



**Torrance County**  
**Board of County Commissioners**

**Ordinance No. 2024- 1**

**AN ORDINANCE ADOPTING AN INDUSTRIAL REVENUE BOND POLICY PURSUANT TO THE COUNTY INDUSTRIAL REVENUE BOND ACT, ESTABLISHING APPLICATION REQUIREMENTS AND PROCEDURES, AUTHORIZING THE COUNTY MANAGER TO ENGAGE PROFESSIONALS TO EVALUATE AND ADVISE ON MATTERS RELATED TO THE ISSUANCE OF BONDS AND UNDERLYING LEASE AGREEMENTS WITH PRIVATE COMPANIES, AND ESTABLISHING A FRAMEWORK UNDER WHICH THE BOARD OF COUNTY COMMISSIONERS RECEIVE, CONSIDER AND ACT UPON APPLICATIONS FOR INDUSTRIAL REVENUE BONDS.**

**WHEREAS**, the County of Torrance is a political subdivision of the State of New Mexico and existing under the laws of the State of New Mexico (the "State"); and

**WHEREAS**, the County Industrial Revenue Bond Act (Sections 4-59-1 through 4-59-16, NMSA 1978) (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 or expand in this state;

**WHEREAS**, counties may be able to promote the local health and general welfare by inducing nonprofit corporations engaged in health care services and 501(c)(3) corporations to locate, relocate, modernize or expand in this state and by inducing mass transit or other transportation activities, industrial parks, office headquarters and research and development activities to locate or expand in this state;

**WHEREAS**, each project shall be self-liquidating; that Torrance County itself is not authorized to operate any manufacturing, industrial or commercial enterprise or any nonprofit corporation engaged in health care services or any 501(c)(3) corporation or industrial parks, office headquarters or research and development facilities;

**WHEREAS**, the Board of County Commissioners recognize the need to establish a well-founded policy to set forth the parameters for issuing bonds, to provide guidance to decision-makers regarding the purposes for which bonds may be issued, the type and amounts of bonds permitted, the timing methods of sales that may be used, and structural features that should be considered; and

**WHEREAS**, the Board of County Commissioners under this ordinance will establish a framework and application process to manage industrial revenue bond requests made to it so that the County may (1) ensure high-quality economic development decisions, (2) impose order and consistency in the decision making process, (3) provide all disclosures required by law to promote transparency and (4) ensure decisions are

viewed positively by County Commissioners, by the community, by the investment community, and by the property taxing agencies.

**THEREFORE, BE IT ORDAINED BY THE TORRANCE COUNTY BOARD OF COUNTY COMMISSIONERS:**

**Section 1. Short title.**

This ordinance may be cited as the "Industrial Revenue Bond Policy".

**Section 2. Purpose.**

An ordinance establishing policies and procedures for evaluating proposals to finance projects with industrial revenue bonds and for providing the Board of commissioners with information on the merits of such projects.

**Section 3. Definitions.**

As used in this ordinance:

*Applicant* means one or more persons or entities, or their successors, assigns or agents, who propose to acquire or construct a project financed by or proposed to be financed by the proceeds of revenue bonds.

*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

*County* means the County of Torrance, New Mexico.

*Board* means the board of county commissioners.

*Incentive payments* means any revenues received by the County from the applicant, including, but not limited to, payments in lieu of taxes, supplemental rents, grants, donations or other contributions, and guaranties.

*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 applicable land use and development requirements of the County, other than the issuance of a building permit.

*Notice of intent* means a form of notice of intent to adopt an ordinance providing for the issuance of revenue bonds to be published in accordance with applicable law upon approval by the Board.

*Project plan* means the plan describing a project, which shall include:

- 1) A general description and location of the project;
- 2) Conceptual site plans for the project and a map locating the project area;
- 3) The number and type of new jobs to be created by the project;
- 4) The estimated percentage of these jobs that will be filled by persons who are residents of the county;
- 5) Identification of any technology or special processes associated with the project and a description of the methods of processing the product;
- 6) Any relocation of individuals of businesses that will likely occur as a result of the project;
- 7) The estimated value of the project site after completion of the project;
- 8) The maximum amount of the bonds to be issued for the project;
- 9) The proposed construction schedule;
- 10) Information documenting the feasibility of the proposed project including information establishing the ability of the project to generate revenues to render the project self-liquidating;

