# F I S C A L   I M P A C T   R E P O R T

| | | | | | |
|---|---|---|---|---|---|
| | | **ORIGINAL DATE** | 02/10/09 | | |
| **SPONSOR** | Ortiz y Pino | **LAST UPDATED** | 03/20/09 | **HB** | |
| **SHORT TITLE** | Winrock Tax Increment Development Project | | | **SB** | 467/aSCORC/aSFl#1/aSFl#2/aHBIC |
| | | | | **ANALYST** | White |

## REVENUE (dollars in thousands)

| Estimated Revenue | | | Recurring or Non-Rec | Fund Affected |
|---|---|---|---|---|
| **FY09** | **FY10** | **FY11** | | |
| | * See Narrative | | | |

(Parenthesis ( ) Indicate Revenue Decreases)

Relates to SB 19, SB 201, SB 249, SB 483, SB 509, HB 392, HB 451, HB 470

**SOURCES OF INFORMATION**
LFC Files
Department of Finance Administration (DFA)
Winrock Partners LLC Application to State Board of Finance (BOF)
Hunt Development Co. Application to State Board of Finance (BOF)

Responses Received From
Taxation and Revenue Department (TRD)
New Mexico Finance Authority (NMFA)
Department of Finance and Administration (DFA)
Economic Development Department (EDD)

**SUMMARY**

Synopsis of HBIC Amendment

The House Business and Industry Committee amendment to Senate Bill 467 limits the duration of the proposed bonding authorization to 50 years as opposed to the unlimited duration included in the original bill. This should not significantly affect the viability of the project, as the current financing schedule plans on only having bonds outstanding for a period of approximately 34 years (See Figure 1).

The House Business and Industry Committee Amendment to Senate Bill 467 also adds a new section prohibiting the Legislature from approving or authorizing any capital outlay projects within any of the Winrock/Quorum TIDDs during the period that any bonds are issued pursuant to the proposed legislation. Exceptions are provided in the new section including

1. public school buildings or facilities;
2. higher education buildings or facilities;
3. cultural buildings or facilities;
4. buildings or facilities, exclusive of roads, used for public safety; or
5. buildings used for other public purposes.

The new section also states that "nothing in this section prohibits the Legislature from authorizing expenditures, pursuant to law, for economic development projects within a specific Winrock/Quorum Town Center redevelopment tax increment district for which any tax increment development bonds are outstanding."

Synopsis of SFl Amendment #2

Senate Floor Amendment number two for Senate Bill 467 attempts to give the legislature greater oversight over the TIDD bond issuance by requiring an objective third party "with expertise in development financing" be appointed by the NMFA oversight committee (NMFAOC) to review any master indenture agreements before bonds are issued. The costs for this additional review will be incurred by the TIDD, which may be able to fund the review through TIDD bond proceeds. The Tax Increment for Development Act already requires the New Mexico Finance Authority to review the master indenture agreements before the issuance of TIDD bonds.

Synopsis of SFl Amendment #1

Senate Floor Amendment number one for Senate Bill 467 attempts to give the legislature greater oversight over the TIDD bond issuance by requiring the Legislative Finance Committee (LFC) to review any master indenture agreements before bonds are issued. The Tax Increment for Development Act already requires the New Mexico Finance Authority to review the master indenture agreements before the issuance of TIDD bonds.

Synopsis of SCORC Amendment

The SCORC amendment to Senate Bill 467 corrects and clarifies language relating to which tax increments secure the tax increment development district's (TIDD) bonds and how the "mandatory sinking fund" will work. The maximum amount of bonds which can be issued ($137 million for TIDDs 1 and 2 combined, and $27 for TIDD 3) are secured by tax increments dedicated from the state, the City of Albuquerque, and Bernalillo county. The original legislation states that the bonds are secured with only a state increment. This correction is being made to all of the TIDD authorization bills (SB 19, SB 249, HB 470) currently before the legislature.

Synopsis of Original Bill

Senate Bill 467 authorizes Winrock and Quorum tax increment for development districts (TIDDs) to issue tax-exempt bonds secured by 57 percent of state gross receipts tax (GRT) revenue generated within TIDD 1, 70 percent of GRT revenue generated within TIDD 2, and 60 percent of GRT revenue generated within TIDD 3. The maximum issuance for TIDDs 1 and 2 is $137 million and the maximum issuance for TIDD 3 is $27 million equaling a combined maximum issuance of $164 million subject to:

1. a determination by the New Mexico Finance Authority (NMFA) that the proceeds of the bonds are used in accordance with the master development agreement
2. review of the master indenture by NMFA
3. review of any proposed amendments to the master indenture prior to issuance
4. at least $22 million of public infrastructure being completed in TIDD 1 and or TIDD 3 by June 30, 2015.

The development project is broken up into three TIDDs being developed by two different developers. TIDDs 1 and 2 are being developed by Winrock Partners LLC and TIDD 3 is being developed as the Quorum project by Hunt Development Co. Total public infrastructure needs for the three districts combined are anticipated to be approximately $164 million. This legislation carries an emergency clause and would therefore take effect immediately upon the Governor's signature.

