

BERNALILLO COUNTY, NEW MEXICO

RESOLUTION 70-2007

DECLARING THE INTENT OF THE COUNTY COMMISSION OF BERNALILLO COUNTY, NEW MEXICO (THE "COUNTY") TO CONSIDER THE PETITION OF WESTLAND DEVCO, LP ("APPLICANT"); TO CONSIDER FOR ADOPTION A RESOLUTION APPROVING THE FORMATION OF DEVCO TAX INCREMENT DEVELOPMENT DISTRICTS 1 THROUGH 9 ("TIDDS 1 THROUGH 9"); APPROVING, SUBJECT TO FURTHER PROCEEDINGS OF THE COUNTY COMMISSION, A TAX INCREMENT DEVELOPMENT PLAN FOR DISTRICTS 1 THROUGH 9 WHICH INCLUDES A DESCRIPTION OF THE AREAS TO BE INCLUDED IN EACH TIDD, THE PURPOSES OF THE TIDDS, IDENTIFICATION OF THE GROSS RECEIPTS TAX INCREMENT AND THE PROPERTY TAX INCREMENT IN EACH TIDD, AND ISSUANCE OF BONDS SECURED BY THE GROSS RECEIPTS TAX INCREMENT AND THE PROPERTY TAX INCREMENT; AUTHORIZING AND DIRECTING THE POSTING, MAILING AND PUBLICATION, IN A NEWSPAPER OF GENERAL CIRCULATION WITHIN THE COUNTY, OF A NOTICE OF PUBLIC MEETING AND HEARING TO BE HELD ON DECEMBER 11, 2007 TO CONSIDER FOR ADOPTION THE RESOLUTION APPROVING THE FORMATION OF THE TIDDS.

WHEREAS, the Legislature of the State has enacted the Tax Increment for Development Act, Sections 5-15-1 *et seq.* NMSA 1978 (the "TIDD Act"), pursuant to which the governing body of a municipality may adopt a resolution authorizing the formation of a tax increment development district or districts (a "TIDD or "TIDDS") following a public hearing and based upon certain findings required pursuant to Section 5-15-7 of the TIDD Act; and

WHEREAS, the County Commission of Bernalillo County (the "County") has enacted Ordinance No. 2007-20 (the "TIDD Ordinance") establishing policy guidelines and application procedures for tax increment development districts in the County; and

WHEREAS, pursuant to Section 5-15-4 of the TIDD Act, upon filing with the County Clerk of an approved tax increment development plan and upon receipt of a petition bearing the signatures of the owners of at least 50 percent of the real property located within a proposed tax increment development area, the County Commission may adopt a resolution declaring its intent to form a TIDD or TIDDS; and

WHEREAS, pursuant to Section 5-15-6 of the TIDD Act, upon adoption of a resolution indicating an intent to form a TIDD or TIDDS, the governing body of a county shall set a date no sooner than 30 days and no later than 60 days after the adoption of the resolution for a public hearing regarding the formation of the TIDD or TIDDS; and

WHEREAS, Westland DevCo, LP, a Delaware limited partnership (“DevCo” or the “Applicant”) has submitted to the County an approved Tax Increment Development Plan and a Petition requesting the formation by the County of nine related tax increment development districts (“TIDDs 1 through 9” or the “TIDDs”) for the financing of public improvements to serve the initial development phase of the Upper Petroglyphs (the “Project”); and

WHEREAS, the Tax Increment Development Plan for TIDDs 1 through 9 includes a map of the proposed TIDDs pursuant to Section 5-15-5 of the TIDD Act and Section 3F of the TIDD Ordinance, which Tax Increment Development Plan has been filed with the County Clerk; and

WHEREAS, the Applicant has provided a Petition bearing the signatures of the owners of 100 percent of the real property to be included in TIDDs 1 through 9 requesting the formation of TIDDs 1 through 9; and

WHEREAS, the County Commission intends to consider for adoption a resolution ordering the formation of TIDDs 1 through 9 as provided by Sections 5-15-4 and 5-15-7 of the TIDD Act and Section 4(C) of the TIDD Ordinance.

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF BERNALILLO COUNTY, NEW MEXICO, THE GOVERNING BODY (THE “COMMISSION”) OF THE COUNTY:

Section 1. The Applicant's Tax Increment Development Plan and map of TIDDs 1 through 9 on file with the County Clerk, is hereby accepted for further proceedings to be held at a public hearing as set forth in Section 2 of this Resolution. The Tax Increment Development Plan is hereby approved for purposes of Section 5-15-4(A) of the TIDD Act and Section 4(C) of the TIDD Ordinance, subject to further proceedings of the County Commission.

Section 2. The areas to be included within TIDDs 1 through 9 are described in the map of TIDDs included as part of the Tax Increment Development Plan.

Section 3. The Tax Increment Development Plan, including a map depicting the boundaries of the tax increment development areas of the TIDDs and real property proposed to be included in those areas, has been filed with the County Clerk.

Section 4. As provided in the TIDD Act, each TIDD may issue one or more series of revenue bonds secured by up to 75% of the increment of the county and state gross receipts tax generated within each TIDD, and up to 75% of the increment of property tax generated within each TIDD, which bonds shall fully mature in not more than 25 years after the date on which the first series of bonds is issued by that TIDD.

Section 5. A public hearing for the formation of TIDDs 1 through 9 pursuant to the TIDD Act is required and shall be held on December 11, 2007 which date is more than 30 days and less than 60 days after the adoption of this Resolution.

Section 6. Pursuant to Section 5(F) of the TIDD Ordinance, Hughes & Strumor, Ltd. Co. shall act as bond counsel for the issuance of any TIDD Bonds.

