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CITY OF SANTA FE, NEW MEXICO

ORDINANCE NO. 2007-15

INTRODUCED BY:

AN ORDINANCE

AUTHORIZING THE ISSUANCE AND SALE OF A CITY OF SANTA FE, NEW MEXICO INDUSTRIAL REVENUE BONDS (RIDGETOP 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 AN INDUSTRIAL REVENUE PROJECT; 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.

WHEREAS, pursuant to Sections 3-32-1 through 3-32-16, New Mexico Statutes Annotated, 1978 Compilation, as amended (the "Act"), the Governing Body of the City of Santa Fe, New Mexico (the "City") is authorized to acquire industrial revenue projects to be located within, or within a 15-mile radius of, the municipality for the purpose of promoting industry and trade by inducing manufacturing, industrial and commercial enterprises to locate or expand in the State of New Mexico and promoting a sound and proper balance in the State of New Mexico between agriculture, commerce and industry; and

1 **WHEREAS**, Ridgetop Road, LLC, a New Mexico limited liability
2 company (the “Company”), has presented to the City a proposal whereby the City
3 shall, pursuant to the Act, acquire, construct and equip certain land and other
4 improvements to be used as a portion of an office campus facility for the Company
5 located at 2300 North Ridgetop Road in Santa Fe, New Mexico (as more fully
6 described in the proposed Lease Agreement (the “Project Property”)); and

7 **WHEREAS**, the Governing Body has adopted Resolution No. 2007 - 32
8 under which the Governing Body has declared the City’s intent to issue the City’s
9 industrial revenue bonds to finance the Project Property in an amount not exceeding
10 \$45,000,000; and

11 **WHEREAS**, the Company has agreed to enter into a Lease Agreement (the
12 “Lease Agreement”) between the City and the Company, pursuant to which the
13 Company will lease and purchase the Project Property from the City; and

14 **WHEREAS**, the Company has requested that the City issue its Industrial
15 Revenue Bond (Ridgetop Road, LLC Project) Series 2007 (the “Bond”) to provide
16 funds to be used to finance the acquisition, construction and equipping of the Project
17 Property; and

18 **WHEREAS**, the City has authority to issue the Bond under the Act, and the
19 Governing Body determines it is desirable and necessary at this time to authorize the
20 issuance of the Bond; and

21 **WHEREAS**, Ridgetop Bondholder, LLC, a New Mexico limited liability
22 company (the “Purchaser”), has offered to purchase the Bond at a private sale
23 pursuant to the terms of a proposed Bond Purchase Agreement to be entered into
24 among the Purchaser, the City and the Company (the “Bond Purchase Agreement”);
25 and

1 **WHEREAS**, the City has caused to be published in The Santa Fe New
2 Mexican, a newspaper that maintains an office in and is of general circulation in the
3 City, public notice of the Governing Body's intention to adopt this Ordinance, which
4 notice contained certain information concerning the ownership, purpose, location and
5 size of the Project Property and the amount of the Bond to be issued to finance the
6 acquisition, construction and equipping of the Project Property, which notice was
7 published at least 14 days prior to final action upon this Ordinance; and

8 **WHEREAS**, the proposed forms of the following documents have been filed
9 with the City Clerk before this meeting: (1) the Indenture (the "Indenture") among
10 the City, the Purchaser and Bank of Albuquerque, N.A., as depositary (the
11 "Depositary"); (2) the Lease Agreement; and (3) the Bond Purchase Agreement,

12 **NOW THEREFORE, BE IT ORDAINED BY THE GOVERNING**
13 **BODY OF THE CITY OF SANTA FE:**

14 Section 1. All actions not inconsistent with the provisions of this
15 Ordinance previously taken by the Governing Body and the officials of the City
16 directed toward leasing the Project Property and the sale and issuance of the Bond,
17 including, without limitation, the publication of notices as set forth above, are
18 approved and ratified.

