

# CITY of ALBUQUERQUE

## TWENTY FOURTH COUNCIL

COUNCIL BILL NO. O-21-65 ENACTMENT NO. \_\_\_\_\_

SPONSORED BY: Isaac Benton, by request

1 ORDINANCE

2 AUTHORIZING THE ISSUANCE AND SALE OF THE CITY OF ALBUQUERQUE,  
3 NEW MEXICO INDUSTRIAL REVENUE BOND (EL ENCANTO, INC.) SERIES  
4 2021 IN THE MAXIMUM PRINCIPAL AMOUNT OF \$10,000,000 TO PROVIDE  
5 FUNDS TO FINANCE THE EQUIPPING OF A MANUFACTURING FACILITY;  
6 AUTHORIZING THE EXECUTION AND DELIVERY OF AN INDENTURE, LEASE  
7 AGREEMENT, BOND, AND OTHER DOCUMENTS IN CONNECTION WITH THE  
8 ISSUANCE OF THE BOND AND THE PROJECT; MAKING CERTAIN  
9 DETERMINATIONS AND FINDINGS RELATING TO THE BOND AND THE  
10 PROJECT; RATIFYING CERTAIN ACTIONS TAKEN PREVIOUSLY; AND  
11 REPEALING ALL ACTIONS INCONSISTENT WITH THIS ORDINANCE.

12 WHEREAS, the City of Albuquerque (the "City") is a legally and regularly  
13 created, established, organized, and existing municipal corporation of the State  
14 of New Mexico (the "State"); and

15 WHEREAS, pursuant to Sections 3-32-1 through 3-32-16, New Mexico  
16 Statutes Annotated, 1978 Compilation, as amended (the "Act"), the City is  
17 authorized to acquire industrial revenue projects located within the corporate  
18 limits of the municipality for the purpose of promoting industry and trade by  
19 inducing commercial enterprises to locate or expand in the State of New  
20 Mexico; and

21 WHEREAS, pursuant to the Act, the City is authorized to issue revenue  
22 bonds for the purpose of defraying the cost of acquiring any project and to  
23 secure the payment of such bonds, all as provided in the Act; and

24 WHEREAS, El Encanto, Inc., d/b/a Bueno Foods (the "Company") is a  
25 corporation organized under the laws of the State of New Mexico; and

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1 WHEREAS, the Company has requested that the City issue its industrial  
2 revenue bond pursuant to the Act for the purpose of providing funds to finance  
3 the equipping of a manufacturing facility within the corporate limits of the City  
4 (the "Project"); and

5 WHEREAS, the City Council of the City of Albuquerque (the "Council") has  
6 adopted an ordinance establishing the Albuquerque Development Commission  
7 (the "Commission") to review projects proposed to be financed with an  
8 industrial revenue bond pursuant to the Act pursuant to City Resolution No. 16-  
9 1985, as amended; and

10 WHEREAS, the Company has presented to the City and the Commission a  
11 proposal (the "Project Plan") whereby the City shall, pursuant to the Act,  
12 acquire land, buildings and certain equipment (the "Project Property") for the  
13 purpose of constructing and equipping a 25,000 square foot freezer for the  
14 Company's manufacturing operations, within the boundaries of the City, and  
15 pursuant to which the City would issue its industrial revenue bond in order to  
16 finance the Project; and

17 WHEREAS, the Commission has reviewed the Project Plan, and on April 8,  
18 2021, has determined that the Company has complied with City Resolution No.  
19 16-1985, and has recommended approval of the Project Plan by the Council;  
20 and

21 WHEREAS, the Council has adopted Resolution No. R-21-149 declaring,  
22 among other matters, the Councils intent to take all necessary and advisable  
23 steps to effect the issuance of the Bonds; and

24 WHEREAS, under the Company's Project Plan, the City would enter into an  
25 Indenture dated as of July 1, 2021 (the "Indenture") between the City and  
26 Wells Fargo, N.A., as trustee (the "Trustee"), pursuant to which, together with  
27 this ordinance (the "Bond Ordinance"), the City would issue its bond designated  
28 as the City of Albuquerque, New Mexico Industrial Revenue Bond (El Encanto,  
29 Inc. Project), Series 2021 (the "Bond"); and

30 WHEREAS, under the Company's Project Plan, the City and the Company  
31 would enter into a Lease Agreement dated as of July 1, 2021 (the "Lease"),

1 pursuant to which the Company will lease the Project Property from the City  
2 and will make payments to the Trustee sufficient to pay the principal of,  
3 redemption premium, if any, and interest on the Bond, and to pay all other  
4 obligations incurred pursuant to the provisions of the Lease and the Bond  
5 Ordinance; and

6 WHEREAS, under the Company's Project Plan, the Lease will provide that the  
7 Company shall maintain the Project and carry all proper insurance with respect  
8 thereto; and

9 WHEREAS, the proceeds of the Bond shall be used for the purpose of  
10 financing the acquisition of the Project (the "Financing"); and

11 WHEREAS, the City is authorized to enter into the Lease, the Indenture, and  
12 other related documents and to issue the Bond pursuant to the Act and the  
13 Bond Ordinance; and

14 WHEREAS, Wells Fargo Bank, N.A. (the "Purchaser") is expected to offer to  
15 purchase the Bonds at a private sale pursuant to a Continuing Covenant  
16 Agreement to be entered between the Company and the Purchaser; and

17 WHEREAS, the proceeds of the Bond shall be applied to pay the costs of the  
18 Project and to pay certain costs associated with the transaction; and

19 WHEREAS, after having considered the provisions of the Project Plan and the  
20 Financing, the Council has concluded that it is in the best interest of the City to  
21 authorize the issuance of the Bond to finance the Project, and that the City's  
22 issuance of the Bond shall constitute a valid public purpose under the Act; and

23 WHEREAS, the Council has been advised by the Company that the disclosure  
24 provisions of Rule 15c2-12 of the Securities and Exchange Commission are not  
25 applicable to this transaction inasmuch as the Bond is being sold to the  
26 Purchaser in a private sale without the participation of an underwriter; and

27 WHEREAS, there has been published in the Albuquerque Journal, a  
28 newspaper of general circulation in the City, public notice of the Council's  
29 intention to adopt this Bond Ordinance, which notice contained certain  
30 information concerning the ownership, purpose, location and size of the Project  
31 and the Project Property, and the amount of the Bond to be issued to finance

1 the Project, which notice was published at least fourteen (14) days prior to  
2 hearing and final action on this Bond Ordinance; and

3 WHEREAS, the proposed forms of the following documents have been filed  
4 with the City Clerk and presented to the Council: (1) Project Plan; (2) Lease; (3)  
5 Indenture; and, (4) a Tax Regulatory Agreement among the Company, the City  
6 and the Trustee (collectively the "Bond Documents"); and

7 WHEREAS, the City has delivered notice to the County of Bernalillo, State of  
8 New Mexico, of its intent to consider issuance of the Bond, which notice was  
9 given at least thirty (30) days prior to the meeting at which final action is to be  
10 taken on this Bond Ordinance as required by Section 3-32-6.1, New Mexico  
11 Statutes Annotated, 1978 Compilation, as amended.

12 BE IT ORDAINED BY THE COUNCIL, THE GOVERNING BODY OF THE CITY OF  
13 ALBUQUERQUE:

14 Section 1. RATIFICATION. All actions not inconsistent with the  
15 provisions of this Bond Ordinance previously taken by the Council and the  
16 officials of the City directed toward approval of the issuance and sale of the  
17 Bond and the acquisition and lease of the Project Property, including without  
18 limitation, the publication of notice as set forth above, and the submittal to the  
19 State Board of finance of an application for an allocation of private activity  
20 volume cap for the purpose of qualifying the Bonds as "qualified small issue  
21 bonds" under Section 144(a) of the Internal revenue Code of 1986, as amended  
22 and treasury Regulations promulgated thereunder (the "Code") are hereby  
23 ratified, approved and confirmed.

