and will be scheduled for a public hearing at least thirty days later at the next regular City Council meeting. The ordinance may be approved or disapproved at the same meeting after the public hearing. **Time Frame: four – six weeks**

4.4. Fees: Qualifying Project applicants will be required to pay the following fees to the City of Santa Fe:

4.4.1. A non-refundable application fee of \$1,000.00 at the time the applicant submits their application to the city; and

4.4.2. A fee of one-tenth of one percent of the face amount of the bonds, not to be less than \$2,500.00, is paid at the time when the inducement resolution is passed by the City governing body.

4.5. Fee Discount:

The City Council may discount or waive fees for any Qualifying Project at their discretion. Fee discounts may be considered as part of an incentive for an economic development Qualifying Project as part of the Santa Fe Economic Development Plan or Local Economic Development Act.

4.6. Fees of Professionals:

In addition to the fees set forth in this section, the applicant shall pay the City's and their own attorneys' fees and the expenses of attorneys reviewing the bond documents, including any refunding bond documents whether or not the bonds are issued. The applicant shall also reimburse the City for fees for professional services procured by the city with approval of the applicant, including but not limited to the services of financial advisors and economists, incurred by the City in connection with bond financing. The fees of all professionals shall be paid irregardless of whether the Bond issue closes.

Section 5.0. IRB Procedures for Qualifying Projects Located on Tax Exempt Property. Total Estimated Time: 10-12 weeks.

5.1. Pre-Applications Discussion: "Qualifying Projects", as defined herein, also includes projects located on land that are exempt from paying City property tax due to primary charitable and/or educational purposes, such as 501(c)(3) corporations and any independent, nonprofit, nonsectarian four-year college or university accredited by the north central association of colleges and schools and some non-profit hospitals. These Qualifying Projects also require that the applicant shall submit to the Economic Development Division a completed original of the *City of Santa Fe IRB Pre- Application* and a 1-page summary/description of the Qualifying Project. The applicant is required to meet with Economic Development Division Director. The purpose of this meeting is to discuss the Qualifying Project and review the process. The specific Qualifying Project will be reviewed and advice will be provided on the process and a meeting or meetings will be suggested with neighborhood groups, policy makers, City agencies or other interested parties that may be needed. An application guide will be provided to the applicant during this meeting to assist in preparing the formal application.

5.2 Staff Review: Staff reviews the preliminary application and may provide technical assistance to the company in completing the information requested as needed.

5.3. Application Submission, City Governing Body Review Process and Fees :

5.3.1. Submittal of IRB Application: The applicant submits a formal IRB application to Economic Development Division and pays a non-refundable application fee of \$1,000. A proposed draft application includes a Project Plan and all supporting documents, an impact (cost/benefit) analysis, application fee, proposed draft resolution, and a proposed draft IRB ordinance. **Time frame: Three weeks.**

5.3.2. Finance Committee: The Finance Committee reviews the Project Plan, proposed draft resolution and bond ordinance and may determine one of the following: approval, rejection or conditional approval or no recommendation and makes a recommendation or determination to the City Council. An application may also move forward to the City Council with no recommendation. **Time frame: three weeks.**

5.3.3. City Council: The City Council will decide to approve or disapprove based upon based upon the Project Plan, supporting documentation, the inducement resolution and

the bond ordinance. If the resolution approved and the request to publish a bond ordinance is approved, the bond ordinance will be published in the newspaper and scheduled for a public hearing at least thirty days later at the next regular City Council meeting. The ordinance may then be approved or disapproved at the same session after the public hearing. **Time Frame: four – six weeks**

5.4. Fees: Qualifying Project Applicants will be required to pay the following fees to the City of Santa Fe:

5.4.1. Project Applicants will be required to pay a non-refundable application fee of \$1,000.00 to the City of Santa Fe at the time the applicant submits their application to the city;

5.5. Fee Discount:

The City Council may discount or waive fees for any Qualifying Project at their discretion. Fee discounts may be considered as part of an incentive for an economic development Qualifying Project as part of the Santa Fe Economic Development Plan or Local Economic Development Act.

