

CHAPTER 20. MISCELLANEOUS

ARTICLE 20-1

INDUSTRIAL REVENUE DEVELOPMENT BONDS

Section 20-1-1. Definitions.

A. General. For purposes of this Article, all terms, words and phrases shall be defined and construed in accordance with the County and Municipality Development Revenue Bond Act," Title 29, Article 3 of the Colorado Revised Statutes, as such may be amended from time to time.

B. Processing Fees and Costs. In addition to reimbursement out-of-pocket costs, processing fees and costs shall include the time and effort of Town officials and staff.

C. Applicant. Any person or legal entity or combination thereof filing an application with the Town for Industrial Revenue Development Bond Project Financing.

Section 20-1-2. Policy.

A. General. The Town desires the stimulation of economic growth and development in the Town. To achieve this purpose, the Town recognizes the need to coordinate and cooperate with the private sector in a joint effort. A principal mechanism for implementing positive government action is the use of Industrial Development Revenue Bonds (IDRB) pursuant to County and Municipality Development Bond Act, Title 29, Article 3 of the Colorado Revised Statutes.

B. Factors. The prime requirements for the approval of an IDRB proposal shall be that the Town receive a demonstrated public benefit involving one or more of the following:

1. Creation of additional jobs in the Town of Crested Butte.
2. Increase the tax base resulting in a net fiscal benefit for the Town of Crested Butte.
3. Stimulation of additional business investment.
4. Provide facilities or benefits to Town citizens for economic, recreational or health purposes in a manner that compliments the Town's own programs or facilities.
5. Carrying out stated goals and objectives of the Town of Crested Butte.
6. The project must not put a burden on existing Town services or utilities beyond that which can be reasonable and economically accommodated.
7. The issuance of IDRB's for business activities which would directly compete with established businesses in Town will not be encouraged.

C. Facilities and Programs. All facilities and programs that may be financial under the Colorado statutes are eligible for consideration by the Town. Competitive impact resulting from the facility or program will be considered and addressed in approving an IDRB issue.

D. **Financial Responsibility.** Applicants for IDRB issues must clearly demonstrate financial responsibility sufficient to amortize the proposed bond issue. The plan for marketing the IDRB's shall determine the general financial standards used by the Town to evaluate the proposal:

1. The Town may at its sole discretion retain an independent financial advisor at the expense of the project applicant.

2. The applicant shall select qualified financial consultants and/or underwriters as well as legal counsel to prepare all necessary documents and materials. The Town may rely on the opinion of such experts, and the application shall be accompanied by a preliminary financial analysis by the underwriter regarding the economic soundness of the applicant as well as the financial consultant/underwriter's opinion regarding the financial strength of the applicant, feasibility of the project, and the underwriter's ability to market the financing.

3. Prior to the sale of IDRB's, the applicant may be required to furnish the Town, before passage of the final resolution, a comfort letter from the lending institution which has reviewed the economic feasibility of the project, including the financial responsibility of any guarantors, and finds that, in their professional judgment, it is an economically viable project.

E. **Other Economic Considerations.** The criteria set forth in this section to evaluate applications are not intended as minimum requirements, and each application shall be considered on its individual merits and shall further include consideration of the following:

1. Asset life span verses term of the bond issue.

2. Special purpose buildings.

3. Management strength of applicant.

4. Size of the bond issue.

Section 20-1-3. Procedures. The order of events to be followed by an applicant in submitting an IDRB project proposal to the Town shall be as follows:

A. **Application.** Applicant submits an application to the Town Manager or his designee which includes information prescribed by the Town. Applicant shall submit his application on forms provided by the Town and shall further execute an agreement with the Town to assume all expenses of the Town in connection with the project proposal.

B. **Staff Review.** Within 60 working days after submittal of a complete application the Town Manager shall make a written report of the staff's recommendations. Extension to the review period may be granted by the Town Manager. The staff may request the Town's bond attorney or the Town's financial advisor to submit recommendations.

C. **Inducement Resolution.** As soon as practicable after the staff recommendations, an inducement resolution will be placed on the agenda of the Town Council for public hearing action. The inducement resolution may be submitted to the Town's bonds counsel for approval. An approved inducement resolution shall remain in effect for one year from date of passage.

D. **Bond Ordinance.** The definitive bond ordinance shall be filed at the office of the Town Manager at least fourteen (14) days prior to the date it is to be introduced at a meeting of the Town

Council. Such bond ordinance shall be reviewed by the Town's staff and its consultants, if staff so requests, for compliance with all of the Town's requirements.

E. Closing. Closing of the sale of the bonds shall proceed on a reasonable time schedule after final passage of the bond ordinance.

F. Fees and Reimbursement of Expenses.

1. The application for the issuance of IDRB's shall be accompanied by a nonrefundable application fee of equal to the Town's expenses in reviewing, processing, and issuing same.

2. In addition to reimbursable out-of-pocket costs, a processing fee for industrial development bond applications, processing and review shall be charged by the Town and paid by the applicant as follows:

Private Placement:

\$2,500 minimum

1/20 of 1% of the issue (\$500.00 per million or part thereof)

\$5,000 maximum

Public Offering:

\$2,500 minimum

1/10 of 1% of the issue (\$1,000.00 per million or part thereof)

\$10,000 maximum

3. The applicant shall be required to deposit with the Town such an amount as may be recommended by the Town Finance Director with the approval of the Town Manager pursuant to the Agreement filed with the application to reimburse the Town for all direct, extraordinary and out-of-pocket expenses. This deposit shall be made within seven (7) days after passage of the inducement resolution and changed in the event the bonds are not sold. Any expenditures made by the Town, charged against the deposit will be reimbursed to the Town upon bond closing and the full deposit will be returned to the applicant.

Section 20-1-4. Rules and Regulations. The Town may from time to time, promulgate such rules and regulations as it deems necessary to implement and carry out the intent of this Article including setting fees schedules for direct, extraordinary and out-of-pocket expenses based on objective data; provided, however, that such rules and regulations shall not be inconsistent herewith.