24 Section 2. THE PROJECT PLAN. The Project to be financed with the  
25 Bond consists of the acquisition of equipment to be used at the Company's  
26 facility. The Company may use additional available money to accomplish the  
27 Project. The Project Plan is hereby approved in all respects.

28 Section 3. FINDINGS.

29 (A) General. The Council hereby declares that it has considered all  
30 relevant information presented to it relating to the Bond and the Project and  
31 hereby finds and determines that the issuance of the Bond pursuant to the Bond

1 Ordinance and the Act to provide funds for the Project is necessary and  
2 advisable and in the interest of  
3 the public, and will promote the public health, safety, morals, convenience,  
4 economy, and welfare of the City and the residents of the City.

5 (B) The Council, after having conducted a public hearing, after  
6 reasonable notice in accordance with Section 147(f) of the Code, finds that:

- 7 (1) The Bond will be issued for the purpose of financing the Project;  
8 (2) The maximum aggregate face amount of obligations to be  
9 issued for the purpose of financing the Project is \$10,000,000 and  
10 the maximum face amount of "qualified private activity bonds" within  
11 the meaning of the Code to be issued with respect to the Project  
12 Property is \$10,000,000;  
13 (3) The developer and operator of the Project is the Company; and,  
14 (4) The Project Property is located in the City at 2001 4<sup>th</sup> Street SW  
15 in Albuquerque, New Mexico.

16 Section 4. AUTHORIZATION AND APPROVAL OF THE BOND. To finance  
17 the cost of acquiring the Project Property, the City hereby authorizes and  
18 approves the issuance and sale of its industrial revenue bond to be  
19 designated "City of Albuquerque, New Mexico Industrial Revenue Bond (El  
20 Encanto, Inc. Project), Series 2021" in one or more series in the principal  
21 amount of \$10,000,000 and the use of the proceeds of the Bond to finance the  
22 cost of the Project and to pay expenses relating thereto.

23 Section 5. SALE OF THE BOND. The sale of the Bond to the Purchaser at  
24 a purchase price equal to the par amount of the Bond is hereby authorized and  
25 approved.

26 Section 6. FORM AND TERM OF THE BOND. Subject to the limitations  
27 set forth in this Bond Ordinance, the Bond shall be: (i) in the form and shall be  
28 numbered and dated all as set forth in the Indenture; (ii) payable as to  
29 principal and interest, and subject to optional and mandatory redemption and  
30 defeasance in the amounts, upon the conditions and at the times and prices  
31 set forth in the Indenture; and, (iii) issued in the principal amount of up to  
32 \$10,000,000, bearing interest at the rates and maturing on the dates set forth in

1 the Indenture. The interest rate on the Bond shall not exceed 12% per annum.  
2 The Mayor or the Chief Administrative Officer of the City shall sign the Bond.

3 Section 7. AUTHORIZATION OF OFFICERS; APPROVAL OF  
4 DOCUMENTS.

5 The form, terms, and provisions of the Bond Documents in the form on deposit  
6 in the office of the City Clerk are in all respects approved, authorized, and  
7 confirmed, and the City shall enter into such Bond Documents substantially in  
8 the form of each such document on deposit with the City Clerk, with only such  
9 changes as are not inconsistent with this Bond Ordinance or such other changes  
10 as may be approved by supplemental resolution of the Council.

11 (A) The Council authorizes the Mayor or the Chief Administrative Officer  
12 of the City to execute and deliver the Bond Documents in the name and on  
13 behalf of the City, and the Council authorizes the City Clerk or Deputy City  
14 Clerk to attest to, as necessary, the Bond Documents and the Bond with such  
15 changes therein as are not inconsistent with this Bond Ordinance.

16 (B) The Mayor, Chief Administrative Officer, Chief Financial Officer, City  
17 Treasurer and City Clerk are further authorized to execute, authenticate and  
18 deliver such certifications, instruments, documents, letters and other  
19 agreements, including security agreements as may be presented by the  
20 Purchaser and/or the Trustee or other lenders, and to do such other acts and  
21 things, either prior to or after the date of delivery of the Bond, as are necessary  
22 or appropriate to consummate the transactions contemplated by the Bond  
23 Documents.

24 (C) The officers of the City shall take such action as is necessary to  
25 effectuate the provisions of the Indenture and shall take such action as is  
26 necessary in conformity with the Act and this Bond Ordinance to finance the  
27 costs of the Project and for carrying out other transactions as contemplated by  
28 this Bond Ordinance and the Bond Documents including, without limitation, the  
29 execution and delivery of any closing documents to be delivered in connection  
30 with the sale and delivery of the Bond. Wells Fargo, N.A. is hereby appointed  
31 Trustee as further provided in the Indenture.

Section 8. DELIVERY OF THE BOND. Upon the execution of the Bond Documents and the satisfaction of the conditions set forth in the Bond Documents, the Bond shall be executed, authenticated, and delivered to the Purchaser. No Bond shall be valid for any purpose until such Bond has been properly authenticated as set forth in the Indenture.

Section 9. FINDINGS REGARDING PAYMENT OF PRINCIPAL AND INTEREST AND OTHER MATTERS. The Council makes the following determinations and findings in accordance with the Act:

(A) The maximum amount necessary in each year to pay the principal of and interest on the Bond, assuming issuance of the Bond as of \_\_\_\_\_, 2021 in the amount of \$10,000,000 and bearing interest at the rate of no more than \_\_\_\_\_ is as follows:

<u>Year Ended</u>	<u>Maturing Principal</u>	<u>Interest Amount</u>	<u>Total Debt Service</u>
12/31/20	-\$0-	\$1,440,000	\$1,440,000
12/31/21	-\$0-	\$1,440,000	\$1,440,000
12/31/22	-\$0-	\$1,440,000	\$1,440,000
12/31/23	-\$0-	\$1,440,000	\$1,440,000
12/31/24	-\$0-	\$1,440,000	\$1,440,000
12/31/25	-\$0-	\$1,440,000	\$1,440,000
12/31/26	-\$0-	\$1,440,000	\$1,440,000
12/31/27	-\$0-	\$1,440,000	\$1,440,000
12/31/28	-\$0-	\$1,440,000	\$1,440,000
12/31/29	-\$0-	\$1,440,000	\$1,440,000
12/31/30	-\$0-	\$1,440,000	\$1,440,000
12/31/31	-\$0-	\$1,440,000	\$1,440,000
12/31/32	-\$0-	\$1,440,000	\$1,440,000
12/31/33	-\$0-	\$1,440,000	\$1,440,000
12/31/34	-\$0-	\$1,440,000	\$1,440,000
12/31/35	-\$0-	\$1,440,000	\$1,440,000
12/31/36	-\$0-	\$1,440,000	\$1,440,000
12/31/37	-\$0-	\$1,440,000	\$1,440,000
12/31/38	-\$0-	\$1,440,000	\$1,440,000

1           12/31/39                   \$36,000,000           \$1,440,000           \$37,440,000

2

3           (B)    The terms under which the Project Property is leased provide that the  
4   Company shall maintain the Project Property and carry all proper insurance (or  
5   self-insure) with respect to the Project Property.

6           (C)    The lease rentals payable under the Lease shall be at least sufficient to  
7   pay the principal and interest payments on the Bond set forth in Paragraph (A)  
8   of this Section 9 when due and otherwise render the financing of the acquisition  
9   of the Project Property entirely self-liquidating.