5.6 Fees of Professionals:

In addition to the fees set forth in this section, the applicant shall pay the City and their own attorneys' fees and the expenses of attorneys reviewing the bond documents, including any refunding bond documents whether or not the bonds are issued. The applicant shall also reimburse the City for fees for professional services procured by the City with the approval of the applicant, including but not limited to the services of financial advisors and economists, incurred by the City in connection with bond financing. The fees of all professionals shall be paid irregardless of whether the Bond issue closes.

Section 6.0. IRB Qualifying Project Criteria and Plan Form

All Project Plans must address all of the criteria in Section 6.0. The primary criterion for all Industrial Revenue Bond Qualifying Projects is the benefit to the City of Santa Fe provided by the Qualifying Project. The following criteria in Section 6.1 through 6.26 are intended to assist the City Council in determining the benefit to the City. Please provide as much information as you have and indicating whether or not further information is available upon request. Please keep in mind that the more complete your response or description the less likely that the City will be required to make further requests for information. If you cannot respond to a criteria or it is not applicable to your Qualifying Project or you wish to supplement a response at some time in the future, please respond by indicating why you are presently unable to provide the information at this time.

6.1. General Description Criterion: Provide a brief description of the Qualifying Project, including a general location of the proposed development, its use and the total bond amount requested. Include a statement of the benefit to be gained from the City of Santa Fe community from this Qualifying Project.

6.1.1. Type of facility (e.g. manufacturing, distribution, etc.)

(Please note that under federal law only Qualifying Projects manufacturing tangible property are eligible for tax exempt bonds.)

6.1.2. Nature of Qualifying Project (e.g. new construction, expansion, relocation, etc.)

6.1.3. Total cost of Qualifying Project and amount of Bond requested.

6.1.4. Statement of the benefit to be gained from the community from this Qualifying Project

6.2. Site and Existing Conditions Criterion

6.2.1. Project location:

- a. Street address
- b. Location map
- c. Legal description of all real property to be acquired as a part of the Qualifying Project.

6.3. Planning and Zoning Criterion: Qualifying Projects must conform to all adopted City plans, policies and the provisions of Chapter 14 of the Santa Fe City Code.

6.3.2. Planning and Zoning:

- a. Present zoning classification of property being used for the Qualifying Project. Is the present zoning appropriate, or are changes needed to conform to the City's zoning policies?
- b. Requested zoning change (if any).
- c. Compliance with applicable special zoning requirements (if any). Does the project fit Area, Sector, Historic District and/or General Plan policies?

6.4. Land Use Criterion: Qualifying Projects should improve the economy without disrupting local areas or creating unacceptable conditions.

6.4.1. Land Use:

- a. Will the proposed project make a positive contribution to the Santa Fe economy and the immediate neighborhood?
- b. Will it generate high levels of air, noise, odor, or waste pollution or traffic congestion?
- c. Does it conform to Santa Fe's historic design review standards?

6.5 Water Use Criterion: Qualifying Projects which utilize or develop innovative water conservation or reuse strategies would be encouraged. Qualifying Projects will be required to transfer an equivalent amount of water that can be diverted through the City's infrastructure.

6.5.1. Water Use:

- a. How much is the anticipated annual water use for the project?
- b. Source of water (e.g. city system, county, private well, etc.), please describe the source of the project's water?
- c. Describe the water conservation strategy (if applicable)

6.6 Environmental Compliance Criterion: Qualifying Projects should be in compliance with all local, state and federal environmental regulations at all times. The City encourages Qualifying Projects with a low impact on the environmental footprint i.e. water, power use, emissions, etc. Further, Qualifying Projects whose production processes or end products serve to improve environmental conditions are encouraged.