19 Section 2. The Project Property shall be leased to the Company for use as
20 portion of an office campus facility and operated by the Company. The Project
21 Property is to be located at all times within or within a 15-mile radius of the corporate
22 limits of the City.

23 Section 3. To finance the cost of the acquisition, construction and
24 equipping of the Project Property, the City hereby authorizes and creates a revenue
25 bond to be designated "City of Santa Fe, New Mexico Industrial Revenue Bond

1 (Ridgetop Road, LLC Project) Series 2007” in the maximum principal amount of
 2 \$45,000,000. The City shall finance the acquisition, construction and equipping of
 3 the Project Property by depositing or causing the deposit of the proceeds of the sale of
 4 the Bond with the Depository in accordance with the Indenture.

5 Section 4. Amounts advanced with respect to the Bond shall bear interest
 6 from the dates such advances are made at 15% per annum, and shall be subject to
 7 such terms and conditions all as set forth in the Bond Purchase Agreement and the
 8 Indenture. Interest on principal amounts outstanding under the Bond shall be payable
 9 semiannually on January 1 and July 1, beginning January 1, 2008. The entire
 10 principal amount of the Bond shall be payable in one payment at maturity on July 1,
 11 2037. The Bond shall be subject to redemption in whole or in part at the option of the
 12 Company at any time prior to maturity without premium or penalty. The Bond shall
 13 be in substantially the form provided in the Indenture and shall be dated the date of
 14 delivery to the Purchaser. Pursuant to the Bond Purchase Agreement, the Bond shall
 15 be sold to the Purchaser at a private sale.

16 Section 5. The Governing Body makes the following determinations and
 17 findings in accordance with the Act:

18 (a) The amount necessary in each year to pay the principal of and
 19 interest on the Bond, assuming funding of the maximum principal amount of the
 20 Bond upon issuance, will be no more than the following:

21 Annual				
22 Calendar	Principal			
23 Period to and	Payments			
24 Including	Required in Such	Maximum Interest	Total Debt Service	
25 (July 1)	Period	For Such Period	Requirement	

1	2008	0	\$137,500	\$137,500
2	2009	\$45,000,000	\$150,000	\$45,150,000
3	2010	0	\$750	\$750
4	2011	0	\$750	\$750
5	2012	0	\$750	\$750
6	2013	0	\$750	\$750
7	2014	0	\$750	\$750
8	2015	0	\$750	\$750
9	2016	0	\$750	\$750
10	2017	0	\$750	\$750
11	2018	0	\$750	\$750
12	2019	0	\$750	\$750
13	2020	0	\$750	\$750
14	2021	0	\$750	\$750
15	2022	0	\$750	\$750
16	2023	0	\$750	\$750
17	2024	0	\$750	\$750
18	2025	0	\$750	\$750
19	2026	0	\$750	\$750
20	2027	0	\$750	\$750
21	2028	0	\$750	\$750
22	2029	0	\$750	\$750
23	2030	0	\$750	\$750
24	2031	0	\$750	\$750
25	2032	0	\$750	\$750

1	2033	0	\$750	\$750
2	2034	0	\$750	\$750
3	2035	0	\$750	\$750
4	2036	0	\$750	\$750
5	2037	\$5,000	\$750	\$5,750

6 (b) The terms under which the Project Property is leased provide
7 that the the Company shall maintain the Project Property and carry all proper
8 insurance (or self-insure) with respect to the Project Property.

9 (c) The rentals payable under the Lease Agreement shall be at least
10 sufficient to pay the amounts set forth in paragraph (a) of this Section 5, and
11 otherwise to render the financing of the acquisition, construction and equipping of the
12 Project Property entirely self liquidating.

