

SANTA FE COUNTY, NEW MEXICO
RESOLUTION NO. 126

DECLARING THE INTENT OF THE BOARD OF COUNTY COMMISSIONERS OF SANTA FE COUNTY, NEW MEXICO, TO HOLD A HEARING TO CONSIDER THE FORMATION OF THE SANTA FE COUNTY RENEWABLE ENERGY FINANCING DISTRICT FOR THE PURPOSE OF ENCOURAGING, ACCOMMODATING AND FINANCING RENEWABLE ENERGY IMPROVEMENTS WITHIN THE DISTRICT, AND TO CONSIDER FOR ADOPTION AN ORDINANCE APPROVING SUCH FORMATION; AND DIRECTING THE PUBLICATION IN A NEWSPAPER OF GENERAL CIRCULATION WITHIN THE COUNTY OF A NOTICE OF PUBLIC HEARING TO CONSIDER THE ADOPTION OF AN ORDINANCE APPROVING THE FORMATION OF THE DISTRICT.

WHEREAS, the Renewable Energy Financing District Act, Chapter 108, Laws of New Mexico 2009 (the "Act"), authorizes New Mexico counties to form renewable energy financing districts; and

WHEREAS, pursuant to the Act, a district will be considered a political subdivision of the state of New Mexico, separate and apart from a county; and

WHEREAS, the Act requires that the Board of County Commissioners (the "Commission") of Santa Fe County, New Mexico (the "County") hold a public hearing to determine whether a renewable energy financing district shall be formed; and

WHEREAS, the Act provides that, following such a hearing, the Commission adopt an ordinance ordering the formation of a district; and

WHEREAS, the Commission, desires to hold a public hearing to consider the formation of the Santa Fe County Renewable Energy Financing District (the "District") for the purpose of encouraging, accommodating and financing renewable energy improvements within the District, and an ordinance ordering the formation of the District; and

WHEREAS, Section 4-37-7 NMSA 1978, requires that publication of the title and general summary of the subject matter of any proposed ordinance be made in a newspaper of general circulation within the County at least two weeks prior to the meeting of the Commission at which the ordinance is proposed for final passage.

BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS, THE GOVERNING BODY OF SANTA FE COUNTY, NEW MEXICO:

Section 1. Purpose of Act. As proposed, the District shall serve the purpose of encouraging, accommodating and financing renewable energy improvements pursuant to the Act.

Section 2. Inclusion of Property within District. No real property shall be included in the District unless the record owner of real property within the District (the "owner") thereof has submitted an application to the County and has agreed to the inclusion of such real property in the District. Owners may apply for and enter into agreements for the inclusion of real property subsequent to the adoption of this Resolution, as provided in Section 3 of this Resolution. Real property shall be included in and assessed by the District as described in Section 5 of this Resolution.

Section 3. Application and Agreement to Include Real Property within District. Pursuant to the Act, an owner wishing to have real property included in the District shall submit an application and agreement for the inclusion of real property in the District to the County.

- A. Application. The County shall accept applications for inclusion of real property in the District in the form attached hereto as Exhibit "A". Copies of the application and related agreement to include real property within the District may be obtained at the office of the County Clerk, 102 Grant Avenue, Santa Fe, New Mexico, 87501 or via the internet at <http://www.co.santa-fe.nm.us/>.
- B. Agreement. To include real property within the District, each owner must enter an agreement in the form attached hereto as Exhibit "B" whereby such owner shall agree to the following:
- (1) Inclusion of real property within the District.
 - (2) Imposition of a special assessment on real property to pay for the renewable energy improvements and related costs.
 - (3) Recording of the lien of the special assessment upon the real property to be included in the District.
 - (4) Waiver of any claims against the County arising from inclusion of real property within the District.

Section 4. Eligible Renewable Energy Improvements. The following types of renewable energy improvements are eligible for financing under the Act when permanently installed on real property within the District:

- A. Photovoltaic Systems;
- B. Solar Thermal Systems;
- C. Geothermal Systems; and
- D. Wind Energy Systems.