6.6.1 Environmental Impacts of the Qualifying Project:

- a. What is the environmental impact of the Qualifying Project on the local area and the region?
- b. Environmental impacts of Qualifying Project's production processes:
 - 1) General statement of impacts (air, water, noise, odors, etc.).
 - 2) Environmental Impact Report (if required).
- c. Regulation & Inspection:
 - 1) Is the Qualifying Project subject to environmental licensing and inspection by authorities at the following levels?

City/County _____

State _____

Federal _____

If answer is yes, describe.
 - 2) Is project located within a Wellhead Protection Zone? If yes, describe.

6.6.2. Environmental impact of product:

- a. Does the product create environmental problems by its use or disposal?

- b. Does the product address or remediate environmental conditions by its use or disposal (e.g. makes use of recycled materials, is easily recycled, is used for clean up of waste, reduces waste streams, etc.)?

6.7 Infill Criterion: Qualifying Projects should not require substantial City costs for new or improved infrastructure unless applicants and the City agree on cost sharing of the new or improved infrastructure.

6.7.1. Infill and Utility Extensions:

- a. Is the Qualifying Project site adequately served by existing infrastructure and utilities?
- b. If no, will the Qualifying Entity demand substantial infrastructure extension, replacement or upgrading? Please describe the extensions or upgrades needed.

Type (gas, water, etc.)

Distance & Size (e.g. 650 ft. of 6" water line)

Estimated cost

- c. Utility Provider of the extensions (e.g. PNM, Sangre de Cristo Water, etc.).
- d. Cost sharing – describe the allocation of utility costs.

6.8. Design, Development and Conservation Criterion: Qualifying Project design should be appropriate to the area. Viable existing buildings should be conserved, and historic buildings should be appropriately preserved. Existing buildings and site amenities should be improved to meet current City development standards.

6.8.1 Design and Conservation:

- a. Are the scale and general design of the Qualifying Project appropriate and compatible with the surrounding area? Describe the proposed footprint of the structure, design style and height.
- b. Will the Qualifying Project renovate, expand or rehabilitate existing facilities? If yes, describe. (Note: remodeling of any structure requires that the entire structure be brought into conformance with current building codes).
- c. Are any historic buildings or districts affected by this Qualifying Project? Will the Qualifying Project follow historic preservation guidelines? If yes, please describe.
- d. If structures are or could be designated historic landmarks, are any proposed modifications to the structure acceptable to the City?

6.9 Demolition Criterion: Alternatives to demolition of viable buildings should be pursued. Demolition is generally not an option in the historic district.

6.9.1. Demolition:

- a. Does the Qualifying Project require demolition of buildings? If yes, please describe.

6.10 Relocation Criterion: Relocation of individuals or businesses is disfavored. Alternatives to relocation of individuals or business should be pursued. If the City deems relocation to be necessary, the applicant will assist in finding new housing or business locations for those affected.

6.10.1. Relocation

- a. Does the Qualifying Project require the relocation of individuals or businesses?
- b. If yes, describe the relocation assistance program, including the number and type of affected persons and/or businesses, schedule of relocations, nature of assistance and anticipated costs.

6.10.2. Notices

- a. Competitors to be notified.
- b. Neighborhood associations to be notified.
- c. Individuals requiring notice under state law or local ordinance.

6.11. Renewable Energy Usage Criterion: Qualifying Projects that incorporate renewable energy technology or are LEEDs certified into their building, infrastructure or equipment should be encouraged. Projects that develop and produce renewable energy technology or services should be encouraged

6.11.1 Renewable Energy

- a. Will the Qualifying Project create use, produce or use renewable energy technology? If yes, please describe the renewable energy technology.

6.12. Economic Impact and Job Creation Criterion: The Project Plan must list the following economic impact and job creation criteria:

6.12.1. Number, category and average wages of all jobs created by the project. New Mexico Department of Workforce Solutions job categories should be used.

6.12.2. Benefits provided to employees should be identified. If the Qualifying Project is \$8 million or more, the applicant is required to provide health care insurance where the employer's contribution is fifty percent or more of the premium.