**Summary of BOF Resolution**

**Table 1: Financial Data While Individual Bonds are Outstanding**

| | District 1 | District 2 | District 3 |
|---|---|---|---|
| GRT Increment (%) | 57% | 70% | 60% |
| Total GRT Increment* | $ 75,050.09 | $ 72,285.08 | $ 27,403.11 |
| Total Incremental Revenues to GF* | $ 57,464.86 | $ 34,558.08 | $ 18,431.83 |
| Net Present Value of GF Cashflows** | $ 3,243.73 | $ 7,069.16 | $ 1,468.40 |

* Total while respective bonds are outstanding. Dollar values in thousands.

** Calcluations discounted GF cashflows while bonds are outstanding using a 5% discount rate. Dollar values in thousands.

- Unlike past tax increment development districts, each district within the Winrock/Quorum development will receive a different gross receipts tax increment from the state. The appropriate increment for each district was obtained from a net present value (NPV) calculation assuring that there would be no net cost to the general fund while the districts' bonds were outstanding.
- After the appropriate increment was derived through the NPV calculations, a "safety margin" of three percent was deducted from the final increment. Although the three percent deduction is not included in the BOF rule, DFA staff thought it a prudent insurance measure given that the TIDD analysis was largely assumption based.
- At the time of the BOF meeting the Master Development Agreements (MDA) for the three districts had yet to be approved by all of the governing entities. Due to statutory requirements, a district must have an approved MDA in order to receive a state tax increment. BOF approval was therefore contingent upon all governing entities having approved MDAs for each district by January 21, 2009. The MDAs were finalized and delivered to BOF staff before the required deadline.
- Because of the high level of volatility currently present throughout financial markets the project could be delayed. In order to ensure a timely beginning to the project the BOF has required the "completion of at least Twenty-Two Million Dollars ($22,000,000) of the public infrastructure in any of TIDD 1 or TIDD 3" or a combination of the two by June 30, 2015. If this condition is not met, the tax increment dedications will be cancelled and the districts may then submit a new application to BOF.

## FISCAL IMPLICATIONS

As part of the BOF review of the Winrock/Quorum development, an in depth general fund cash flow analysis was completed, parts of which are presented in Table 2. This analysis was used to calculate net present value (NPV) to the state for each district on an individual basis. At the increments initially requested by the developers, 75 percent for TIDD 1, 50 percent for TIDD 2, and 75 percent for TIDD 3, the state’s NPV was significantly negative for TIDDs 1 and 3, and overwhelmingly positive for TIDD 2. Additionally, total cash flows for TIDDs 1 and 3 were significantly negative throughout the life of the bonds. Had the requested increments been approved this would have created a general fund subsidy to the development throughout the life of the bonds and the project would not have been a “no net expense” development.

BOF staff worked with LFC staff to derive the approved increments by finding the increment which would create a positive NPV for each district and then subtracting a safety factor of 3 percent. Once this was completed staff, after conferring with the developers, concluded that at 57 percent there would not be sufficient revenues to service the amount of bonds needed to reimburse the developers for all of the public infrastructure projects in TIDD 1. TIDD 2 on the other hand would have more than enough revenue to service its bonds at the requested increment and could still provide a positive fiscal impact to the state at a much higher increment than the developer had requested. As a result the BOF thought it prudent to award an increment higher than the originally requested 50 percent for TIDD 2 with the intention of allowing the developers to use excess revenues from TIDD 2 to help support infrastructure projects taking place within TIDD 1.

As per the abbreviated model results presented in Table 2, this project should provide a positive fiscal impact to the state at the BOF approved percentage increments. TIDD 1 is expected to have negative net cash flow of approximately $2.5 million in years 6 and 7 combined, while the other districts should have a positive net cash flow every year that bonds are outstanding. Despite the two years of negative cash flow in TIDD 1, all three districts are expected to provide significantly positive net fiscal impacts in total. All districts in the Winrock/Quorum development were found to have a positive net present value (NPV) to the state throughout all applicable time periods at the BOF approved percentage increments. In total the state should receive approximately $133.4 million in additional tax revenue while the districts themselves will receive approximately $174.7 million in incremental tax revenue over a thirty year period.