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- 11) An analysis of how the project will influence competition in the type of commerce or industry already existing within the county and its environs;
- 12) The effect of the project on existing industry and commerce in the county including during and after the construction period;
- 13) The amount of private investment in the project in addition to bond financing;
- 14) The total dollar amount of the proposed improvements included as part of the project;
- 15) A statement of plans for project management;
- 16) Resumes showing the experience of the development entity or principals, and the experience of the architect, contractor, and leasing agent, if relevant.
- 17) Other matters as may be relevant to the project or requested by the County Manager.
- 18) The present use, conditions, and assessed value of the project site; and

#### **Section 4. Review and analysis of proposed project.**

The applicant shall make a request to issue bonds for a project by filing with the County Manager an inducement resolution or notice of intent, seven copies of the project plan and the fees and deposit required by this ordinance. The County Manager shall review all bond projects to determine that proposed project plans are complete. Within thirty (30) days of receiving the project plan, the County Manager, or his designee, may in accordance with applicable procurement requirements, contract with an independent consultant to prepare an economic and fiscal analysis of the proposed project. This analysis shall evaluate the proposed project according to the "project criteria" promulgated by the County Manager.

#### **Section 5. Board consideration of project plans.**

(a) Upon receipt of the completed analysis, the County Manager shall submit to the Board for discussion during the next regularly scheduled meeting of the Board (1) the project plan, (2) the completed analysis, and (3) the notice of intent to adopt a County industrial revenue bond ordinance. In order to permit public comments on the proposed plan the Board shall defer final action on the plan until a subsequent regularly scheduled commission meeting.

(b) Any person wishing to comment on the proposed plan may do so by submitting written comments to the Board with a copy to the County Manager at least fourteen (14) days before the regular meeting during which the Board is scheduled to take final action on the proposed plan.

(c) The Board's final action to approve, conditionally approve, or to disapprove a project plan and inducement resolution or revenue bond ordinance shall take into consideration the County's development plans and policies and the promotion of the health, safety, security and general welfare of the citizens of the County and the State of New Mexico.

#### **Section 6. County Review.**

All resolutions, notices of intent, and ordinances, financing agreements, leases, payment in lieu of taxes obligations, closing documents and other documents relating to the County and relating to the bonds and issuance thereof shall be submitted to the County attorney, the County's bond counsel and the County's financial advisor, in sufficient time for review by such attorneys and advisors prior to the Board taking any required action on such documents or execution of the documents by the County officials, as applicable.

#### **Section 7. Rules.**

The County Manager and County attorney may establish such rules, not inconsistent with the County ordinance, as the County Manager and County attorney may deem necessary to carry out the requirements of this ordinance.

#### **Section 8. 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 project for which the bonds are issued, from any guarantee agreement or agreements, insurance, surety or a credit enhancement 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 of limitation of the New Mexico Constitution, statutes of the State of New Mexico or any County ordinance, and such bonds shall not constitute nor give rise to a pecuniary liability of the County or a charge against its general credit or taxing powers.

#### **Section 9. Fees and deposit.**

(a) In addition to any other fees imposed pursuant to ordinance or resolution, the applicant shall pay the County with the application \$10,000.00 to be applied against the payment of costs associated with obtaining the analysis required by this ordinance and for any attorney and financial advisory fees associated with processing the request. If the cost for conducting an analysis of the project exceeds this deposit, the applicant shall pay the County, before the analysis is initiated, any additional amount that is necessary to conduct the analysis and pay any attorney or financial advisory fees associated with processing the request.

(b) In addition to the fees and deposits set forth in this section, the applicant shall agree to pay, in writing, all attorney's fees and expenses of the County's counsel, bond counsel and financial advisor not covered from funds set forth in a above, whether or not the bonds are issued.

(c) The County shall not have the power to pay out of its general funds or otherwise contribute any part of the costs of acquiring a project, and shall not have the power to use land, already owned by the County or in which the County has an equity, for construction of a project or any part of it, unless the county is fully reimbursed for the value of the land as may be determined by a current appraisal or unless the County leases the land at an annual rental fee of not less than five percent of the appraised value. The entire cost of acquiring any project must be paid out of the proceeds from the sale of bonds issued under the authority of the Act. This shall not be construed to prevent the County from accepting donations of property to be used as a part of any project or money to be used for defraying any part of the cost of any project.

#### **Section 10. Economic development benefits.**

(a) The project must create or retain jobs within the County and provide taxable property improvements within the County. The County shall establish rules to define the terms and conditions for exemption of taxes, in accordance with state law.

(b) The maximum term for period of exemption will be for no longer than 30 years.

(c) Property within a tax-increment financing district does not qualify; and special assessments levied by any subdivision do not qualify for property tax exemptions.