6.12.3. All temporary jobs in construction and as well as all permanent full and part time jobs (broken down by the number of direct, indirect and induced jobs) must be identified.

6.12.4. Positions which will be filled locally and those which will be filled by transfers from other facilities or by out of state recruitment shall be identified. The number and type of positions expected to be filled by Santa Fe area residents shall be clearly stated.

6.12.5. Local recruitment, hiring and training programs shall be described in detail stating what if any opportunities for advancement will be available.

6.12.6. Job Creation:

a. Will the Qualifying Project create new direct jobs? Is the Qualifying Project primarily to retain an existing company?

1) If yes, please describe the number, type and wages of all new jobs to be created or retained by the Qualifying Project. Use NM Department of Labor job classifications. (Note: this will facilitate application for job training funds.) Identify:

- a) Number of construction jobs
- b) Number of new, permanent full time jobs
- c) Number and classification of F/T jobs at project start
- d) Number and classification of F/T jobs expected in three years
- e) Number of new, permanent part time jobs
- f) Number and classification of P/T jobs at project start
- g) Number and classification of P/T jobs expected in three years

b. For each job classification, identify the number of positions expected to be filled by Santa Fe area residents and those expected to be filled by transfers or out of state recruitment.

c. Describe recruitment, hiring and training programs

d. Do the jobs meet the state's definition of a high wage job i.e. \$40,000 per year in an urban community and/or the definition of a high wage job in the Economic Development Implementation Strategy?

e. Will the jobs created increase or decrease the innovative potential of the company or industry?

f. Will the jobs created benefit a variety of residents of different income levels?

g. Will contractors and other construction industry firms and individuals from the local area be retained?

h. Will the jobs created present substantial opportunities for advancement of low and moderate income residents of the community?

6.12.7. Employee Benefits:

- a. Please describe the planned employee benefit package or program.
- b. Please provide evidence that the company will provide health care coverage benefits where the company contributes fifty percent or more of the premium to its employees.

6.12.8. Competition Criterion: The City intends to avoid issuing bonds which would give the Qualifying Project a significant advantage over competitors in the local market.

- a. Is the Qualifying Project in competition with existing businesses or developments?
- b. Will products or services be sold outside the Santa Fe area or New Mexico to limit competition with established local business?

6.12.9. Commitment to Santa Fe

- a. How long does the Qualifying Project applicant expect to be located in facility? If less than term of bonds, explain.
- b. Will the Qualifying Project applicant operate the facility? If not, explain and provide name, address and phone number of the facility operator.

6.13. Tax abatement Criterion

6.13.1. What level of tax abatement is being requested?

6.13.2. What is the anticipated net impact on tax revenues for the City of Santa Fe, Santa Fe County, and State of New Mexico? Attach analysis to support answer.

6.14. Facility and Performance Clawbacks Criterion for Qualifying Projects located on taxable properties only. Performance criteria for facility and performance clawbacks are as follows:

<i>Facility Clawback Criteria</i>	
<i>Elapsed Time from Bond Issue</i>	<i>Maximum Percent Abatement Repaid</i>
<i>Year 0-3</i>	<i>100%</i>
<i>Year 4</i>	<i>80%</i>
<i>Year 5</i>	<i>60%</i>
<i>Year 6 and thereafter</i>	<i>0%</i>

<i>Performane Clawback Criteria</i>		
<i>Performance Measure of IRB Agreement</i>	<i>Actual as a Percent Projected</i>	<i>Maximum Percent of Taxes to be Repaid</i>
<i>Employment (FTE)/Avg Wage</i>	<i>90%-100%</i>	<i>0%</i>
<i>Employment (FTE)/Avg Wage</i>	<i>80-89%</i>	<i>10%</i>
<i>Employment (FTE)/Avg Wage</i>	<i>70-79%</i>	<i>20%</i>
<i>Employment (FTE)/Avg Wage</i>	<i>Less than 70%</i>	<i>100%</i>