10   There shall be no payments to any reserve fund or sinking fund installment  
11   payments.

12           Section 10. NON TAXABLE TRANSACTION CERTIFICATES. The Company,  
13   as agent for the City, will acquire the Project. The City will cooperate with the  
14   Company to obtain and allow use of Type 9 Nontaxable Transaction  
15   Certificates ("Certificates") that have been properly executed for acquisition of  
16   tangible personal property relating to the Project as applicable under the New  
17   Mexico Gross Receipts and Compensating Tax Act. The Company shall not  
18   use the Certificates other than for such things as may be permitted by law, if  
19   any, nor shall the Company use such Certificates after the completion of the  
20   Project. No costs, expenses or other monetary relief will be recoverable from  
21   the City by vendors of equipment.

22           Section 11. LIMITED OBLIGATIONS. The Bond shall be a special limited  
23   obligation of the City payable solely from the revenues derived from the Lease  
24   and payable by the Company as described in the Indenture, and shall never  
25   constitute a debt or indebtedness of the City or the State or any political  
26   subdivision thereof within the meaning of any provision or limitation of the  
27   State Constitution, statutes, or home-rule charter of the City, and shall not  
28   constitute or give rise to a pecuniary liability of the City or a charge against its  
29   general credit or taxing power. Nothing contained in the Bond Ordinance or  
30   the Bond Documents, or any other instrument, shall be construed as  
31   obligating the City (except with respect to the Project Property and the  
32   application of the revenues therefrom and the proceeds of the Bond, all as



1 provided in the Bond Documents), nor as incurring a pecuniary liability or  
2 charge upon the general credit of the City or against its taxing power, nor shall  
3 the breach of any agreement contained in the Bond Ordinance, the Bond  
4 Documents, the Bonds, or any other instrument be construed as obligating the  
5 City (except with respect to the Project Property and the application of  
6 revenues therefrom and the proceeds of the Bond all as provided in the Bond  
7 Documents) nor as incurring a pecuniary liability or a charge upon the general  
8 credit of the City or against its taxing power, the City having no power to pay  
9 out of its general funds, or otherwise contribute any part of the costs of  
10 acquiring the Project Property, nor power to operate the Project as a business  
11 or in any manner except as lessor and seller of the Project Property.

12 Section 12. APPROVAL OF INDEMNIFICATION. The Council specifically  
13 approves the provisions of the Lease relating to indemnification which provide  
14 that the Company shall indemnify and hold harmless the City and its City  
15 Councilors, officials, members, officers, employees, and agents against  
16 liability to the Company or to any third parties that may be asserted against  
17 the City, its City Councilors, officials, members, officers, employees, and  
18 agents with respect to the City's ownership of the Project Property or the  
19 issuance of the Bond and arising from the condition of the Project Property or  
20 the acquisition or operation of the Project Property by the Company, except to  
21 the extent that Section 56-7-1, New Mexico Statutes Annotated, 1978  
22 Compilation, as amended, applies, and except claims for any loss or damage  
23 arising out of or resulting from the gross negligence or willful misconduct of  
24 the City or any official, member, officer, employee, or agent of the City.

25 Section 13. ELECTION UNDER INTERNAL REVENUE CODE SECTION  
26 144(a). The City hereby makes the election provided in Section 144(a)(4)(A) of  
27 the Code to have the \$10,000,000 limitation in that Section apply to the Bonds.  
28 The City shall submit an appropriate statement and any necessary  
29 supplemental statement to the Internal Revenue Service setting forth the  
30 information required by Section 149(e)(2) of the Code, which statement shall  
31 be prepared by or on behalf of the Company and based solely on the relevant  
32 information provided by the Company.

1       Section 14. **BOND ORDINANCE IRREPEALABLE.** After the Bond is issued,  
2 this Bond Ordinance shall be and remain irrepealable until the Bond, including  
3 all interest thereon, is fully paid, cancelled, and discharged, or until there has  
4 been defeasance of the Bond in accordance with the Indenture.

5       Section 15. **SEVERABILITY.** If any section, paragraph, clause or provision  
6 of this Bond Ordinance shall for any reason be held to be invalid or  
7 unenforceable, the invalidity or unenforceability of that section, paragraph,  
8 clause, or provision shall not affect any of the remaining provisions of this  
9 Bond Ordinance.

10       Section 16. **REPEALER.** All by-laws, ordinances, resolutions, and orders,  
11 or parts thereof, inconsistent with this Bond Ordinance are repealed by this  
12 Bond Ordinance but only to the extent of that inconsistency. This repealer  
13 shall not be construed to revive any by-law, ordinance, resolution, or order, or  
14 part thereof, previously repealed.

15       Section 17. **RECORDING; AUTHENTICATION; PUBLICATION; EFFECTIVE**  
16 **DATE.** This Bond Ordinance, immediately upon its final passage and  
17 approval, shall be recorded in the ordinance book of the City, kept for that  
18 purpose, and shall be there authenticated by the signature of the Mayor and  
19 the presiding officer of the City Council, and by the signature of the City Clerk  
20 or any Deputy City Clerk, and notice of adoption thereof shall be published  
21 once in a newspaper that maintains an office in, and is of general circulation  
22 in, the City, and shall be in full force and effect five (5) days following such  
23 publication.

24       Section 18. **GENERAL SUMMARY FOR PUBLICATION.** The title and  
25 general summary of the subject contained in the Bond Ordinance shall be  
26 published in substantially the following form:

27                   CITY OF ALBUQUERQUE, NEW MEXICO

28                   NOTICE OF ADOPTION OF ORDINANCE

29       Notice is hereby given of the title and of a general summary of the subject matter  
30 contained in City Ordinance \_\_\_\_\_ (the "Ordinance"), duly adopted and approved  
31 by the City Council of the City of Albuquerque, New Mexico, on \_\_\_\_\_, 2021.  
32 Complete copies of the Ordinance are available for public inspection during the  
33 normal and regular business hours of the City Clerk in the office of the City Clerk,

1 Albuquerque/Bernalillo County Government Center, One Civic Plaza, N.W.,  
2 Albuquerque, New Mexico.

3 The title of the Ordinance is:

4 AUTHORIZING THE ISSUANCE AND SALE OF THE CITY OF ALBUQUERQUE, NEW  
5 MEXICO INDUSTRIAL REVENUE BOND (EL ENCANTO, INC.) SERIES 2021 IN THE  
6 MAXIMUM PRINCIPAL AMOUNT OF \$10,000,000 TO PROVIDE FUNDS TO FINANCE  
7 THE EQUIPPING OF A MANUFACTURING FACILITY; AUTHORIZING THE EXECUTION  
8 AND DELIVERY OF AN INDENTURE, LEASE AGREEMENT, BOND PURCHASE  
9 AGREEMENT, THE BOND, AND OTHER DOCUMENTS IN CONNECTION WITH THE  
10 ISSUANCE OF THE BOND AND THE PROJECT; MAKING CERTAIN DETERMINATIONS  
11 AND FINDINGS RELATING TO THE BOND AND THE PROJECT; RATIFYING CERTAIN  
12 ACTIONS TAKEN PREVIOUSLY; AND REPEALING ALL ACTIONS INCONSISTENT  
13 WITH THIS ORDINANCE.

14 The title sets forth a general summary of the subject matter contained in the  
15 Ordinance.

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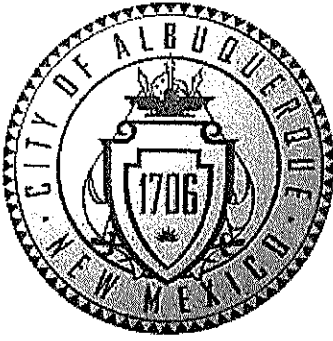
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**CITY OF ALBUQUERQUE**  
**Albuquerque, New Mexico**  
**Office of the Mayor**

Mayor Timothy M. Keller

**INTER-OFFICE MEMORANDUM**

May 14, 2021

**TO:** Cynthia Borrego, President, City Council

**FROM:** Timothy M. Keller, Mayor

**SUBJECT:** Approving an Ordinance Involving El Encanto Inc. Project, Tax-Exempt Series 2021 Project Pursuant to the Industrial Revenue Bond Act (IRB-21--2)


Attached for your consideration and approval is an Ordinance Involving El Encanto Inc. Project, Pursuant to the Industrial Revenue Bond Act (IRB-21--2).