## Table 2: Cash Flows to the General Fund and Revenues to Districts

### TIDD 1

| Cash Flow to the General Fund | Years 1-5 | Years 6-10 | Years 11-15 | Years 16-20 | Years 21-25 | Years 26-30 | Total |
|---|---|---|---|---|---|---|---|
| Post-District GRT | $ - | $ - | $ - | $ - | $ - | $ 26,216,140 | $ 26,216,140 |
| Construction GRT | $ 2,991,958 | $ 100,171 | $ - | $ - | $ - | $ - | $ 3,092,129 |
| Other New Tax Reciepts* | $ 1,794,133 | $ 3,215,230 | $ 3,215,230 | $ 3,215,230 | $ 3,215,230 | $ 643,046 | $ 15,298,099 |
| Incremental GRT | $ 911,281 | $ 10,581,772 | $ 13,399,901 | $ 13,399,901 | $ 13,399,901 | $ 2,679,980 | $ 54,372,736 |
| Total Positive CF | $ 5,697,372 | $ 13,897,173 | $ 16,615,131 | $ 16,615,131 | $ 16,615,131 | $ 29,539,166 | $ 98,979,104 |
| | | | | | | | $ - |
| Foregone GRT from Shift | $ (1,811,920) | $ (13,831,722) | $ (13,499,880) | $ (13,499,880) | $ (13,499,880) | $ (2,699,976) | $ (58,843,259) |
| GF Expenditures | $ (965,359) | $ (1,730,000) | $ (1,730,000) | $ (1,730,000) | $ (1,730,000) | $ (1,730,000) | $ (9,615,359) |
| Total Negative CF | $ (2,777,279) | $ (15,561,722) | $ (15,229,880) | $ (15,229,880) | $ (15,229,880) | $ (4,429,976) | $ (68,458,618) |
| Net CF | $ 2,920,094 | $ (1,664,549) | $ 1,385,250 | $ 1,385,250 | $ 1,385,250 | $ 25,109,190 | $ 30,520,486 |
| **Revenues to the TIDD** | | | | | | | |
| Construction GRT | $ 3,966,084 | $ 132,784 | $ - | $ - | $ - | $ - | $ 4,098,869 |
| Incremental GRT | $ 911,281 | $ 13,199,428 | $ 17,762,659 | $ 17,762,659 | $ 17,762,659 | $ 3,552,532 | $ 70,951,218 |
| Total Revenue | $ 4,877,365 | $ 13,332,212 | $ 17,762,659 | $ 17,762,659 | $ 17,762,659 | $ 3,552,532 | $ 75,050,087 |

### TIDD 2

| Cash Flow to the General Fund | Years 1-5 | Years 6-10 | Years 11-15 | Years 16-20 | Years 21-25 | Years 26-30 | Total |
|---|---|---|---|---|---|---|---|
| Post-District GRT | $ - | $ - | $ - | $ - | $ - | $ 3,769,983 | $ 3,769,983 |
| Construction GRT | $ 627,145 | $ 3,071,827 | $ - | $ - | $ - | $ - | $ 3,698,972 |
| Other New Tax Reciepts* | $ 198,452 | $ 5,558,131 | $ 5,852,460 | $ 5,852,460 | $ 5,852,460 | $ 4,681,968 | $ 27,995,931 |
| Incremental GRT | $ - | $ 6,262,835 | $ 6,472,704 | $ 6,472,704 | $ 6,472,704 | $ 5,178,163 | $ 30,859,110 |
| Total Positive CF | $ 825,596 | $ 14,892,793 | $ 12,325,164 | $ 12,325,164 | $ 12,325,164 | $ 13,630,114 | $ 66,323,996 |
| Foregone GRT from Shift | $ - | $ (4,696,035) | $ (8,476,650) | $ (8,476,650) | $ (8,476,650) | $ (6,781,320) | $ (36,907,304) |
| GF Expenditures | $ (119,530) | $ (3,347,723) | $ (3,525,000) | $ (3,525,000) | $ (3,525,000) | $ (3,525,000) | $ (17,567,252) |
| Total Negative CF | $ (119,530) | $ (8,043,758) | $ (12,001,650) | $ (12,001,650) | $ (12,001,650) | $ (10,306,320) | $ (54,474,556) |
| Net CF | $ 706,067 | $ 6,849,036 | $ 323,514 | $ 323,514 | $ 323,514 | $ 3,323,795 | $ 11,849,440 |
| **Revenues to the TIDD** | | | | | | | |
| Construction GRT | $ 1,463,337 | $ 7,167,596 | $ - | $ - | $ - | $ - | $ 8,630,934 |
| Incremental GRT | $ - | $ 6,262,835 | $ 15,102,976 | $ 15,102,976 | $ 15,102,976 | $ 12,082,381 | $ 63,654,144 |
| Total Revenue | $ 1,463,337 | $ 13,430,431 | $ 15,102,976 | $ 15,102,976 | $ 15,102,976 | $ 12,082,381 | $ 72,285,077 |