6.14.1. Performance Agreements (Clawbacks).

- a. IRBs are intended to assist companies which demonstrate a high level of commitment to the community.
- b. The City shall require performance agreements (Clawbacks) to be included in all bond documents for all projects.
- c. The bond agreements shall have facility closure Clawbacks to provide for a pro-rata repayment of the abated property, gross receipts and compensating taxes, depending upon the amount of time elapsed from date of issuance to date of closure of the project.
- d. The bond agreements may have performance Clawbacks to provide for employment, average wages or other economic benefits projected in the IRB agreement and are not achieved

6.15. Economic Diversification and Public Good Criterion: Projects should encourage diversification of the Santa Fe economy in the following targeted industries: green, technology, knowledge based, median and arts & cultural industry sectors. Qualifing Projects should encourage capital retention in the Santa Fe community and the products of the Qualifying Project should decrease the net importation of goods and services to the Santa Fe community. Projects should benefit the public good i.e. a hospital or private independent school or create jobs or other benefits.

6.15.1. Increase Development in Targeted Industry Sectors (Diversity Santa Fe economy):

- a. Is the Qualifying Project in a targeted industry sector identified for growth and development in Cultivating Santa Fe's Future Economy (Angelou Report) and The Economic Development Implementation Strategy?
- b. Is the Qualifying Project an economic base company or a hospital, 501 (c) (3), or an independent private school?

- c. Does the project encourage the retention of capital within the Santa Fe community?

6.16. Payments in Lieu of Taxes (PILOT's) Criterion for Qualifying Projects located on taxable properties only: PILOT's may be required to offset losses in tax revenues for the Santa Fe Public School District and the Santa Fe Community College.

6.16.1 PILOT's:

- a. The City of Santa Fe does not abate the property taxes of the Santa Public School District nor the Santa Fe Community College without the explicit consent of these institutions. Payment in Lieu of Taxes shall be included in all bond documents, if required.
- b. What is the Qualifying Project's impact on local tax revenues due to the tax exemption for gross receipts and property taxes ensuing from the issuance of the bonds?

6.17. Qualifying Project Feasibility Criterion: Qualifying Projects must show the ability to maintain a solvent business, to retire the bonds in a timely manner, or evidence that financing has been guaranteed.

6.17.1. Feasibility and Financing:

- a. Has the Qualifying Project applicant presented convincing evidence that the Qualifying Project will generate sufficient cash flow to service its project debt and any other debts?
- b. Does the Qualifying Project applicant have a firm financing commitment?

6.17.2. Costs:

- a. Total cost of the Qualifying Project
- b. Land
- c. Facilities
- d. Pre-Development
- e. Projected cost of issuance
- f. Other

6.17.3 Qualifying Project Calendar

- a. Projected start and completion dates for Qualifying Project construction.

- b. Projected start-up date of facility
- c. Projected date of full capacity operations

6.17.4. Other Bond Requests:

Does the applicant have an application for bonds to construct this or a substantially similar Qualifying Project in another community? If yes, describe, including anticipated dates for inducement resolutions, etc. (Note: This item is for informational purposes so that the Review Committee and city staff are aware of time considerations and deadlines connected with the project. It is not intended for a “yes” answer to be considered negatively.)

6.18. Cost Criterion: Bond amounts shall be no more than required to complete the project. The project will not be induced for an authorized maximum bond amount larger than the expected bond issue. Be sure to include the sources of capital contributed by the Qualifying Entity that will be used to finance the project

6.18.1 Cost:

- a. Does the bond amount requested reasonably represent the money required to complete the Qualifying Project?
- b. Amount of bonds requested.
- c. Equity investment of Qualified Project Applicant.
- d. Other financing sources

6.19. Qualifying Project Applicant Record Criterion: The project applicant should have a good record with projects of this type, or present convincing evidence that the project will be completed. Reference from local financial institutions and local firms may be required.