El Encanto, Inc., d/b/a Bueno Foods (the "Company"), plans to invest \$10,000,000 in construction of a 25,000-square-foot freezer warehouse adjacent to its existing 110,000-square-foot manufacturing facility. This addition will allow the Company to increase its frozen foods sales in new and expanded markets outside of New Mexico. The Company is pursuing industrial revenue bonds to fund this project. (The Company also is requesting assistance from the State for LEDA funds in the amount of \$500,000, for which the City would act as fiscal agent. The LEDA transaction is not under review as part of this process.).

This project will create 49 full-time equivalent jobs over a six-year period. It will also add 80 to 100 construction jobs for approximately nine months, 80% of which are expected to be filled from the Albuquerque area. Construction employees hired from outside the Albuquerque area will contribute revenue to the lodging and restaurant industries. The 49 full-time jobs are in addition to the Company's current 286 full-time employees. The current facility, which will be linked to the new freezer, manufactures New Mexican foods such as tortillas, dried chile and spices, frozen green and red chile, and frozen prepared foods. The existing freezer warehouse space for the storage of frozen finished goods and raw materials is not sufficient for the company's production volume.

The property located in the South Barelás Industrial Park at 2001 4th St. SW.


Approved:

 5/17/21  
\_\_\_\_\_  
Sarita Nair Date  
Chief Administrative Officer

Approved as to Legal Form:

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Esteban A. Aguilar, Jr. Date  
City Attorney

Recommended:

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Synthia Jaramillo Date  
Director

## **Cover Analysis**

### **1. What is it?**

This is an ordinance for the issuance and sale of industrial revenue bonds in the maximum principal amount of \$10,000,000 for the El Encanto, Inc. d/b/a Bueno Foods Project. The property located in the South Barelás Industrial Park at 2001 4th St. SW. El Encanto, Inc. (the “Company”) is solely responsible for repaying the bonds; no City/taxpayer funds are involved.

Council passed an Inducement Resolution (R-21-149) for this project on April 19, 2021. The inducement was necessary for the Company to schedule a hearing before the State Board of Finance (SBOF). This step is required for tax-exempt bonds. The Company’s project will be heard at the May 18, 2021 SBOF meeting.

The Company plans to invest \$10,000,000 in construction of a 25,000-square-foot freezer warehouse adjoining their existing 110,000-square-foot manufacturing facility. The company is pursuing tax-exempt industrial revenue bonds to fund this project. The company also is requesting assistance from the State for LEDA funds in the amount of \$500,000, for which the City would act as fiscal agent. This addition will allow the company to increase its frozen foods sales in new and expanded markets outside of New Mexico.

### **2. What will this piece of legislation do?**

It allows for the issuance and sale of industrial revenue bonds in the maximum principal amount of \$10,000,000, entitled “City of Albuquerque, New Mexico Industrial Revenue Bonds (El Encanto, Inc. Project), Tax-Exempt Series 2021”.

### **3. Why is this project needed?**

This project will create 49 full-time equivalent jobs over a six-year period. It will also add 80 to 100 construction jobs for approximately nine months, 80% of which are expected to be filled from the Albuquerque area. Construction employees hired from outside the Albuquerque area will contribute revenue to the lodging and restaurant industries. The 49 full-time jobs are in addition to the Company’s current 286 full-time employees.

### **4. How much will it cost and what is the funding source?**

There is no cost to the City.

### **5. Is there a revenue source associated with this contract? If so, what level of income is projected?**

No. There is no direct revenue to the City.

### **6. What will happen if the project is not approved?**

If the Company is not able to continue to expand, the result would be loss of new jobs, a loss of revenue and a much slower growth schedule. The Company would not be able to realize its planned

growth because of the limited capacity of their current facilities and the lack of adequate freezer facilities.

**7. Is this service already provided by another entity?**

No.

IRB 21-2: Bueno Foods Project

**ALBUQUERQUE DEVELOPMENT COMMISSION**  
**Industrial Revenue Bond Hearing**

**March 11, 2021**

Case #2021-6

**IRB 21-2:** Bueno Foods Project

**REQUEST:** Approval of \$10,000,000 in City Industrial Revenue Bonds is requested.

**PROJECT SUMMARY:** Bueno Foods is a 70-year-old local company, located in the South Barelás Industrial Park at 2001 4<sup>th</sup> St. SW in Albuquerque. Bueno Foods plans to invest \$10,000,000 in construction of a 25,000-square-foot freezer warehouse adjacent to its existing 110,000-square-foot manufacturing facility. This addition will allow Bueno Foods to increase its frozen foods sales in new and expanded markets outside of New Mexico. The company is requesting \$10,000,000 in Industrial Revenue Bonds assistance to be used to fund this project. City IRBs are issued to support eligible economic development projects that meet established policies and plans. The company is responsible for funding the purchase of the bonds; no City funds are utilized to purchase or pay off the bonds, and no City credit is used to enhance the bonds.

(The company also is requesting assistance as a Local Economic Development Act—LEDA—project, but that will be analyzed separately.) This project will create 49 full-time equivalent jobs over a five-year period. It will also add 80 to 100 construction jobs for approximately nine months, 80% of which are expected to be filled from the Albuquerque area. Construction employees hired from outside the Albuquerque area will contribute revenue to the lodging and restaurant industries. The 49 full-time jobs are in addition to the current 286 full-time employees.

The proposed project would be constructed on vacant land at 2001 4<sup>th</sup> St. SW, which Bueno Foods owns. The site is in an industrial area in proximity to a wholesale refinery and a granite warehouse. The current facility, which will be linked to the new freezer, is in use to manufacture New Mexican foods, such as tortillas, dried chile, and spices, frozen green and red chile, and frozen prepared foods. The existing freezer warehouse space for the storage of frozen finished goods and raw materials is not sufficient for the company's production volume. The expansion of the facility would not require a change in zoning from its current non-residential, general manufacturing designation (NR-GM). There are also no particular environmental impacts associated with this project.

The majority of the 49 new employee positions range from production line workers and technicians, to professionals with an average annual salary of over \$117,000. The production positions' annual salary is \$25,000 to \$40,000. All 49 jobs are considered full-time, with full employee benefits. Employee benefits offered by Bueno Foods include paid time off (PTO), paid holidays, a group health plan, a dental and vision discount plan, basic life and AD&D insurance, a 401(k) retirement plan with employer match, funeral leave, long-term disability for managers, company discounts on product purchases, credit union and membership banking services, and a tuition reimbursement program.

The company is exploring the State's Job Training Incentive Program as an option for training its employees. The company expects to spend approximately \$10 million on construction and



## IRB 21-2: Bueno Foods Project

improvements and expects to work with local contractors. The company also expects to continue to spend at least \$30 million on local goods and services annually.

The State of New Mexico and its local governments are empowered to offer discretionary incentives to companies that support economic development projects that foster, promote, and enhance local economic development efforts. The City has long focused its industrial revenue bond program around industries and companies that are considered “economic-base”:

Economic Base: Fifty-one percent or more of the revenues of the New Mexico operation are generated outside the Albuquerque Metropolitan Statistical Area. Revenues generated by contracts with Federal entities are considered to be from outside the metropolitan area. This requirement does not apply to educational or health care facilities seeking industrial revenue bonds. Credit also may be assigned to those projects that represent significant “import-substitution”. Import substitution occurs when a manufacturer or supplier of services provides products or services to a local customer base which currently has to purchase those products or services from outside of the area.