### TIDD 3

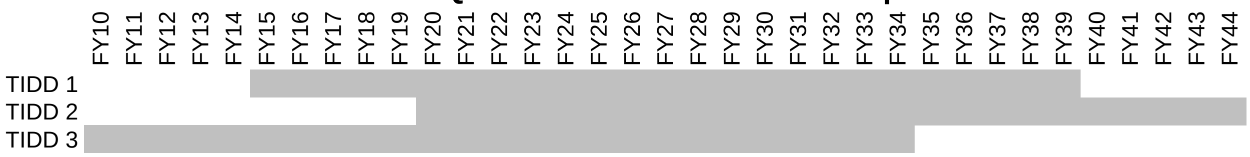
| Cash Flow to the General Fund | Years 1-5 | Years 6-10 | Years 11-15 | Years 16-20 | Years 21-25 | Years 26-30 | Total |
|---|---|---|---|---|---|---|---|
| Post-District GRT | $ - | $ - | $ - | $ - | $ - | $ 10,598,125 | $ 10,598,125 |
| Construction GRT | $ 1,487,788 | $ - | $ - | $ - | $ - | $ - | $ 1,487,788 |
| Other New Tax Reciepts* | $ 1,095,962 | $ 1,607,250 | $ 1,607,250 | $ 1,607,250 | $ 1,607,250 | $ - | $ 7,524,962 |
| Incremental GRT | $ 1,272,846 | $ 3,917,800 | $ 3,917,800 | $ 3,917,800 | $ 3,917,800 | $ - | $ 16,944,046 |
| Total Positive CF | $ 3,856,596 | $ 5,525,050 | $ 5,525,050 | $ 5,525,050 | $ 5,525,050 | $ 10,598,125 | $ 36,554,921 |
| | | | | | | | $ - |
| Foregone GRT from Shift | $ (1,744,920) | $ (4,362,300) | $ (4,362,300) | $ (4,362,300) | $ (4,362,300) | $ - | $ (19,194,120) |
| GF Expenditures | $ (714,958) | $ (1,048,500) | $ (1,048,500) | $ (1,048,500) | $ (1,048,500) | $ (1,048,500) | $ (5,957,458) |
| Total Negative CF | $ (2,459,878) | $ (5,410,800) | $ (5,410,800) | $ (5,410,800) | $ (5,410,800) | $ (1,048,500) | $ (25,151,578) |
| Net CF | $ 1,396,718 | $ 114,250 | $ 114,250 | $ 114,250 | $ 114,250 | $ 9,549,625 | $ 11,403,343 |
| **Revenues to the TIDD** | | | | | | | |
| Construction GRT | $ 2,231,682 | $ - | $ - | $ - | $ - | $ - | $ 2,231,682 |
| Incremental GRT | $ 1,664,626 | $ 5,876,700 | $ 5,876,700 | $ 5,876,700 | $ 5,876,700 | $ - | $ 25,171,426 |
| Total Revenue | $ 3,896,308 | $ 5,876,700 | $ 5,876,700 | $ 5,876,700 | $ 5,876,700 | $ - | $ 27,403,108 |

* Other new tax receipts includes additional property and income taxes received by the State that are not eligible for tax increment. A direct and induced multiplier of 2.0 was applied to these receipts.

### Bond Issuance Plan

During the application process to the BOF the developers presented a bond issuance plan in which TIDD 1 bonds would be issued in 2010, TIDD 2 bonds would be issued in 2014, and TIDD 3 bonds would be issued in 2009. After the BOF approved the increments as per staff's recommendation, which was based on the originally presented issuance plan, the developers presented slightly different bond issuance plans to NMFA through their financial advisors RBC Capital Markets and D.A. Davidson & Co. The differences between the plans revolve primarily upon when the respective bonds are issued. NMFA and LFC staff both determined the new plan as if not more financially sound than the original. However, because the plan presented to the NMFA delays issuance on some bonds by as much as 12 years, the development is expected to receive more than $225 million while bonds are outstanding, or $60 million in excess of those revenues expected to be required for debt service.

**Figure 1:**
**Timeline of Winrock/Quorum Tax Increment Development Districts**




New Mexico Finance Authority (NMFA):

The Winrock/Quorum team presented NMFA staff with a draft finance plan that outlines the expected structure of the bonds… (The) timeframe allows for the developer to install all infrastructure items and reimburse itself from the bonds issued. In addition, the developer expects to issue short-term or “sponge bonds” to soak up the excess revenues in the first seven years beginning in FY2015 on TIDD 1 and the first three years beginning in FY2020 for TIDD 2.

In addition to annual sponge bonds, Winrock/Quorum’s current bond plan calls for issuance of long-term bonds beginning in FY2015 for TIDD 1, FY2020 for TIDD 2. Each series of bonds have an assumed maturity of 25 years. The plan sets out a minimum debt service coverage ratio of 1.5 times for GRT secured bonds and 1.0 times coverage on property tax bonds for TIDDs 1 and 2. The GRT bonds will have a debt service reserve and currently have an assumed interest rate of 6.5%. It is expected that District bonds that are not investment grade-rated will be sold initially and in the secondary market to sophisticated investors in minimum denominations of $100,000.

TIDD 3 has minimum debt service coverage of 1.25 times for GRT secured bonds and proposes issuance in FY2010. In addition, District 3 bonds will be supported by irrevocable letters of credit, contribution agreements or other financial guaranty arrangements sufficient to assure the payment of debt service on the bonds during the construction of the District Infrastructure improvements. In addition to this credit enhancement, the bonds will have a reasonably required debt service reserve.

