

SANTA FE COUNTY, NEW MEXICO

RESOLUTION NO. 2008-126

DECLARING THE INTENT OF SANTA FE COUNTY, NEW MEXICO TO ISSUE INDUSTRIAL DEVELOPMENT BONDS IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$12,000,000 IN CONNECTION WITH A PROPOSED DISTRIBUTION, WAREHOUSE AND OFFICE PROJECT LOCATED IN THE LA ENTRADA COMMERCE CENTER IN SANTA FE, NEW MEXICO, FOR THE PURPOSE OF INDUCING MW HOLDINGS, LLC OR ITS SUCCESSORS OR ASSIGNS TO UNDERTAKE THE ACQUISITION, CONSTRUCTION AND EQUIPPING OF THE PROJECT, AND AUTHORIZING THE GIVING AND PUBLICATION OF NOTICES IN CONNECTION WITH SUCH BONDS

WHEREAS, the County Industrial Revenue Bond Act, Sections 4-59-1 through 4-59-16 NMSA 1978, as amended (the "Act"), authorizes Santa Fe County, New Mexico (the "County") to issue industrial development bonds (the "Bonds"), and to acquire "projects" as defined in the Act; and

WHEREAS, the County desires to promote industry and develop trade or other economic activity to secure and maintain a balanced and stable economy in the County and to promote public health, welfare, safety, convenience and prosperity; and

WHEREAS, MW Holdings, LLC (the "Lessee"), proposes to acquire, construct and equip a project at in the La Entrada Commerce Center in Santa Fe, New Mexico (the "Project"), which constitutes a "project" as defined in the Act; and

WHEREAS, the Project has been considered by the Board of County Commissioners (the "Board") of the County and the Commission has concluded that the Project will promote the local health, general welfare, safety, convenience and prosperity of the inhabitants of the County, and the Board desires to indicate its intent to proceed with the issuance of the Bonds for the financing of the Project; and

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

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

WHEREAS, the Board intends to consider an ordinance (the "Bond Ordinance") approving the issuance of Bonds to finance the Project at a public meeting of the Board; and

WHEREAS, pursuant to Section 4-37-7(A) NMSA 1978, the County is required to publish notice of the title and subject matter of any ordinance proposed for adoption by the Board not less than two weeks before consideration by the Board of final action thereon; and

WHEREAS, pursuant to Section 4-59-4.1 of the Act, before adopting an ordinance issuing Bonds, the County is required to give notice to the Santa Fe County Assessor and to the largest municipality within the County of its intent to consider the matter, which notice is to be given at least thirty days prior to the meeting at which final action is to be taken,

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

Section 1. All actions (not inconsistent with the provisions of this resolution) heretofore taken by the Board and the officers and employees of the County, related to the acquisition, construction and equipping of the Project, and the sale and issuance of the Bonds therefor, be and the same hereby are ratified, approved and confirmed.

Section 2. The Board finds that:

(a) The Project will involve the acquisition, construction and equipping of distribution, warehouse and office facility (the "Facility").

(b) The maximum aggregate face amount of obligations to be issued with respect to the Project is \$12,000,000.

(c) The initial developer of the Facility will be the Lessee or its assignee or assignees. The initial operator of the Facility will be Bicycle Technologies International, Ltd.

(d) The location of the Facility is in the La Entrada Commerce Center in Santa Fe, New Mexico.

Section 3. In order to promote the local health and general welfare, safety, convenience and prosperity of the inhabitants of the County, the Board intends to take all necessary and advisable steps to effect the issuance of Bonds in a principal amount up to \$12,000,000 in order to defray part or all of the costs of the Project, provided that this expression of intent is conditioned upon the issuance of such Bonds on or before one year from the date of the adoption of this resolution.

Section 4. The County understands that the Lessee does not intend that the Bonds be "qualified private activity bonds" as that term is defined in the Internal Revenue Code of 1986, as amended.

Section 5. The Bonds will be payable from the revenues of the Project and by the Lessee and will not constitute a debt or indebtedness of the County within the

meaning of any provision or limitation of the Constitution or statutes of the State of New Mexico. Nothing contained in this resolution or in any other instrument will be considered as obligating the County to any pecuniary liability or a charge upon the general credit of the County or against its taxing power, it being understood that no costs are to be borne by the County and that all costs incurred by the County in connection with the Bonds are to be promptly reimbursed by the Lessee.