Section 5. Special Assessments; Assessment Resolution.

A. Inclusion of real property in the District will result in the imposition of special assessments on such real property in amounts necessary to pay the costs of permanently installing the approved renewable energy improvements and the costs of financing such improvements including the related administrative fees to the District. The costs of such improvements will be amortized over a period of time as determined by the District, or its Financial Advisor.

B. Each owner of real property shall acknowledge and consent to the assessment amount and amortization schedule as a condition of inclusion of the real property in the District.

C. Following acknowledgement and consent by the owner of the real property to be included in the District and satisfaction of the other requirements of the Act, this Resolution and as may from time to time be made applicable by the Commission, the District Board shall adopt a resolution that includes the real property in the District and imposes the special assessment (the "Assessment Resolution"). An Assessment Resolution may include one or multiple parcels with separate ownership interests.

Section 6. Collection of Special Assessments. District special assessments shall be collected by the County at the same time and in the same manner as property taxes are levied and collected; provided, that the governing body of the District (the "District Board") may, in its discretion, establish alternative collection procedures. Special assessments may be prepaid pursuant to procedures established by the District Board and identified in the Assessment Resolutions.

Section 7. District Governance. If formed, the governing body of the District shall be the Commission until the Commission appoints a separate District Board, or holds an election of board members pursuant to Section 10 of the Act.

Section 8. Standards for Renewable Energy Improvements. Following formation of the District, the Commission, acting as the District Board, shall set standards and

requirements for the permanent installation of renewable energy improvements on real property within the District. Such standards and requirements shall be identified in a subsequent resolution of the District Board and shall, at minimum, include compliance with otherwise applicable state and local permitting requirements.

Section 9. Formation Hearing. The Commission hereby directs that a notice of the meeting and public hearing to consider formation of the District and the adoption of an ordinance ordering formation of the District, in substantially the form attached to this Resolution as Exhibit "C", be published in a newspaper of general circulation within the County, one time at least two weeks prior to the meeting and public hearing, as provided in Section 5(B) of the Act. At such hearing, the Commission shall hear written and oral testimony and evidence presented in support of or in opposition to the formation of the District.

Section 10. Formation Ordinance and Related Matters. At or following the meeting and public hearing concerning the proposed formation of the District, the Commission will consider for adoption an ordinance authorizing the creation of the District, identifying the method by which owners can execute agreements to have their real property included in the District and identifying other details related to the formation of the District pursuant to the Act.

Section 11. Other Action Necessary. The County Manager, Finance Director, Attorney and Clerk are authorized and directed to take all action necessary or appropriate to effectuate the provisions of this Resolution. In the event that the Commission determines not to adopt an ordinance to form the District, this Resolution shall be of no further force or effect.

Section 12. Repealer. All by-laws, orders, resolutions and ordinances or parts thereof, inconsistent herewith are hereby repealed to the extent only of such inconsistency. This repealer shall not be construed as reviving any by-law, order, resolution or ordinance, or part thereof heretofore repealed.

Section 13. Severability. If any section, paragraph, clause, or provision of this Resolution shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Resolution.

PASSED AND ADOPTED this 28 day of July, 2009.

SANTA FE COUNTY, NEW MEXICO

By: [Signature]
Mike D. Anaya, Chairperson
Board of County Commissioners

[SEAL]

ATTEST:
By: [Signature]
Valerie Espinoza, Clerk



APPROVED AS TO FORM:

By: [Signature]
Peter Franklin, as Bond Counsel



COUNTY OF SANTA FE)
STATE OF NEW MEXICO) ss BCC RESOLUTIONS
PAGES: 15

I Hereby Certify That This Instrument Was Filed for
Record On The 29TH Day Of July, 2009 at 10:59:50 AM
And Was Duly Recorded as Instrument # 1572112
Of The Records Of Santa Fe County