**Table 4: Incremental State Revenues to TIDDs as per NMFA Presentation**

| | | | | | | |
|---|---|---|---|---|---|---|
| **TIDD 1** | **2008-2015** | **2016-2023** | **2024-2031** | **2032-2039** | **2040-2048** | **Total** |
| | $ 15,868,875 | $ 28,412,248 | $ 28,412,248 | $ 28,412,258 | $ - | $ 101,105,629 |
| **TIDD 2** | **2008-2015** | **2016-2023** | **2024-2031** | **2032-2039** | **2040-2048** | **Total** |
| | $ 11,085,706 | $ 20,967,719 | $ 24,164,936 | $ 24,164,936 | $ 15,103,085 | $ 95,486,382 |
| **TIDD 3** | **2008-2015** | **2016-2023** | **2024-2031** | **2032-2039** | **2040-2048** | **Total** |
| | $ 6,865,081 | $ 9,402,832 | $ 9,402,832 | $ 3,526,062 | $ - | $ 29,196,807 |
| **Total** | $ 33,819,662 | $ 58,782,799 | $ 61,980,016 | $ 56,103,256 | $ 15,103,085.00 | $ 225,788,818 |

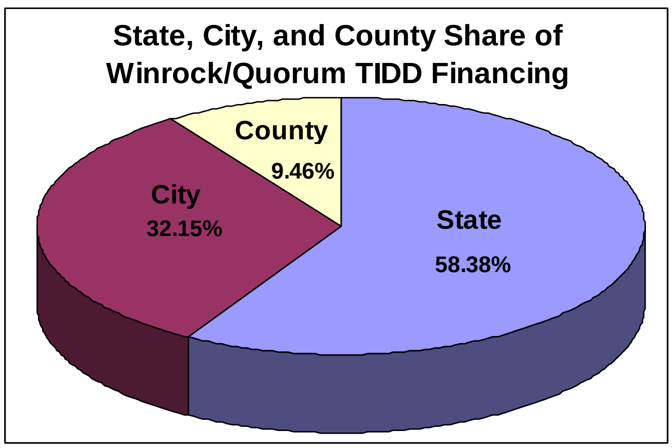
In an effort to keep bonds outstanding for as short a time as possible NMFA has also included a mandatory sinking fund provision in its resolution. A sinking fund is in essence and escrow account for excess revenues received by the TIDD not needed to meet required annual debt service. Should enough excess TIDD revenues accumulate in the sinking fund, which the NMFA believes it will, the districts would be expected to payoff outstanding bonds earlier than the expected 25 year maturity date. Considering current revenue forecasts, NMFA believes that TIDD 2, which is the latest TIDD to issue bonds, should be able to retire its bonds within 17 years of issuance utilizing its sinking fund. Making the bonds callable could possibly increase interest costs to the developers, however LFC and NMFA staff believe that this is a necessary risk in order to assure that the bonds are retired as quickly as possible. This is the first time NMFA has suggested the use of a sinking fund in TIDD financing, however it has suggested that sinking funds may be required of all future TIDD financing plans in order to protect the best interests of the state.

**Other Sources of Financing**

In addition to dedicated tax increments from BOF the Winrock/Quorum districts also received dedications from the City of Albuquerque and Bernalillo County. At its October 2008 City Council meeting, Albuquerque dedicated a 70 percent GRT increment and a 75 percent property tax increment to TIDDs 1, 2, and 3. At its December 2008 commission meeting, Bernalillo County dedicated its maximum allowable GRT increment, 67 percent, as well as a 50 percent property tax increment to TIDDs 1, 2, and 3.

Figure 2 shows the percentage share of TIDD funding from the state, city and county. LFC staff feel that this is an acceptable allocation of funding relative to the amount of additional revenues expected to be received by each governmental entity.

**Figure 2:**




## SIGNIFICANT ISSUES

**Project Summary**

The Winrock/Quorum TIDDs, along with the downtown Las Cruces TIDD introduced as SB 19, are the first infill tax increment development districts to be considered by the legislature. The area within the Winrock/Quorum development is currently under significant disrepair and in need of redevelopment. The proposed Winrock/Quorum redevelopment project will consist of approximately 90 acres in the uptown sector of Albuquerque. If the legislature approves bonding authority for the three already formed districts, according to their application with BOF, the developers plan on using bond proceeds to finance various public infrastructure projects including:

- roadways,
- water infrastructure,
- sanitary sewer infrastructure,

- storm drain and retention infrastructure,
- a ground couple heat pump,
- a bus platform, and five public parking structures,
- landscaping,
- public plazas,
- open space, and
- traffic control.

The developers, Winrock Partners LLC and Hunt Development Co., have already invested more than $49 million in the project largely representing land acquisition costs.

> **TIDD 1 –** Winrock describes district one as being "redeveloped as a new, high density, mixed use" development. The district will include 125,000 square feet of office space in addition to a 150-room hotel property and a 16 screen movie theatre equipped with IMAX technology. Portions of the existing structures including the Winrock Inn will need to be demolished and two public parking structures will need to be built. The estimated construction costs for TIDD 1 are approximately $190.5 million.
>
> **TIDD 2 –** The second Winrock district will include "242,500 square feet of office space, 264 for sale and 180 for rent residential units, two public and private parking structures, and several restaurants" according to the BOF application. TIDD 2 contains the highest amount of construction activity with estimated construction costs of $326.6 million. The developers expect to issue bonds for this district significantly later than the other two districts as can be seen in Figure 1.
>
> **TIDD 3 –** The Quorum district, according to Hunt Development Co., will consist of approximately 391,200 square feet of "mixed-use development." The district is built around a 210 room "nationally branded" hotel and will include 130,000 square feet of open space, 66,500 square feet of office space in addition to 75,000 square feet of high end retail space. TIDD 3 will also include 55 high end condominiums and more than 800 parking spaces. Estimated construction costs for TIDD 3 are approximately $98.5 million.