Section 6. The County agrees that the portion of the Facility being acquired by the County will not be subject to property tax nor any payments in lieu of property tax during the period beginning on the acquisition, construction and/or installation of such portion of the Facility by the County and ending on the earlier of 30 years from that date or the full retirement of the Bonds. In addition, if the Bonds are issued, the Lessee will indemnify and hold harmless the County, the Board and their respective officers, employees, designated representatives and agents (collectively, the "Indemnified Persons") from and against any liability to the Lessee, or to any third parties that may be asserted against the County with respect to the County's ownership of or leasehold interest in the Project or the issuance of the Bond. The County's adoption of this resolution will not be deemed a conclusion or expression of approval by the County or by any Indemnified Person of the Lessee or the Project.

Section 7. The Lessee as agent for the County and consistent with Taxation and Revenue Department Regulation 3.2.212.22 NMAC Renumbered, will acquire the Project. The County will, consistent with New Mexico state law, deliver to the Lessee Type 9 Nontaxable Transaction Certificates ("Certificates") that have been issued to the County by the Taxation and Revenue Department. The Lessee will deliver a Certificate to each person selling tangible personal property to the County for the Project as applicable under the New Mexico Gross Receipts Tax and Compensating Tax Act. For this purpose, by adoption of this Resolution, the County authorizes the Lessee to act as agent for the County. The Lessee will not use the Certificates other than for the purpose of capital equipment and other tangible personal property, nor will the Lessee use such Certificates after completion of the Project.

Section 8. The Board directs that the following notice be published one time in a newspaper of general circulation in the County at least two weeks prior to the date of the public meeting at which the Bond Ordinance will be considered, which notice shall include the date and time of that public meeting:

(Form of Notice)

NOTICE OF CONSIDERATION OF ORDINANCE

SANTA FE COUNTY, NEW MEXICO

NOTICE IS GIVEN that the Board of County Commissioners (the "Board"), constituting the governing body of Santa Fe County, New Mexico (the "County"), will consider the adoption of an ordinance (the "Ordinance") authorizing the issuance of industrial revenue bonds in an aggregate principal amount not to exceed \$12,000,000 (the

"Bonds") to finance the acquisition, construction and equipping of a distribution, warehouse and office facility (the "Project"), and all costs incidental to the foregoing and the issuance of the Bonds, and otherwise relating to the Project, at a regular meeting of the Board on _____, 2008 at ____ a.m./p.m. or as soon thereafter as the matter may be heard, in the Commission Chambers of the County Administration Building, 102 Grant Avenue, Santa Fe, New Mexico, in the County, being the regular meeting place of the Board. The title and subject matter of the Ordinance are as follows:

AUTHORIZING THE ISSUANCE AND SALE OF SANTA FE COUNTY, NEW MEXICO INDUSTRIAL REVENUE BONDS (BICYCLE TECHNOLOGIES INTERNATIONAL, LTD. PROJECT) SERIES 2008 IN THE MAXIMUM PRINCIPAL AMOUNT OF \$12,000,000 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 BONDS AND OTHER DOCUMENTS IN CONNECTION WITH THE ISSUANCE OF THE BONDS AND THE PROJECT; MAKING CERTAIN DETERMINATIONS AND FINDINGS RELATING TO THE BONDS AND THE PROJECT; RATIFYING CERTAIN ACTIONS TAKEN PREVIOUSLY; AND REPEALING ALL ACTIONS INCONSISTENT WITH THIS ORDINANCE.

THE PRINCIPAL OF, INTEREST ON AND REDEMPTION PRICE, IF ANY, OF THE BONDS WILL NEVER CONSTITUTE AN INDEBTEDNESS OF THE COUNTY WITHIN THE MEANING OF ANY PROVISION OR LIMITATION OF THE CONSTITUTION OR LAWS OF THE STATE OF NEW MEXICO. THE BONDS WILL NEVER CONSTITUTE NOR GIVE RISE TO PECUNIARY LIABILITY OF THE COUNTY OR A CHARGE AGAINST ITS GENERAL CREDIT OR TAXING POWERS.

The Bonds will mature, bear interest and be subject to prior redemption all in accordance with the Ordinance. A copy of the Ordinance is on file and available for inspection during normal business hours at the office of the County Clerk in the County Administration Building at 102 Grant Avenue, Santa Fe, New Mexico.