Section 7. Pursuant to Section 5-15-6 of the TIDD Act, the County Clerk is hereby authorized and directed to cause to be published, in the *Albuquerque Journal*, a newspaper of general circulation within the County in which proposed TIDDs 1 through 9 are located, a notice of the public hearing in substantially the following form:

PUBLIC NOTICE  
BERNALILLO COUNTY, NEW MEXICO

NOTICE OF MEETING AND PUBLIC HEARING

The County Commission of Bernalillo County, New Mexico hereby gives notice of its meeting scheduled for Tuesday, December 11, 2007 at 4:30 p.m. in the Albuquerque/Bernalillo County Government Center, One Civic Plaza N.W., Joint Chambers, Concourse Level B, Albuquerque, New Mexico, which is the regular meeting place of the County Commission. At such meeting the County Commission will hold a public hearing concerning the adoption of a resolution relating to the formation of DevCo Tax Increment Development Districts 1 through 9 (the "TIDDs") pursuant to the Tax Increment for Development Act. The County Commission may consider and take other necessary action relating to the formation of the TIDDs and other business which may come before the Commission. The title of the proposed resolution is as follows:

APPROVING THE PETITION OF WESTLAND DEVCO, LP ("APPLICANT"), FOR FORMATION OF TAX INCREMENT DEVELOPMENT DISTRICTS 1 THROUGH 9 ("TIDDS 1 THROUGH 9") PURSUANT TO THE TAX INCREMENT FOR DEVELOPMENT ACT, SECTIONS 5-15-1 THROUGH 5-15-28, NMSA 1978 AND COUNTY COMMISSION ORDINANCE NO. 20-2007; MAKING FINDINGS IN CONNECTION WITH THE PETITION AND SUPPORTING DOCUMENTATION REQUESTING APPROVAL OF THE FORMATION OF THE TIDDS; DETERMINING THE REAL PROPERTY TO BE INCLUDED WITHIN THE TIDDS AND THE PURPOSES FOR WHICH THE TIDDS ARE BEING FORMED; APPROVING THE APPLICATION, PETITION, TAX INCREMENT DEVELOPMENT PLAN AND FINANCIAL FEASIBILITY STUDY; APPROVING A FORM OF DEVELOPMENT AGREEMENT FOR IMPLEMENTATION OF THE TIDDS; RATIFYING THE TAX INCREMENT DEVELOPMENT PLAN APPROVED FOR

CONSIDERATION IN CONNECTION WITH THE FORMATION OF THE TIDDS, DEDICATING UP TO 75% OF THE GROSS RECEIPTS TAX INCREMENT REVENUE AND UP TO 75% OF THE PROPERTY TAX INCREMENT REVENUE FOR THE TIDDS AND RELATED PURPOSES UNDER THE TIDD ACT; APPROVING PARAMETERS FOR THE ISSUANCE OF TAX INCREMENT BONDS BY THE TIDDS; PROVIDING FOR GOVERNANCE OF THE TIDDS THROUGH THE APPOINTMENT OF MEMBERS OF THE GOVERNING BODIES OF THE TIDDS; PROVIDING THAT TAX INCREMENT BONDS OF THE TIDDS AND OTHER OBLIGATIONS OF THE TIDDS SHALL NOT BE OBLIGATIONS OF BERNALILLO COUNTY; RATIFYING CERTAIN ACTIONS HERETOFORE TAKEN; REPEALING ALL ACTIONS INCONSISTENT WITH THIS RESOLUTION OTHER THAN ORDINANCE NO. 2007-20

Complete copies of the proposed resolution are on file in the Office of the County Clerk at One Civic Plaza, N.W., 6<sup>th</sup> Floor, Albuquerque, NM 87102 and are available for inspection during regular office hours.

The following information is provided pursuant to Section 5-15-6 NMSA 1978:

Information concerning alternative methods for submission of objections or comments:

The above-referenced meeting will be open to the public. Persons wishing to comment on the proposed resolution and the matters within its scope may provide comments in person at the meeting or may provide comments in writing, addressed to the County Clerk, and actually received by the County Clerk at least one business day before the date of the meeting.

The formation of DevCo TIDDS 1 through 9 is proposed.

Map showing the boundaries of the proposed TIDDS 1 through 9:

[insert small map here]

A tax increment development plan for TIDDS 1 through 9 is on file with the County Clerk and may be reviewed upon request.

A summary of the subject matter of the Resolution is contained in its title. This Notice constitutes compliance with Section 5-15-6 NMSA 1978.

Section 7. The notice of public hearing shall be published once each week for two consecutive weeks in the *Albuquerque Journal*.

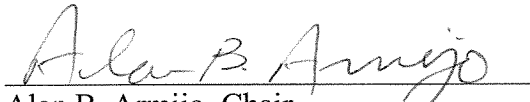
Section 8. The notice of public hearing shall also be posted in a prominent location on property located within proposed TIDDs 1 through 9 for fourteen days prior to the hearing.


Section 9. Written notice via registered or certified United States mail, postage prepaid, shall be provided to all owners of real property within proposed TIDDs 1 through 9 no later than ten days prior to the hearing.


Section 10. If the County Clerk is informed of a transfer of ownership of real property within proposed TIDDs 1 through 9 and obtains the name and address of the current property owner, the County Clerk shall mail a copy of the notice and resolution as soon as practicable after learning of the transfer.


PASSED AND ADOPTED this 7 day of November, 2007.

BOARD OF COUNTY COMMISSIONERS  
BERNALILLO COUNTY, NEW MEXICO

  
Alan B. Armijo, Chair

  
E. Tim Cummins, Vice Chair

  
Deanna Archuleta, Member

  
Teresa L. Córdova, Ph.D, Member

  
Michael Brasher, Member



[SEAL]

Attest:

  
Maggie Toulouse, Clerk