More specifically, New Mexico municipal IRB legislation specifically identifies “projects” as land, buildings, equipment, and improvements that are suitable for use by any of the following:

1. any business in which all or part of the activities of the business involve the supplying of services to the general public or to governmental agencies or to a specific industry or customer but does not include establishments primarily engaged in the sale of goods or commodities at retail;

The IRB application, as shown in Exhibit 1, provides details of the project and the number and types of jobs to be created.

This project includes a fiscal impact analysis prepared by the University of New Mexico’s Bureau of Business and Economic Research (BBER). The fiscal impact determination of the project is from information the company provided. The analysis shows that the company will be making a substantive contribution to the community, and that the City could realize a positive tax benefit with this project over the life of the bonds.

The project plan as shown in Exhibit 1 provides details of the project.

## **FINDINGS:**

1. IRB 21-2 is a qualified project as defined by the State’s Industrial Revenue Bond Act and the City enabling legislation (Resolution R-196, Sixth Council (126-1985) as amended by Resolution 350 Sixth Council; and
2. IRB 21-2 would make positive substantive contributions to the local economy and community by creating 49 jobs; and
3. IRB 21-2 will continue the company’s over seven-decade legacy in Albuquerque; and
4. IRB 21-2 would comply with the adopted City plans and policies, and meet community economic development priorities and objectives; and

## IRB 21-2: Bueno Foods Project

5. IRB 21-2 would adequately meet the evaluation criteria established by the City for Industrial Revenue Bond Act projects, including the requirement that the City recoup the value of its investment over the term of the bonds.

**PROJECT ANALYSIS:** The project, as proposed in the project application, will be analyzed in accordance with the City's IRB project evaluation criteria.

### I. INITIAL QUALIFYING TEST; PASS/FAIL CRITERIA

1.Economic Base Company that meets statutory requirements	Pass
2. Satisfactory initial demonstration of ability to service debt or self-fund purchase of the bonds, or evidence of an acceptable financing commitment.	Pass
3. Conforms to City planning and zoning policies.	Pass/(and Pending)
4. Firm has no outstanding substantive federal, state or local tax issues.	Pass
5. Proposed project complies with all federal, state, and local environmental laws, regulations, and rules.	Pass
6. Jobs created by the project meet or exceed the median wage for similar jobs in the community	Pass
7. Per state requirements, the firm covers 50% of health insurance premiums for employees.	Pass
8. Other additional factors.	
<b>RESULT</b>	<b>PASS</b>

1. Bueno Foods' 55% of revenue sources are to out-of-state customers. Bueno Foods also qualifies under the IRB Act and the City's ordinance as:

a. "any commercial enterprise in storing, warehousing, distributing or selling products of agriculture, mining or industry but does not include facilities designed for the sale of goods or commodities at retail or distribution to the public of electricity, gas, water or telephone or other services commonly classified as public utilities;"

2. The bonds will be a tax-exempt Industrial Revenue Bond. The interest on all New Mexico IRBs is exempt from New Mexico income tax. In order for interest on IRBs to be excludable from gross income for federal tax purposes (i.e., "tax exempt"), numerous other conditions apply. Most commonly, the project must be a manufacturing facility. The principal amount of the bonds cannot exceed \$10 million. Also, no "substantial user" of a manufacturing project (including the company) may make more than \$20 million in capital expenditures (whether or not from proceeds of the IRB) within the boundaries of an issuer in the six-year period beginning three years before the date the bonds are issued and ending three years after the issuance of the bonds. State of New Mexico "cap allocation" for such projects must be obtained

## IRB 21-2: Bueno Foods Project

from the State Board of Finance. Certain other “exempt facilities” enumerated in the tax code also may qualify; however, the issuance of bonds for these purposes in New Mexico is extremely limited. In general, tax exempt IRBs will carry a lower interest rate than similar taxable IRBs, often about 30% lower. However, because of tax provisions that do not allow banks to deduct their “costs of carry” with respect to IRBs, there is generally no interest rate differential between similar “taxable” and “tax exempt” IRBs sold to banks. Interested banks should be consulted for any possible variance from this result. Tax exemption is lost if the IRBs are held by an affiliate of the company.

3. The existing freezer warehouse space for the storage of frozen finished goods and raw materials is not sufficient for the company’s production volume. The expansion of the facility would not require a change in zoning from its current non-residential, general manufacturing designation (NR-GM). There are also no particular environmental impacts associated with this project.

4. Bueno Foods has certified that it has no outstanding substantive federal, state, or local tax issues.

5. The project, in its design, complies with environmental regulations. Permits are required for the renovations and new developments.

6. Jobs for the positions meet or exceed the median wages for similar jobs in the community. The salaries and positions are more fully described in the application.

7. Bueno Foods pays at least 50% percent of the health and dental insurance premiums for its employees.

8. The plant and employment will bring economic growth and opportunities to an impoverished area of the South Valley.

The company has requested the approval of LEDA funds in the amount of \$500,000 from the State, and the City is acting as the fiscal agent, but that will be a separate review and approval process.

## **II. LAND USE, PLAN AND DESIGN ELEMENTS**

### **1. PLAN & ZONING:**

The proposed project would be constructed on owned vacant land at 2001 4<sup>th</sup> St. SW. The project will be built at the convergence of three tracts: A1A1 & B1A of South Barelás Industrial Park, and CA-1-A of Municipal Addition #6. The tracts total approximately 26.3 acres.

The site is zoned for NR-GM under the new Integrated Development Ordinance (zoning code). No changes are anticipated to the external character of the facility. In fact, Bueno Foods will be expanding its existing facility, which has operated successfully at that location for many years.

## IRB 21-2: Bueno Foods Project

As stated in the IDO, “The purpose of the NR-GM zone district is to accommodate a wide variety of industrial, manufacturing, and heavy commercial uses, particularly those with noise, glare, or heavy traffic impacts, in areas separated from Residential and Mixed-use areas and less intense, lighter impact businesses.” Bueno Foods does not have any surrounding residential areas, and has, in fact, few other impacts.

The project also conforms to the City’s Economic Development strategies:

Smart Recruitment, Retention, and Expansion – The Economic Development Department (EDD) is focused on recruiting companies from specific industries that build upon Albuquerque’s existing assets. The EDD supports new enterprise creation, cluster development, and strategic attraction and recruitment of businesses that align with and complement existing strengths.

In addition, New Mexico municipal IRB legislation specifically identifies “projects” as land, buildings, equipment and improvements that are suitable for use by any of the following:

- A. any commercial enterprise in storing, warehousing, distributing or selling products of agriculture, mining or industry but does not include facilities designed for the sale of goods or commodities at retail or distribution to the public of electricity, gas, water or telephone or other services commonly classified as public utilities;

## 2. LAND USE:

Surrounding the existing 110,000-square-foot manufacturing facility are numerous mixed-use developments and warehouse and industrial buildings. The 25,000-square-foot freezer will expand Bueno Foods’ prepared foods processing capabilities and its ability to purchase manufacturing equipment. This will help to improve efficiency and enable Bueno Foods to increase production to meet the increasing demand for its products. As a frozen food manufacturer, freezing and frozen storage is integral to its food processing operation. The additional freezing capacity will allow Bueno Foods to produce all products throughout the year and increase its frozen food sales in new and expanded markets outside of New Mexico.

The post-construction impact on existing industry and commerce is anticipated to be favorable: Approximately \$10 million will be spent on construction and tenant improvements, and the project is expected to be done by local construction companies, infusing capital into the local economy. More detail is provided in the fiscal impact analysis.

## 3. INFILL:

## IRB 21-2: Bueno Foods Project



The 25,000-square foot freezer warehouse project involves connection to an existing building. A map of the area is above. Infrastructure, parking, and utilities are already developed. As mentioned, no extension or relocation of utility or road systems is anticipated. There are adequate utilities and roads to the facility.