S:\DOX\CLIENT\80130\115\W0993128.DOC

Witness My Hand And Seal Of Office
[Signature] Valerie Espinoza
Deputy County Clerk, Santa Fe, NM

EXHIBIT "A"

Form of Application to Include Real Property in the District

**APPLICATION TO INCLUDE REAL PROPERTY IN SANTA FE COUNTY
RENEWABLE ENERGY FINANCING DISTRICT**

To apply for inclusion of your real property in the Santa Fe County Renewable Energy Financing District (the "District"), please provide the following information. You must submit one application for each parcel of real property you wish to have considered for inclusion in the District.

PART I: REAL PROPERTY INFORMATION

a. Name(s) of Recorded Owner(s) of the Real Property: _____

b. Phone/Email: _____

c. Street Address/ location of the Real Property: _____

d. Legal Description of Real Property: _____

e. Mortgage lender/other lien holders (please provide contact information for each): _____

PART II: INFORMATION REGARDING RENEWABLE ENERGY EQUIPMENT TO BE INSTALLED

- a. Description of renewable energy equipment to be installed: _____

- b. Estimated cost of renewable energy equipment to be installed: _____

- c. Vendor or installer requested, if any: _____

- d. Please Attach a Copy of the Proposed Installation Contract (if any) to this Application.

PART III: CERTIFICATION OF ACCURATE INFORMATION AND ACKNOWLEDGEMENT OF AGREEMENT WITH THE COUNTY

Certification. The undersigned does hereby represent, warrant and certify to the County as follows:

- a. The information set forth above is true and correct.
- b. The undersigned, as the Recorded Owner of Real Property, is authorized to submit this application and enter into any agreements in connection herewith.

Acknowledgement. The undersigned does hereby acknowledge that, if this application is approved, the undersigned hereby agrees to the following:

- a. Inclusion of my real property in the District;
- b. Imposition of a special assessment on my real property sufficient to pay for the renewable energy improvement(s) and related costs;
- c. Recording of the lien of the special assessment upon the real property to be included in the District.
- d. Waiver of any claims against the County arising from inclusion in the District.

Signature of Recorded Owner of Real Property

Date

For County Use Only:

Date Application Received: _____

Application Processed By: _____

Application Approved/Not Approved: _____

Date Lien Recorded: _____

EXHIBIT "B"

Form of Agreement to Include Real Property in the District

AGREEMENT REGARDING CONSENT TO INCLUSION OF REAL PROPERTY IN
SANTA FE COUNTY RENEWABLE ENERGY FINANCING DISTRICT

Pursuant to the Renewable Energy Financing District Act, Chapter 180, Laws of New Mexico 2009 (the "Act"), the undersigned hereby consents to the inclusion of the real property located at _____ in Santa Fe County, New Mexico (the "Real Property") in the Santa Fe County Renewable Energy Financing District ("District").

1. Area of District. The District is described in Exhibit 1 attached hereto.
2. Real Property Ownership. The undersigned is the record owner of the Real Property described in Exhibit 2 attached hereto.
3. Purpose. The District has been formed for the purpose encouraging, accommodating and financing renewable energy improvements, as described in Santa Fe County, New Mexico Ordinance No. ____ (the "Formation Ordinance").
4. Recording of Real Property as Included in the District. The undersigned agrees to the recording of the Real Property as being included in the District.
5. Imposition of Special Assessment. The undersigned agrees to the imposition of a special assessment on the Real Property sufficient to pay for the renewable energy improvement(s) and related costs.
6. Waiver and Consent. The undersigned, with full knowledge of its rights being waived hereunder, hereby:
 - (a) expressly consents to the inclusion of the Real Property in the District;
 - (b) acknowledges the recording of the lien of the special assessment upon the real property to be included in the District;
 - (c) waives all protest rights whatsoever under the Act or otherwise, provided that the maximum amount of the special assessment imposed by the District do not exceed the amounts set forth in the table attached as Exhibit 3 hereto; and
 - (d) waives any and all claims against the County, the Board of County Commissioners, and the employees, agents and advisors of the County, in connection with actions or omissions of (i) any installer, vendor or manufacturer of renewable energy improvements installed or contracted to be installed on the Real Property; (ii) any provider of financing or trustee in connection with the financing of renewable energy

improvements; and (iii) any other third party acting or purporting to act in connection with the formation of the District and the inclusion and assessment of the Real Property therein.