Dated: _____, 2008.

/s/ Valerie Espinosa

County Clerk

Santa Fe County, New Mexico

(End of Form of Notice)

Section 9. The Board directs that the following notice be mailed by registered or certified mail, return receipt requested, to the Santa Fe County Assessor and to the City of Santa Fe, as soon as is practicable following the adoption of this resolution and, in any event, not later than 30 days prior to the date of the public meeting at which the Bond Ordinance shall be considered:

(Form of Notice to be delivered to the Santa Fe County Assessor
and the City of Santa Fe)

[SANTA FE COUNTY LETTERHEAD]

_____, 2008

REGISTERED MAIL
RETURN RECEIPT REQUESTED

Hon. Domingo B. Martinez
Santa Fe County Assessor
102 Grant Avenue
Santa Fe, New Mexico 87504

City of Santa Fe, New Mexico
200 Lincoln Avenue
P.O. Box 909
Santa Fe, New Mexico 87504
Attention: City Manager

Ladies and Gentlemen:

Pursuant to Section 4-37-4.1 NMSA 1978, we write to give you notice that Santa Fe County, New Mexico (the "County") intends to consider the issuance of industrial revenue bonds in a principal amount not to exceed \$12,000,000 (the "Bonds") to defray the cost of acquiring, constructing and equipping of a distribution, warehouse and office facility in the La Entrada Commerce Center in Santa Fe, New Mexico (the "Project"), for use by Bicycle Technologies International, Ltd. The ordinance under which the Bonds would be issued will be considered by the Board of County Commissioners (the "Board") of the County on or after _____, 2008, which is at least thirty days after the date of this letter. You may forward your comments and concerns with respect to the Bonds or the Project to the Board, but no approval of the Bonds is required from you and you do not have a veto over the proposed issuance of the Bonds.

Very truly yours,

SANTA FE COUNTY, NEW MEXICO

By _____

Roman Abeyta
County Manager

(End of Form of Notice to be Mailed)

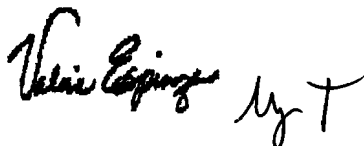
Section 10. The Board and the County Manager are each authorized and empowered to take such steps and to do such things as may be necessary to achieve the purposes of this resolution; provided, however, the issuance of the Bonds and the execution and delivery of any documents to which the County is a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

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

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

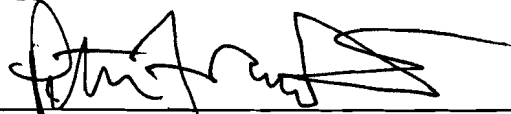
PASSED, APPROVED AND ADOPTED this 12th day of August, 2008.

Attest:

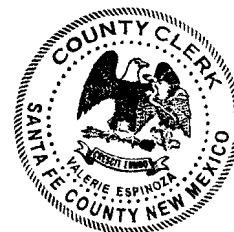
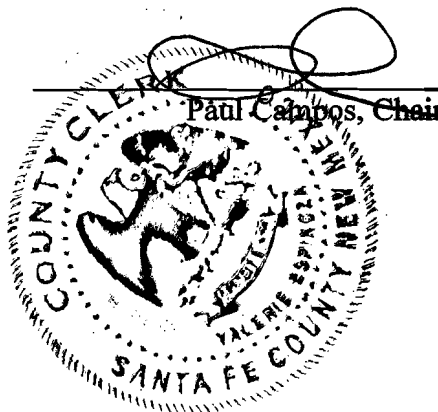


Valerie Espinoza, County Clerk

Approved as to form:



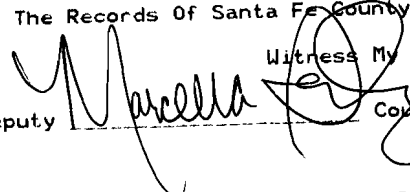
Peter Franklin, bond counsel to the County



COUNTY OF SANTA FE)
STATE OF NEW MEXICO) ss

BCC RESOLUTIONS
PAGES: 6

I Hereby Certify That This Instrument Was Filed for
Record On The 20TH Day Of August, A.D., 2008 at 14:10
And Was Duly Recorded as Instrument # 1535794
Of The Records Of Santa Fe County

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