#### 4. DESIGN AND CONSERVATION:

A new frozen storage facility, measuring approximately 25,000 square feet, will be built on the site. Construction will be concrete pad, steel frame, and prefabricated insulated freezer panels. No demolition will be required.

Water consumption will not change. Bueno Foods consumes an average of 1.5 million gallons per month during non-peak processing periods. In the peak season, Bueno Foods consumes an average of 8 million gallons per month.

## IRB 21-2: Bueno Foods Project

The operation is in an arid climate, and the company recognizes that water conservation is necessary to the long-term sustainability of the community. Bueno Foods has an aggressive water conservation program even though its production rates continue to increase.

No historic properties are involved.

No individuals, families, or businesses will be displaced by the activities outlined in this plan. The project is to be located within an existing manufacturing facility.

### 5. RENEWABLE ENERGY:

The company will not create or produce renewable energy from the facility.

### 6. DEMOLITION:

The project does not involve demolition of viable buildings.

### 7. RELOCATION:

The project does not require the relocation of individuals or businesses.

## III. ECONOMIC BENEFITS

### 6. COMPETITION:

The only local company that could potentially be considered as competitive with Bueno Foods is Foods of New Mexico. However, Foods of New Mexico is a contract manufacturer, thus not a direct competitor.

### 7. JOBS:

The salaries for the jobs profiled meet or exceed the average for similar positions within the community.

All 49 jobs are considered full-time positions, with employee benefits. Employee benefits include paid holidays, a group health plan, a dental and vision discount plan, basic life and AD&D insurance, and a 401(k) retirement plan with employer match. The company pays at least 50% of the health insurance premiums for employees who opt for its coverage.

These employment classifications, salaries, and benefits are more fully detailed below and attached as an exhibit to the application.

## IRB 21-2: Bueno Foods Project

**Permanent jobs that will be created:**

	<b># of Employees</b>	<b>Average Annual Salary</b>
<b>Production Line</b>	<b>20</b>	<b>24,960.00</b>
<b>Prod Support/Technicians</b>	<b>15</b>	<b>40,092.00</b>
<b>Clerical</b>	<b>5</b>	<b>53,240.00</b>
<b>Sales</b>	<b>5</b>	<b>64,000.00</b>
<b>Professional</b>	<b>4</b>	<b>117,500.00</b>

- 1) Bueno Foods estimates close to 100% of the new permanent jobs will be filled by current Albuquerque residents. No jobs will be relocated from another location.
- 2) As the majority of the anticipated new jobs in the productions support/technicians section will have wages ranging from \$24,000 to \$40,000 per year, there will be a significant benefit to low- and moderate-income residents.
- 3) Yes, the jobs will exceed the median wages for the industry within the community.
- 4) Bueno Foods' new jobs will match the skills of current city residents.
- 5) During the onboarding process, employees receive general company training as well as position-specific training. The duration of the training can vary from one to six months and is based on the specific requirements of the position.
- 6) Bueno Foods provides training to encourage employees to remain with their team and improve their skills. Bueno Foods offers its employees opportunities to expand their skills through lateral movements into different programs, as well as advancement into supervisory and higher-skilled positions.
- 7) Bueno Foods is exploring the Job Training Incentive Program to train new employees.
- 8) Yes, Bueno Foods offers health insurance options to its employees and covers at least 50% of the premiums for employees. Bueno Foods provides benefits valued at 21%-46% of employee salary.

The company anticipates adding annual payroll of more than \$2.1 million. Its current annual payroll is \$11.9 million. After the expansion, Bueno Foods expects that its total payroll will be \$14 million. The estimated annual pay increases will follow the company's trend of approximately 1%-3% per year.

## 8. LOCAL PURCHASES

The company anticipates spending \$10 million on construction and tenet improvements. The annual purchases are estimated at \$30 million per year. From year to year, Bueno Foods has seen consistent growth, and its approximate future growth rate is estimated at 4%.

All project costs will be funded through a bank commitment letter.



IRB 21-2: Bueno Foods Project

#### **IV. PROJECT FEASIBILITY**

##### **9. COST/ FEASIBILITY/ FINANCING:**

As stated above, the company intends to spend approximately \$10 million in a new freezer facility and renovations, with completion and occupancy planned in 2022.

Upon completion of the project, the anticipated appraised value of the freezer facility is \$12 million.

Funding is subject to City Council approval. Bueno Foods intends to use the LEDA funds for the construction of the new facility.

Additional information will be included here when the bond ordinance is sent for adoption.

##### **10. DEVELOPER'S RECORD:**

Bueno Foods will celebrate its 70th anniversary in May 2021. Bueno Foods has been located in the South Barelás Industrial Park since 1984. The company was the first business to locate its operations in this industrial park. Bueno Foods has invested millions of dollars in this economically depressed area of Albuquerque. Over the years it has expanded its operation and increased regional and national sales. More than 55% of its sales are outside of New Mexico, thereby bringing money back into the state economy. Its employment and purchases of goods and services contribute to the local economy.

Bueno Foods customers include retail and food service accounts throughout the Southwest, including Kroger, Walmart, Target, Whole Foods, and other regional and local retail outlets. Food service customers include national, regional, and local restaurants and institutions.

Additional information is available on [www.BuenoFoods.com](http://www.BuenoFoods.com).

##### **11. EQUITY:**

The IRB proceeds will not be used to acquire land, since the lot is owned by Bueno Foods.

Based upon financial information provided, the company appears capable of managing and completing the project.

##### **12. MANAGEMENT:**

That leadership team includes:

Jacqueline "Jackie" Baca, an M.B.A. graduate of the University of New Mexico, has been president since 1986 and in a leadership role since 1979. Jackie started work in the plant at the age of 16 on the production line. She has led the company through three successful expansions and the company's growth outside the New Mexico market.



## IRB 21-2: Bueno Foods Project

Gene Baca, a 1986 graduate of the Harvard School of Law, is senior vice president. He has led the company through two successful expansions. Gene, along with two other members of the chile industry, founded the New Mexico Chile Association. The statewide organization works to preserve the state's \$325 million dollar chile industry, which provides 4,100 jobs. Gene served as its first president and conceptualized the association's purpose and direction. He has served multiple times as president and now serves as vice president.

Catherine Baca, who holds a biology degree and a medical doctorate from the University of New Mexico, and a master's degree in public health from Harvard University, is a pediatrician who brings to the company's food product and workplace a focus on health. She is vice president of technical services and has led the company's research and development since 1989.

Ana Baca, a published author and graduate of Stanford University and the University of New Mexico, is vice president of marketing and communications. She has led the company's marketing efforts since 1995.

Based on the description given in the project plan, management appears to be qualified to manage the project.

### 13. FISCAL IMPACT ANALYSIS

This project includes a fiscal impact analysis prepared by the University of New Mexico's Bureau of Business and Economic Research. The fiscal impact determination of the project is derived from information the company provided. It shows that the project will have a net positive impact on City tax revenues of nearly \$2.95 million dollars over the 20 years of the tax abatement through the IRB.

## V. LEASE AGREEMENT INFO

Information will be provided here once the terms of the agreements are reached and the tax exemption on the bonds confirmed with the State Board of Finance. Standard City protocol regarding reaching and maintaining employment levels, and facility closure language will be included along with the penalties and clawbacks.

The City Council will have another opportunity to review the project before it is finalized for ordinance.

### FINDINGS:

1. IRB 21-2 is a qualified project as defined by the State's Industrial Revenue Bond Act and the City enabling legislation (Resolution R-196, Sixth Council (126-1985) as amended by Resolution 350 Sixth Council; and
2. IRB 21-2 would make positive substantive contributions to the local economy and community by creating 49 jobs; and

## IRB 21-2: Bueno Foods Project

3. IRB 21-2 will continue the company's over seven-decade legacy in Albuquerque; and
4. IRB 21-2 would comply with the adopted City plans and policies, and meet community economic development priorities and objectives; and
5. IRB 21-2 would adequately meet the evaluation criteria established by the City for Industrial Revenue Bond Act projects, including the requirement that the City recoup the value of its investment over the term of the bonds.