13 Section 6. The Governing Body approves the forms, terms and provisions
14 of the Indenture, the Lease Agreement and the Bond Purchase Agreement, and the
15 City shall enter into such documents substantially in the forms of each of such
16 documents presented at the meeting at which this Ordinance was adopted, with only
17 such changes as are not inconsistent therewith or such other changes as may be
18 approved by supplemental resolution of the Governing Body, provided that the
19 provisions in Sections 4.17 (concerning clawback of tax benefits), 4.18 (concerning
20 payments in lieu of taxes) and 4.19 (concerning local vendors) of the Lease
21 Agreement may not be changed unless specifically approved by a supplemental
22 resolution of the Governing Body. The Governing Body authorizes the Mayor, the
23 City Manager or the City Treasurer each to execute and deliver such documents.

24 Section 7. The Governing Body approves the form and terms of the Bond,
25 substantially in the form contained in the Indenture, with only such changes therein as

1 are not inconsistent with this Ordinance or such other changes as may be approved by
2 supplemental resolution of the Governing Body; and the Governing Body authorizes
3 the Mayor, the City Manager or the City Treasurer each to execute and deliver the
4 Bond.

5 Section 8. The officers of the City shall take all action necessary or
6 reasonably required by the Indenture to effectuate its provisions and shall take all
7 actions necessary in conformity with the Act to finance the acquisition, construction
8 and equipping of the Project Property and for carrying out other transactions as
9 contemplated by this Ordinance, the Indenture, the Lease Agreement and the Bond
10 Purchase Agreement, including, without limitation, the execution and delivery of any
11 closing documents to be delivered in connection with the sale and delivery of the
12 Bond.

13 Section 9. Nothing contained in this Ordinance nor in the Bond, the
14 Indenture, the Lease Agreement, the Bond Purchase Agreement or any other
15 instrument shall be construed as obligating the City (except with respect to the Project
16 Property and the application of the revenues therefrom and the proceeds of the Bond,
17 all as provided in the Lease Agreement, the Indenture and the Bond Purchase
18 Agreement), nor as incurring a pecuniary liability or a charge upon the general credit
19 of the City or against its taxing power, nor shall the breach of any agreement
20 contained in this Ordinance, the Indenture, the Lease Agreement, the Bond Purchase
21 Agreement, the Bond or any other instrument be construed as obligating the City
22 (except with respect to the Project Property and the application of the revenues
23 therefrom and the proceeds of the Bond, all as provided in the Lease Agreement, the
24 Indenture and the Bond Purchase Agreement), nor as incurring a pecuniary liability or
25 a charge upon the general credit of the City or against its taxing power, the City

1 having no power to pay out of its general funds, or otherwise contribute any part of
2 the costs of acquiring, constructing or equipping the Project Property, nor power to
3 operate the Project Property as a business or in any manner except as lessor thereof.

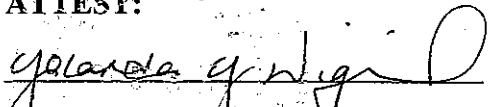
4 Section 10. After the Bond is issued, this Ordinance shall be and remain
5 irrevocable until the Bond and the interest thereon shall have been duly paid,
6 cancelled and discharged.

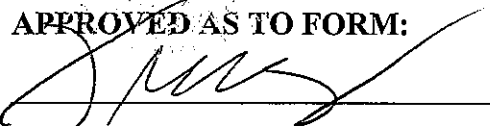
7 Section 11. If any section, paragraph, clause or provision of this Ordinance
8 shall for any reason be held to be invalid or unenforceable, the invalidity or
9 unenforceability of such section, paragraph, clause or provision shall not affect any of
10 the remaining provisions of this Ordinance.

11 Section 12. All bylaws, orders, resolutions and ordinances, or parts thereof,
12 inconsistent with this Ordinance are repealed to the extent only of such inconsistency.
13 This repealer shall not be construed as reviving any bylaw, order, resolution or
14 ordinance or part thereof.

15
16 **PASSED, ADOPTED, SIGNED AND APPROVED** this 30th day of
17 May, 2007.

18 
19 **DAVID COSS, MAYOR**

20 **ATTEST:**
21 
22 **YOLANDA Y. VIGIL, CITY CLERK**

23 **APPROVED AS TO FORM:**
24 
25 **FRANK KATZ, D. CITY ATTORNEY**