#### **Section 11. Performance agreement and claw back provisions.**

(a) Bond documents for projects seeking tax exemptions submitted to the County for approval will include a performance agreement. This agreement will include all requirements and representations regarding the jobs, wages and other economic development impacts of the project being financed. Failure to meet any of the requirements or representations under which bonds were issued may be considered a technical default and result in a re-payment of tax exemption incentives by the Borrower to the County unless it is determined by County that failure was due to circumstances beyond the control of the business. The County will include this performance agreement, also known as *claw backs*, in the Bond Purchase Agreement or other appropriate document.

(b) If the project ceases operation within five years of bond issuance, claw backs provide for a pro-rata repayment of the abated taxes, depending upon the amount of time elapsed from date of issuance to date of closure of the project. Claw back provisions may be adjusted to account for the unique circumstances of a particular issue. The County will determine whether unique circumstances exist with respect to claw backs and will make such recommendations when the project is recommended for approval.

#### **Section 12. County indemnification.**

All industrial revenue bond issues must provide for indemnification of the County, its consultants, bond counsel contractors, advisors and employees. Compliance with the indemnification requirements of the County is essential to securing the Board's approval of the proposed bond financing, and the County will not participate in a bond financing if its indemnification requirements are not met. The County will not take any responsibility for due diligence investigations or disclosure, and the County's Issuer's Counsel specifically disclaims any responsibility for such disclosure in its opinion.

#### **Section 13. Notices.**

(a) Prior to adopting an ordinance issuing County industrial revenue bonds, the County Manager shall

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1 give notice to the County Assessor and any entity located within the County authorized to levy taxes on  
2 property in the County of its intent to consider the matter. The County Assessor and entities authorized to  
3 levy taxes shall be notified by certified mail, return receipt requested, or other means which can verify  
4 delivery of the notice, at least thirty calendar days prior to the meeting at which final action is to be taken  
5 so that comments can be transmitted to the county. The notice shall include the amount, the purpose and  
6 the time period of the proposed industrial revenue bonds.

7 (b) The County Assessor and entities authorized to levy taxes shall be able to forward their comments  
8 and any concerns to the Board, but there is no approval required from the County assessor or entities  
9 authorized to levy taxes and they do not have veto over the proposed County industrial revenue bond  
10 issuance.

11 (c) The County Manager shall notify the Board, the County Assessor and any entity levying taxes on  
12 property in the County when an industrial revenue bond has matured, expired or been replaced by a  
13 refunding bond.

14 **Section 14. Authorization to pledge incentive payments.**

15 (a) In addition to any other law authorizing the County to issue revenue bonds or refunding revenue bonds,  
16 the county may issue revenue bonds pursuant to the powers granted to counties in NMSA 1978, § 4-37-1,  
17 as amended, to provide for the safety, preserve the health, promote the prosperity and improve the morals,  
18 order, comfort and convenience of the county and its inhabitants.

19 (b) Incentive payment revenue bonds or refunding revenue bonds may be issued by the County for the  
20 exercise of any essential governmental function.

21 (c) The County may pledge irrevocably any or all of the revenues from incentive payments for payment of  
22 principal, premium, if any, and interest due in connection with, and other expenses related to incentive  
23 payment revenue bonds or refunding revenue bonds.

24 (d) At a regular or special meeting called for the purpose of issuing incentive payment revenue bonds, the  
25 Board may adopt an ordinance that:

26 (1) Declares the necessity for issuing incentive payment revenue bonds;

27 (2) Authorizes the issuance of incentive payment revenue bonds by an affirmative vote of a majority  
28 of all the members of the Board; and

29 (3) Designates the incentive payments pledged. Any revenue in excess of the amount necessary to  
30 meet all annual principal and interest payments and other requirements incident to repayment of the  
31 incentive payment revenue bonds may be transferred to any other fund of the County.

32  
33 **Section 15. Sunset date; date of issue.**

34 (a) The inducement resolution or notice of intent shall set a final date for issuance of the proposed  
35 bonds, which shall not be longer than two years from the date of the inducement or notice of intent. The  
36 "sunset date" may be extended by the adoption of a new inducement resolution or notice of intent if the  
37 applicant presents a revised project schedule with supporting evidence acceptable to the Board that the  
38 extension is justified for good cause and necessary for project completion.

39 (b) The inducement resolution or notice of intent shall state the year in which the bonds will be issued  
40 and the bonds shall not be issued in a year other than that stated in this ordinance except upon approval by  
41 the Board.