### **STAFF RECOMMENDATION:**

Based upon the above findings and subject to successful final determination of performance requirements and penalties, staff recommends approval of IRB 21-2 as proposed in the project plan application.

Economic Development Department

APPLICATION  
for  
INDUSTRIAL REVENUE BOND  
Project Approval

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Name of Project: Bueno Foods Freezer Storage Expansion

Location of Project: 2001 4<sup>th</sup> Street SW, Albuquerque, NM 87102

Company Name: El Encanto, Inc. (dba Bueno Foods)

Contact Person: Jacqueline Baca, President

Address: 2001 4<sup>th</sup> Street SW  
Albuquerque, NM 87102

Telephone: (505) 243-2722

Email: jackie@buenofoods.com

Bond Counsel: Eduardo A. Duffy

Address: 6100 Uptown Blvd., Suite 400  
Albuquerque, NM 87110

Telephone: (505) 883-3376

Bond Amount Requested: \$10,000,000 Fee Submitted: \$2,500

**FOR STAFF USE**

Staff Assigned: \_\_\_\_\_

Case Number: \_\_\_\_\_

Fee Received: \$ \_\_\_\_\_

ADC Hearing Date: \_\_\_\_\_

Council Dates (Tentative): Introduction \_\_\_\_\_

Committee \_\_\_\_\_ Council Hearing \_\_\_\_\_

## PREFACE

This Plan is being submitted to the Development Commission of the City of Albuquerque for review prior to consideration by the City Council of an Inducement Resolution and Ordinance for Industrial Revenue Bonds in accordance with Council Ordinance 12-1985 and Resolution 16-1985. Pursuant to those Council actions this is the first step towards the issuance of bonds pursuant to: the Industrial Revenue Bond Act (Sections 3-32-1 to 3-32-16 NMSA 1978 as amended); or, pursuant to the home rule powers of the City given by Article X, Section 6 of the New Mexico Constitution and the City's Charter.

The Plan contains the information required by City Council Resolution 16-1985 and conforms with and complements the policies established for the issuance of Bonds pursuant to that Council action.

The purpose of the Plan is to identify the project area and to present the plan and the uses to which the proceeds of the Bonds will be put if issued. This Plan is presented to demonstrate to the City of Albuquerque the public benefits of this project and to help the City evaluate its merit in comparison to other projects submitted. The applicant and its agent will endeavor to provide the City any additional information reasonably requested.

## APPLICATION DESCRIPTION

Please prepare the IRB application according to the following outline. Headings must be present and visible and all required information included. Please prepare the information needed for the fiscal impact analysis in the same manner but attached separately from the following outline.

### I. GENERAL DESCRIPTION

Give an overview of the project, including general location, proposed development, use, brief description of the company, and total bond amount requested. Include a statement of the benefit to be gained by the Albuquerque community from this development. The General Description should explain what will be done with the IRB if approved. Note that detailed project information will be included in Project Plan, Section III.

**The Company is located in the South Barelás Industrial Park at 2001 4<sup>th</sup> Street SW in Albuquerque. Bueno Foods plans to invest \$10,000,000 in a new 25,000 square foot freezer warehouse addition to our manufacturing campus, which will allow us to increase our frozen foods sales in new and expanded markets outside of New Mexico. The Company is requesting \$10,000,000 in Industrial Revenue Bonds, and plans to use the proceeds to assist in funding this project.**

**This project will enable us to continue our national expansion and create 49 full time equivalent jobs over a 6 year period, and will also create construction jobs in the city. These 49 full time jobs are in addition to the 283 full time employees that the Company currently has. Bueno Foods continues to support the community through board participation and monetary and product contributions.**

## II. SITE AND EXISTING CONDITIONS

### A. Legal Description

Give both the precise and complete legal description and address or identification of location. (For example: The proposed project is located at 5300 2<sup>nd</sup> Street N.W. The site is more particularly described as Tracts B-1 and C of the Plan of Division of Lands of Mel Sanchez and Lath & Plaster Supply Company, as the same is shown and designated on the plat of said land filed in the office of the County Clerk on April 27, 1979 in Bernalillo County, New Mexico, containing approximately 11.15 acres.)

**The proposed project would be constructed on owned vacant land at 2001 4<sup>th</sup> Street SW. The location will be built at the convergence of 3 tracts: A1A1 & B1A of South Barelas Industrial Park, and CA-1-A of Municipal Addition #6. The 3 tracts total approximately 26.3 acres.**

**We are working with consultants to determine if the tracts should be replatted, for ease of property tax reporting and collateral documentation for the Industrial Revenue Bond.**

### B. Prevailing Site Conditions

Describe the present use and development of the site, including any improvements, vacant land, etc.

**The current facility, which will be adjacent to the new facility, is in use to manufacture New Mexican foods, such as flour and corn tortillas, dried chile & spices, frozen green and red chile, and frozen prepared foods. We have existing freezer warehouse space for the storage of our frozen finished goods and raw materials.**

### C. Present Assessed Value

Give the present assessed value according to the Bernalillo County Assessor's office. You may also list a current appraised value if you feel it will make the post-development value clearer.

**The present assessed value (real and personal property) is \$11,316,856.**

### D. Present and Proposed Zoning; Regulatory Issues

Give the current zoning of the property. If any change in zoning is required for the proposed use, give the proposed new zone. We recommend that zoning changes required be requested before the project plan reaches the Development Commission. Describe any particular permitting or regulatory matters that might be different from general development projects.

**Current zoning is NR-GM: Non-Residential, General Manufacturing. This zoning is appropriate for our use, so there will be no changes necessary.**

**E. Renewable Energy**

Indicate in detail if and how the Project will create, produce or use renewable energy and renewable energy technology.

**This project will not create renewable energy.**

**III. PROJECT PLAN**

**A. Information Concerning Applicant**

Describe the development entity – corporation, syndicate, individual, etc., and give information about the experience of the company or of significant individuals involved in the type of development or industry proposed. Include as an attachment resumes of main principles, or other information which will bear on the experience and credibility of the development entity.

**Bueno Foods is a 70-year-old local company, born and bred in Albuquerque. Since 1951, it has grown from a small family-owned grocery store into one of the Southwest's premier producers of New Mexican and Mexican style foods, founded and continually run by a long-time New Mexican family, the Bacas. Bueno Foods has now been led by the second generation of the Baca family for 40+ years.**

**That leadership team includes:**

**Jacqueline "Jackie" Baca, an M.B.A. graduate of the University of New Mexico, has been president since 1986 and in a leadership role since 1979. Jackie started work in the plant at the age of 16 on the production line. She has led the company through three successful expansions and the company's growth outside the New Mexico market.**

**Gene Baca, a 1986 graduate of the Harvard School of Law, is senior vice president. He has led the company through two successful expansions. Gene, along with two other members of the chile industry, founded the New Mexico Chile Association, a statewide organization that works to preserve the chile industry in New Mexico, a \$325 million dollar industry providing 4100 jobs. Gene served as its first president as well as conceptualizing its purpose and direction. He has served multiple times as president and currently, he is serving again as vice president of the Association.**

**Catherine Baca, who holds a biology degree and an M.D. from University of New Mexico and a master's in public health from Harvard University, is a pediatrician who brings to the company a focus on health to both the food product and the workplace. She is vice president of technical services and has led the company's research and development since 1989.**

**Ana Baca, a published author and graduate of Stanford University and the University of New Mexico, is vice president of marketing & communications. She has led the company's marketing efforts since 1995.**

**Jackie and Gene sit on many community boards that help improve the economic climate in New Mexico including the Federal Reserve - Denver Branch representing northern New Mexico, Think New Mexico, Albuquerque Hispano Chamber of Commerce, New Mexico First, the New Mexico Chile Association and the New Mexico Restaurant Association.**

**Bueno's purpose is to have a positive influence on people's lives through job creation, community involvement and the production of high quality, authentic products. Bueno Foods currently employs about 300 people year-round and up to 400 people during peak seasons.**

**As its payroll and purchases ripple through the economy, Bueno Foods supports secondary businesses and employment. Also, Bueno Foods brings money back home for local reinvestment from its sales outside of the community. Now more than half of Bueno's sales come from outside the state, impacting the local community and the local economy.**

**B. Tax Issues**

Please provide a statement declaring that the applicant has no outstanding substantive federal, state or local tax issues. If, however, there are pending issues, thoroughly describe all issues and their status.