The developers believe that the above listed projects will create substantial employment opportunities in the Albuquerque area. In addition to the jobs listed in Table 3, the various infrastructure projects are also expected to create nearly 13,000 construction jobs including indirect and induced employment.

**Table 3: Projected Employment Increases**

| Projected Permanent Employment | | | | |
|---|---|---|---|---|
| **Land Use Type** | **TIDD 1** | **TIDD 2** | **TIDD 3** | **Total** |
| **Anchor Retail** | 1,353 | 205 | - | 1,558 |
| **General Retail** | 748 | 258 | 282 | 1,288 |
| **Restaurants** | 236 | 1,105 | 113 | 1,454 |
| **Theater** | 73 | - | - | 73 |
| **Office** | 1,174 | 1,694 | 625 | 3,493 |
| **Hotel** | 244 | - | 150 | 394 |
| **Total** | 3,828 | 3,262 | 1,170 | 8,260 |

Source: Economic Planning Systems

## Developer Information

Winrock Partners LLC:

> Winrock Partners is a Delaware limited liability company that was formed on September 1, 2007. The company's business and purpose is to develop the property currently known as Winrock Shopping Center into the Winrock/Quorum Town Center Redevelopment Project.
>
> The sole member of Winrock Partners is GK Partners, a New Mexico limited liability company that was formed on January 22, 2007. The two managers of GK Partners are Gary Goodman and Michael Kelly…Gary Goodman is the owner and President of the Albuquerque-based Goodman Realty Group, a full service, national real estate development firm. He has over thirty years of experience in construction, management, development and leasing of various types of property, including shopping centers, industrial properties, office buildings, and residential real estate…Michael Kelly began his mortgage banking career in 1972, and became president of Q10 Realty Mortgage & Investment Company in 1978. Q10 Realty Mortgage & Investment Company is a commercial mortgage banking firm with its office in Albuquerque, New Mexico. The company serves commercial real estate owners, buyers, investors, and developers as a source of long term fixed rate commercial mortgage financing for a wide variety of property types and users.

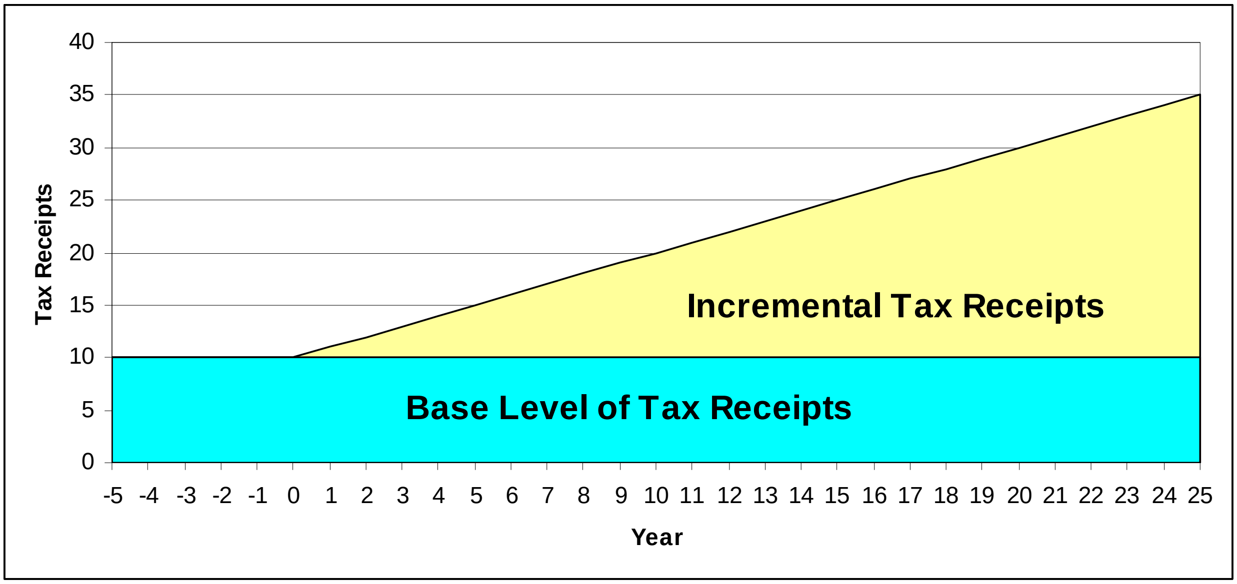
Hunt Development Group:

> The main equity participant in Hunt development Group is the Hunt Building Corporation and/or its affiliated companies, which comprise a full-service capital, investment, development, design-build, and asset management company. Founded in 1947, Hunt Building Corporation has become one of the nation's leading developers and builders of housing. Since 1970, Hunt has primarily focused on residential and mixed-use development and construction opportunities associated with government agencies and the private sector…Hunt is a privately owned company consisting of Hunt Building Company, Ltd., Hunt Communities, LLC, HBC Property Managers, LP, Hunt Natural Resources, LTD., Hunt Administrative Services, and Hunt Development Group. The company is headquartered in El Paso, Texas, and has been operated by the Hunt family for four generations.