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**TORRANCE COUNTY  
BOARD OF COUNTY COMMISSIONERS  
RESOLUTION NO. R 2024- 18**

**RESOLUTION AUTHORIZING 37.5% PICK-UP OF PERA MEMBER  
CONTRIBUTIONS**

**WHEREAS**, NMSA 1978, Section 10-11-5, authorizes affiliated public employers to be responsible for making contributions of up to seventy-five percent of its employees' member contributions to the Public Employees Retirement Association (PERA) under certain conditions; and

**WHEREAS**, the Governing Body of Torrance County is adopting this resolution to enhance the compensation package for current and future employees to assist with retention and recruitment; and

**WHEREAS**, Torrance County desires to make thirty-seven and one-half percent (37.5%) of employee contributions for its municipal, police, and firefighter employees covered under PERA Municipal Coverage Plan 2 and PERA Police Coverage Plan 5; and

**WHEREAS**, pursuant to NMSA 1978, Section 10-11-5, this Resolution is irrevocable (subject to the exceptions set forth in Section 10-11-5) and shall apply to all Torrance County employees within PERA Municipal Coverage Plan 2 and PERA Police Coverage Plan 5.

**NOW, THEREFORE BE IT RESOLVED:** that Torrance County, pursuant to NMSA 1978, Section 10-11-5, hereby elects to be responsible for making contributions of thirty-seven and one-half percent (37.5%) of employees' member contributions to the Public Employees Retirement Association for its municipal, police, and firefighter employees under PERA Municipal Coverage Plan 2 and PERA Police Coverage Plan 5 effective July 1, 2024.

**DONE THIS 22<sup>nd</sup> DAY OF May, 2024.**

1  
2 **APPROVED AS TO FORM ONLY:**

3  
4 *Michael I. Garcia*  
5 Michael I. Garcia, County Attorney

6 Date: 5-22-24  
7

**BOARD OF COUNTY COMMISSIONERS**

*Ryan Schwebach*  
Ryan Schwebach, Chair, District 2

*Kevin McCall*  
Kevin McCall, Vice Chair, District 1

*Samuel D. Schropp*  
Samuel D. Schropp, Member, District 3

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11 **ATTEST:**

12 *Linda Jaramillo*  
13 Linda Jaramillo, County Clerk

14 Date: 5/22/2024  
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TORRANCE COUNTY  
BOARD OF COUNTY COMMISSIONERS  
RESOLUTION NO. 2024- 19

Budget Adjustments

WHEREAS, the Torrance County Commission in regular session on Wednesday, May 22, 2024, did authorize budget adjustments to the FY2023-2024 budget; and

WHEREAS, budget adjustments require approval from the Department of Finance and Administration; and

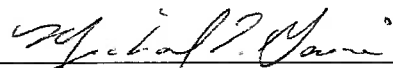
WHEREAS, Torrance County requests approval for the budget adjustments set forth in the attached *Schedule A and Schedule B*.


NOW, THEREFORE, BE IT RESOLVED that the Torrance County Board of County Commissioners authorizes the attached budget adjustments in *Schedule A and Schedule B* and respectfully requests approval from the Local Government Division of the Department of Finance and Administration.

AUTHORIZED this 22<sup>nd</sup> day of May 2024.

APPROVED AS TO FORM ONLY:

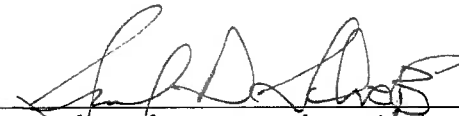
TORRANCE COUNTY BOARD OF COMMISSIONERS

  
County Attorney

  
Ryan Schwebach, Chair, District 2



  
Kevin McCall, Vice Chair, District 1

  
Samuel D. Schropp, Member, District 3

ATTEST:

  
Linda Jaramillo, Torrance County Clerk



# Torrance County

Resolution 24- 19

## Budget Adjustment

Schedule A

Budget Increase

Torrance County FY2024 Budget (LGBMS line item structure)