7. Entire Agreement. This Agreement, together with the exhibits referenced herein, constitutes the entire agreement of the parties with respect to the subject matter hereof.

8. Governing Law. This Agreement shall be construed in accordance with the laws of the State of New Mexico.

(Remainder of page intentionally left blank)

In witness whereof the undersigned has executed this Agreement the _____ day of _____ 20__.

RECORDED OWNER OF REAL PROPERTY

By: _____

Printed Name: _____

BOARD OF THE SANTA FE COUNTY
RENEWABLE ENERGY FINANCING DISTRICT

By: _____

Its: _____

EXHIBIT 1
Map of District

EXHIBIT 2

Legal Description of Real Property

EXHIBIT 3

Maximum Special Assessment Table

EXHIBIT "C"

**FORM OF NOTICE OF MEETING, PUBLIC HEARING AND INTENT TO ADOPT
ORDINANCE APPROVING THE CONSIDER FORMATION OF SANTA FE
COUNTY RENEWABLE ENERGY FINANCE DISTRICT FOR PUBLICATION**

Santa Fe County, New Mexico
Notice of Meeting and Public Hearing

NOTICE IS HEREBY GIVEN of a regular meeting on _____, 2009 at the hour of __:00 __.m. in the Commission Chambers, 102 Grant Avenue, Santa Fe, New Mexico to hold a public hearing to consider for adoption an ordinance approving the formation of the Santa Fe County Renewable Energy Financing District. At such hearing, the Board will hear written and oral testimony and evidence presented in support of or in opposition to the formation of the Santa Fe County Renewable Energy Finance District.

The title of the proposed Ordinance is:

SANTA FE COUNTY ORDINANCE NO. 2009-__

APPROVING THE FORMATION OF THE SANTA FE COUNTY RENEWABLE ENERGY FINANCING DISTRICT PURSUANT TO THE RENEWABLE ENERGY FINANCING DISTRICT ACT, CHAPTER 180, LAWS OF NEW MEXICO 2009; MAKING FINDINGS IN CONNECTION WITH SUPPORTING DOCUMENTATION REQUESTING APPROVAL OF THE FORMATION OF THE DISTRICT; DETERMINING THE METHOD OF INCLUDING REAL PROPERTY WITHIN THE DISTRICT AND THE PURPOSES FOR WHICH THE DISTRICT IS BEING FORMED; APPROVING THE MANNER OF COLLECTION OF A RENEWABLE ENERGY IMPROVEMENT ASSESSMENT TO BE IMPOSED UPON REAL PROPERTY INCLUDED IN THE DISTRICT; APPROVING A FORM OF AGREEMENT BETWEEN THE COUNTY AND THE OWNERS OF REAL PROPERTY FOR INCLUSION OF REAL PROPERTY IN THE DISTRICT; PROVIDING FOR GOVERNANCE OF THE DISTRICT; PROVIDING FOR THE INCLUSION OF REAL PROPERTY WITHIN THE DISTRICT BY SUBSEQUENT RESOLUTIONS; RATIFYING CERTAIN ACTIONS HERETOFORE TAKEN; REPEALING ALL ACTIONS INCONSISTENT WITH THIS ORDINANCE.

This notice is given pursuant to Section 5(B) of Chapter 180, Laws of New Mexico 2009 and Section 4-37-7, NMSA 1978.

Dated: _____, 2009

/s/ Valerie Espinoza
Santa Fe County Clerk