### Tax Increment Financing

The Tax Increment for Development Act was enacted in 2006. This act allows property owners within an area that is a subset of a city or county to form a tax increment development district (TIDD). A district can propose a plan of infrastructure investments that would encourage economic development among other goals that would be paid for out of the increased revenue from the development. This increment, as shown in Figure 1, is derived from the difference between the stagnant base level of tax receipts in year zero and the increasing level of receipts during the life of the TIDD.

**Figure 3: How Tax Increment Financing Works**




The state is then not losing out on any tax revenues that it is already receiving but rather giving up a certain percentage of the incremental or increased tax receipts that are a result of increased business activity within the TIDD.

## TECHNICAL ISSUES

The bill states that the maximum bond issuance is "secured by a gross receipts tax increment attributed to the imposition of the state gross receipts tax" within the Winrock/Quorum tax increment development project. This language, which has been included in past TIDD bills, is incorrect in that the maximum bond issuance in this case is secured by state, county, and city GRT. Stating that the maximum bond issuance is secured by a GRT increment "attributable to the state" could be misconstrued as meaning that only the state increment secures the amount listed in the bill and that the developer could issue additional bonds above and beyond the cap secured by county and city increments. This language should be amended to include both the county and city increments as also securing the bonds.

**This issue was corrected with the adoption of the SCORC amendment. The legislation now states that bonds are secured "by tax increments authorized pursuant to the Tax Increment for Development ACT to be pledged to pay the principal of and interest on the bonds."**

The language referring to a mandatory "super sinker" fund is vague concerning its relationship to the already statutorily authorized debt service reserve fund. Specific language may need to be inserted in order ensure that both funds are being utilized properly under the supervision of NMFA.

**Language was inserted into this legislation by the SCORC amendment in order to clarify the mechanics and use of the mandatory "super sinker" provision as per the NMFA Board of Directors' resolution.**

Senate Bill 467 does not include any language prohibiting the area within the districts from receiving capital outlay funding while bonds are outstanding.  This is a prohibition which has been included in a number of other TIDD bills, including House Bill 1088 from the 2007 session which authorized the Mesa del Sol development to issue bonds.  Language could be included in this bill to prohibit capital outlay with a few significant exceptions similar to language included in previous pieces of legislation.

**This issue is addressed in the HBIC amendment through a new section explicitly prohibiting the authorization of capital outlay moneys to the area within the Winrock/Quorum TIDDs.**

**Department of Finance and Administration (DFA):**

> **The added review and recommendation of the master indenture by the LFC and a third party with expertise in development finance, provided in the Senate Floor amendments, appears to give the Legislature more control over the issuance of the bonds once the authorizing legislation has passed.  It is unclear whether the LFC would need to call a special meeting or whether the LFC refers to LFC staff.  Also, the amendment provides that costs of the third party review are paid by the "Winrock/Quorum Redevelopment Project," however, this provision should probably be clarified to state that the developer or the TIDD can pay those fees, not the project.  Also, the amended bill should state whether or not these review costs are reimbursable expenses out of bond proceeds?  If they are not, what other sources of revenue would a TIDD have to pay these?**

**CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

Senate Bill 467 relates to House Bills 451 and 392 in addition to Senate Bills 201, 483, and 509, all of which amend different sections of the Tax Increment for Development Act.

Senate Bill 467 also relates to Senate Bill 19 which authorizes the Las Cruces Downtown TIDD to issue bonds, and Senate Bill 249/House Bill 470 which authorize the Westland DevCo (SunCal) TIDDs to issue bonds.

**OTHER SUBSTANTIVE ISSUES**

Currently the state has no oversight or input in Tax Increment Development Districts (TIDDs) after their increments are dedicated from BOF and they are given bonding authority by the legislature.  Of particular worry is the fact that the state currently has no presence on TIDD governing boards despite being in most cases the projects largest investor. Language has been inserted into a number of TIDD bills before the legislature which attempt to give the state greater oversight after bonding authority is approved including the prohibition of capital outlay projects during the life of bonds, and mandatory consultation with the New Mexico Finance Authority (NMFA) and or Board of Finance (BOF) before issuing bonds or amending master development agreements.  Despite the use of these requirements in individual TIDD legislation, a comprehensive bill is needed to ensure that the state has sufficient oversight in TIDD projects to protect its investment.  House Bill 451, endorsed by the NMFA Oversight Committee, addresses these issues by giving the state a more appropriate level of oversight.