Budget Increase					
Revenue			Expenditure		
LGBMS Line Item	Description	Amount	LGBMS Line Item	Description	Amount
11000-0001-41200	Gross Receipts Tax - County Local	\$ 133,190	11000-2012-53030	Travel - Employees	\$ 3,100
29900-0001-48010	Contributions/Donations	\$ 1,722	11000-2012-56020	Supplies - General Office	\$ 3,700
22300-0001-47170	State - Traffic Safety Grant	\$ 1,857	11000-2012-56999	Supplies - Other	\$ 1,100
22300-0001-47071	State - DWI Local Grant (DFA)	\$ 5,000	11000-2012-56010	Software	\$ 17,490
22300-0001-47070	State - DWI Formula Distribution (D	\$ 21,715	11000-2012-56030	Supplies - Field Supplies	\$ 7,300
21800-0001-47999	Private - Other	\$ 20,000	11000-2012-57999	Other Operating Costs	\$ 500
21800-0001-47499	Other State Grants	\$ 2,505,344	11000-2011-57160	Telecommunications	\$ 60,000
21800-0001-47699	Federal - Other	\$ 9,200	11000-2011-55030	Contract - IT Services	\$ 30,000
			11000-2011-56010	Software	\$ 5,000
			11000-2011-55999	Contract - Other Services	\$ 5,000
			20800-5010-55999	Contract - Other Services	\$ 15,000
			29900-2002-56999	Supplies - Other	\$ 1,722
			22300-3006-56999	Supplies - Other	\$ 1,857
			22300-3006-55999	Contract - Other Services	\$ 26,715
			21800-2002-56999	Supplies - Other	\$ 29,200
			21800-2002-57999	Other Operating Costs	\$ 2,619,046
			21800-2002-55030	Contract - Professional Services	\$ 17,250
REVENUE TOTAL		\$ 2,638,028	EXPENSE TOTAL		\$ 2,843,980

Cash Transfer					
Transfer From:			Transfer To:		
Line Item	Description	Amount	Line Item	Description	Amount
24200-0001-61200	Transfer Out	\$ 145,952	21300-0001-61100	Transfer In	\$ 130,952
			20800-0001-61100	Transfer In	\$ 15,000
Total		\$ 145,952	Total		\$ 145,952



# Torrance County

Resolution 24- 19

## Budget Adjustment

Schedule B

Budget Increase

Torrance County FY2024 Budget (Tyler ERPPro 10 line item structure)

Budget Increase					
Revenue			Expenditure		
Tyler Line Item	Description	Amount	Tyler Line Item	Description	Amount
401-000-1405	Gross Receipts Tax	\$ 133,190	401-007-2205	Travel - Employees	\$ 3,100
430-000-1400	Donations	\$ 1,722	401-007-2219	Supplies - General Office	\$ 3,700
605-000-1246	DWI Community Grant FY24	\$ 1,857	401-007-2225	Supplies - Computer	\$ 1,100
605-000-1036	DWI Local Grant FY24	\$ 5,000	401-007-2228	Software	\$ 17,490
605-000-1336	DWI Distribution Grant FY24	\$ 21,715	401-007-2242	Supplies - Signs	\$ 7,300
629-000-1002	Wildfire Risk Reduction Program	\$ 20,000	401-007-2284	Equipment Leases	\$ 500
629-000-1022	Martin Road HW2LP50050	\$ 189,637	401-096-2207	Telecommunications	\$ 60,000
			401-096-2213	Contract - IT Services	\$ 30,000
629-000-1023	King Farm Road HW2LP50049	\$ 358,220	401-096-2228	Software	\$ 5,000
			401-096-2271	Contract - Other Services	\$ 5,000
629-000-1014	Ewing Road HW2LP50037	\$ 1,210,649	403-066-2278	Contract - Animal Damage Control	\$ 15,000
			430-082-2223	Kennel Supplies	\$ 1,722
629-000-1016	Martinez Road HW2LP50041	\$ 729,588	605-004-2257	Outreach Materials	\$ 1,857
			605-002-2271	Contract - Other Services	\$ 5,000
635-000-1109	Juvenile Justice Grant FY2024	\$ 17,250	605-003-2271	Contract - Other Services	\$ 21,715
809-000-1741	Patrick Leahy Bulletproof Vest Program	\$ 9,200	629-029-2257	Outreach Materials	\$ 20,000
			629-060-2711	Martin Road HW2LP50050	\$ 189,637
			629-060-2712	Match Martin Road HW2LP50050	\$ 9,981
			629-060-2713	King Farm Road HW2LP50049	\$ 358,220
			629-060-2714	Match King Farm Road HW2LP50049	\$ 18,854
			629-060-2792	Ewing Road HW2LP50037	\$ 1,210,649
			629-060-2793	Match Ewing Road LP50037	\$ 63,718
			629-060-2799	Martinez Road HW2LP50041	\$ 729,588
			629-060-2800	Match Martinez Road HW2LP50041	\$ 38,399
			635-068-2272	Contract - Professional Services	\$ 17,250
			809-050-2262	Supplies - Bullet Proof Vests	\$ 9,200
REVENUE TOTAL		\$ 2,698,028	EXPENSE TOTAL		\$ 2,843,980

Cash Transfer					
Transfer From:			Transfer To:		
Line Item	Description	Amount	Line Item	Description	Amount
641-000-1952	Transfer Out	\$ 145,952	629-000-1950	Transfer In	\$ 130,992
			403-000-1950	Transfer In	\$ 15,000
Total		\$ 145,952	Total		\$ 145,992