6.19.1 Project Applicant’s Record:

- a. Does the Qualifying Project applicant have strong financial backing and experience relevant to this project?

6.20. Equity Investment Criterion: An equity investment is generally desirable, though not mandatory. The City of Santa Fe understands that a loan commitment for 100% bond financing may be made based on an applicant’s total holdings. In such cases, the City will accept a letter of commitment to finance the project.

6.20.1 Equity:

- a. Will the Qualifying Project applicant make an equity investment in the project?

6.21. Management Criterion: Long range commitment to the management of a project is desirable.

6.21.1 Management:

- a. Does the Qualifying Project applicant commit to manage, as well as build the project?

6.22. Project Timing Criterion: This item is intended for informational purposes so that the committees reviewing the application will be aware of any time considerations or deadlines attached to the project applicant's plans. It is not intended that a "yes" answer to this question be considered negatively

6.22.1 Timing of Project:

- a. Has the Qualifying project applicant applied for an IRB or an inducement resolution for this or a significantly similar project with another community in New Mexico?
- b. If so, when was, or will, the IRB be voted on in any other community?

6.23. Evidence of Organizational Capacity:

6.23.1. Brief history of the company.

6.23.2. Organizational chart of the company.

6.23.3. Evidence of the ability to manage the Qualifying Project, such as:

- a. Description of previous experience with Qualifying Projects of similar scope.
- b. Resumes of key staff involved with the Qualifying Project.

6.24. Evidence of Financial Solvency:

Attach the following financial information for the company applying for the IRB. (Audited Financials may be required and will be at the discretion of Economic Development Division Staff):

6.24.1. Balance sheets for past three years.

6.24.2. Income statements for past three years.

6.24.3. Cash flow projections for next three years.

6.24.4. Federal tax number.

6.24.5. New Mexico State Taxation and Revenue number.

6.24.6. City business license number.

6.25. Required Disclosures: Qualifying Project Applicant shall disclose the following information. If the answer to any question is Yes, attach written explanation.

6.25.1. Has the company or any of its officers been involved in a bankruptcy?

6.25.2. Has the company or any of its officers ever defaulted on any loans or financial obligations? .

6.26. Project Plan Form:

6.26.1. All Qualifying Project Plans must be signed under oath or affirmation by all applicants and must certify that the information contained in the project plan is true and correct, and that any information subsequently obtained by the applicant(s) which may indicate that statements contained in the application are or were untrue or have become misleading or untrue will be promptly disclosed to the City.

6.26.2. All Qualifying Project Plans must contain a representation that the applicant will agree to provide such other information as the City may request in order to evaluate the Qualifying Project application.

6.26.3. All Qualifying Project Plans must contain a representation that the applicant agrees to allow the City to inspect the project at any time to insure compliance with the Qualifying Project Plan and the representations contained in this application.

Section 7.0. IRB Pre-Application Form:

The applicant shall submit to the Economic Development Division a completed original *City of Santa Fe IRB Pre- Application* and a 1-page summary/description of the Qualifying Project in Appendix A as required in the Pre-application instructions.

Appendix

City of Santa Fe – IRB Pre-Application

Name of Qualifying Project: _____

Location of Qualifying Project: _____

Short Description: _____
Please provide a one page description/summary of the proposed Qualifying Project. Include all relevant information related to the Qualifying project including, but not limited to: zoning, square footage of facility, neighborhood and environmental impacts and infrastructure needs.

Applicant: _____

Address: _____

Telephone: _____

Agent: _____

Address: _____

Telephone: _____

Bond Counsel _____

Address: _____

Telephone: _____

Bond Amount Requested: _____ Fee Submitted: _____

For Staff Use

Date: _____ IRB Number: _____

Fee Received: _____ ED Division Pre-Application Meeting: _____

EDRC Sub-Committee Review Date: _____ CBQL Review Date: _____

Finance Committee Review Date: _____

City Council Review Dates: _____

Introduction: _____

Council Hearing: _____