Department of Finance Administration (DFA):

> One issue uncovered in the research for this (the Board of Finance's) recommendation is that the owners and developers of the Winrock portion of the project, have protested their base-year property tax valuation. We understand that the protested issue is the methodology for property valuation of the project. One method of valuation conventionally used for valuing commercial property is capitalized rents. Since the Winrock Mall is currently virtually abandoned, a capitalized rent valuation approach would result in a current valuation substantially less than the value of three or four years ago. This issue also affects the determination of the base period gross receipts tax collections. The practical consequence of this issue is hard to determine. If the base GRT and base property tax values are averaged over the previous five years, then the recommended increment will likely change. Alternatively, this means that three-percentage-points safety margin may not be adequate to insure that the state is not forced to subsidize the project for years 8-25.

This is also the first development to be approved by the BOF contingent upon the developers completing a certain amount of public infrastructure construction by a deadline. The BOF resolution currently states that:

> "The completion of at least Twenty-two Million Dollars ($22,000,000) of the Public Infrastructure in any of TIDD 1 or TIDD 3 (or a combination of expenditures within both of TIDD 1 and TIDD 3), as calculated by total reimbursable cost to Winrock Partners and/or Hunt by June 30, 2015."

If this condition is not met, the developers will receive notice from the Taxation and Revenue Department (TRD) that their increment has been cancelled and that they will have to re-apply to the BOF for a new dedication.

**ALTERNATIVES**

$164 million is too large an amount to be feasibly considered for capital outlay funding and would also provide an enormous subsidy to the developers. The developers could seek additional private funding if they do not receive bonding authority from the legislature. Given current credit conditions however, this option is extremely unlikely for the foreseeable future.

**WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

The developers have stated that a state GRT increment would make up a significant piece of the overall project financing. Without the state increment it is highly unlikely that the project would continue to be developed as currently described in the master development agreement. A project would most likely still take place on the site, as the developers have already spent approximately $49 million on the project, however it would not be of the size and scope of the project currently proposed.

DW/svb:mc

## Comparison Of TIDDs

| | Mesa del Sol | Suncal | Downtown Las Cruces | Winrock/Quorum |
|---|---|---|---|---|
| **Status** | **Active** | **Active** | **Active** | **Active** |
| **Receiving GRT Distribution** | Yes | No | No | n.a. |
| **Amount received YTD** | $ 971,719.33 | n.a | n.a | n.a |
| **# of Districts** | 5 | 9 | 1 | 3 |
| **Governing Entity** | City of Albuquerque | Bernalillo County | City of Las Cruces/Dona Ana County | City of Albuquerque/Bernalillo County |
| **GRT** | 67% | 31% | 75% / 75% of first 1/8th | 70% / 67% |
| **Property Tax** | 67% | 10% | 75% / 75% | 75% / 50% |
| **Governing Board** | 3 City Council<br>Council staff member<br>City staff member | No governing board established | Consists of the City Council and one non-voting member selected by the county commisioners. | 1 City Council Member, 1 County Commision Member, 1 State Member (Represenative Al Park), 1 City Staff Member, and 1 Developer. (There are 2 boards, one for the Quorum district and one for the Winrock Districts. All members are the same except for the developer representative.) |
| **Board of Finance** | Approved - 75% State GRT | Approved for 4 districts - 50% state GRT | Approved - 75% State GRT | TIDD 1 Approved - 57% State GRT, TIDD 2 Approved - 70% State GRT, TIDD 3 Approved 60% State GRT |
| **Legislature** | Bond Authority up to $500 million (HB1088 2007) | SB 249 and HB 470 seek up to $408 million | SCORC Substitute for SB 19 seeks up to $8.0 million | SB 467 seeks up to $164 million |
| **Projected Cost** | $ 635,000,000.00 | $ 629,000,000.00 | $ 12,000,000.00 | $ 164,000,000.00 |
| **Employment** | | | | |
| **Industrial** | 2,937 | 12,423 | 27 | 0 |
| **Commercial** | 5,231 | 6,743 | 449 | 3,054 |
| **Retail** | 3,756 | 1,045 | 538 | 1,898 |
| **Total New Employment** | 11,924 | 20,212 | 1,014 | 4,952 |
| **Capital Outlay Received** | $26 million of capital outlay has been appropriated to finance infrastructure projects relating to various district entities including Schott Solar ($7.5 million), Fidelity Investments ($7.5 million), Equest ($9 million), UNM ($2 million). | | The City has received approximately $4.5 million in capital outlay funds for downtown revitalizations. The City will be requesting a reauthorization of $1.9 million during the 2009 legislative session so that all of the capital outlay funds can be combined and utilized for construction of Main Street. | |
| **Other Incentives** | New Markets Tax Credit (Advent Solar, Albuq Studios)<br>Smart money (Advent Solar)<br>Film production tax credit<br>Renewable Energy Production Tax Credit | | The Unidev Corporation, which is currently the State's master planner for workforce housing, is planning on moving into the proposed TIDD has applied for $24 million in New Market Tax Credit and is expected to reapply. | |
| **State participation** | Master developer for surrounding SLO land<br>UNM 15% participation in house sales | | | |
| **Other participation** | Bernalillo County facility adjacent<br>UNM media center adjacent<br>Journal Pavillion adjacent | Atrisco Land Grant (historical center)<br>Double-eagle and Eclipse adjacent<br>Cordero Mesa business park adjacent | | |