**The Company has no outstanding federal, state, or local tax issues.**

**C. Information Concerning Products and Process**

Identify the products and/or processes involved with this project. Specifically address the question of whether the proposed development will generate air, noise, or waste pollution or traffic congestion. Include any plans for the reduction and disposal of waste and/or project emissions. Describe the general types of traffic patterns expected, and parking needs.

**This development will not generate air, noise or water pollution. The energy source is electric only. This project will decrease highway and road traffic since over 300 truckloads of product will be stored onsite instead of shipping out for storage and return. This saves 600 truckloads of product shipping annually.**

**We recycle approximately 1,400 cubic yards of green chile peel annually, a byproduct of our seasonal green chile production, by providing it to a local composting facility. We recycle all of our grain byproducts, and we pre-treat our industrial waste water by solid waste separators and sediment tanks.**

**Our plant is located on the edge of the largest cottonwood forest in the United States. This forest abuts the Rio Grande River. We have a Storm Water Pollution Prevention Program (SWPPP) in place, employ Best Management Practices (BMP's) and work with the appropriate regulators in this endeavor.**

**D. Competition**

Please describe any competition in the same area of commerce or industry existing in the City. Since the Development Commission and City Council do not wish to make industrial revenue bonds, with their associated tax abatements, available for projects with local competition, this statement is very important.

**Foods of New Mexico is the only known local competitor.**

**E. Effect on Existing Industry and Commerce during and after Construction**

Describe the predicted effects of the project including construction jobs generated, increased employment, increased sales, new industrial base, possible spin-off business, etc.

**The project will add 80 – 100 construction jobs for approximately 9 months, 80% of which are expected to be filled from the Albuquerque area. Construction employees hired from outside the Albuquerque area will contribute revenue to the lodging and restaurant industries. The project will additionally add production capacity making it possible to add 49 permanent jobs over 6 years.**

**In addition, the project will increase capacity and out-of-state sales, as well as purchases of local goods and services.**

**F. Land Acquisition**

Indicate if IRB proceeds will be used to acquire land, and whether land is presently owned by the applicant, or is under option.

**IRB proceeds will not be used to acquire land. The lot is presently owned by El Encanto, Inc.**

**G. Description of Proposed Development**

Provide a detailed description of the Project. Describe the construction to be undertaken in the project, including square footage, construction type, and location of construction on the project site. Indicate whether existing buildings on the site will be rehabilitated or incorporated in the construction, and a description of the type and amount of additional investment planned. Detail any demolition which will be required by the project, and indicate whether demolition involves any identified historic properties. If possible, attach a conceptual site plan and elevation (alternately, these may be presented at the Development Commission hearing).



**A new frozen storage facility, approximately 25,000 square feet, will be built on our site. Construction will be concrete pad, steel frame, and prefabricated insulated freezer panels. No demolition will be required.**

H. Infrastructure

Indicate if Project will require any extension or relocation of utility or road systems. If additional infrastructure is required, what cost sharing agreements have been reached between the applicant and the city or the water utility authority? Are there any needs for substantial additional electric, gas, or communications infrastructure, and how are they being addressed.

**Although the Company's electric power needs will increase, service is already provided to the site. We will need to provide power to the new freezer building, and that expense will be incurred by El Encanto, Inc.**

I. Area Enhancement

Describe how project design, placement and development will enhance the surrounding area.

**As Bueno Foods has done for 40 years, our plant and employment will bring economic growth and opportunities to an impoverished area of the South Valley. We are developing land that is currently vacant, and the building is consistent with the existing facility.**

J. Local Purchasing

Please provide an estimated annual expenditure of goods and services locally procured that are subject to the New Mexico gross receipts tax, and an estimated annual increase in such an expenditure.

**We estimate that our current annual expenditures subject to New Mexico gross receipts tax is \$6.3 million. Our annual purchases total \$30 million. From year to year, we have seen consistent growth, and we approximate our future growth rate at 4%.**

K. Water Conservation

Estimate average daily and monthly water consumption and include any plans for the conservation, reduction or re-use of water.

**Water consumption will not change. Currently, Bueno Foods consumes an average of 1.5M gallons per month in our non-peak processing periods. In our peak season, when we are processing green chile, we consume an average of 8.0M gallons per month.**

**Our operation is in an arid climate and we recognize that water conservation is necessary to the long-term sustainability of our community. We have an aggressive water conservation program even though our production rates continue to increase.**

**We received the Gold Award each year beginning in 2003 until the date the program ended in 2013 from our regional water authority for exceptional source reduction and**

**pollution prevention, and total compliance with the permit discharge limits and reporting requirements. More recently we received the 2016-2017 Award of Excellence for Industrial Pretreatment for outstanding efforts in pollution prevention through waste minimization and effective pretreatment by the Albuquerque Bernalillo County Water Utility Authority.**

**L. Relocation of Individuals or Businesses**

No individuals, families or businesses should be displaced by the activities outlined in this plan. If any relocation is required, detail the assistance the applicant will give in relocation.

**There is no relocation required for this project.**

**M. Number and Types of Jobs Created**

Identify the number and type (i.e., professional, clerical, assembly line, etc.) of permanent jobs which will be created in the project. If any existing jobs are to be retained to the project site, describe separately. Please include the wages of all positions to be created. The following questions must also be answered:

**Permanent jobs that will be created:**

	<b># of Employees</b>	<b>Average Annual Salary</b>
<b>Production Line</b>	<b>20</b>	<b>24,960.00</b>
<b>Prod Support/Technicians</b>	<b>15</b>	<b>40,092.00</b>
<b>Clerical</b>	<b>5</b>	<b>53,240.00</b>
<b>Sales</b>	<b>5</b>	<b>64,000.00</b>
<b>Professional</b>	<b>4</b>	<b>117,500.00</b>

**The expansion project will not only result in the addition of 49 full time jobs over a six year period, but will also allow the company to retain its current employee headcount at 283. While Company management believes that the job projections contained herein, when considered on an overall basis, are reasonable in light of current circumstances, certain business climate, regulatory changes or government actions beyond the Company's control (including, but not limited to legislation enacting increases in minimum wage, mandatory leave and executive orders issued in response to COVID-19) could have a material adverse effect on the Company and its ability to meet the projected job targets presented herein.**

- 1) What percentage of the permanent new jobs is expected to be filled by current Albuquerque area residents, as opposed to people relocated from elsewhere?

**All jobs are expected to be filled by Albuquerque residents.**

- 2) Will jobs benefit low and moderate income residents?

**Most jobs will benefit low and moderate income residents, providing economic opportunities, such as earned wages, benefits, and opportunities for growth and advancement.**

- 3) Will the jobs meet or exceed median wages for the industry within the community?

**Yes.**

- 4) Will the jobs match skills of current city residents?

**Yes.**

- 5) Will new employees be trained to fill the positions?

**Yes. We have a training program for new employees.**

- 6) What stated advancement opportunities are there?

**Bueno Foods offers an aggressive internal promotion program. There are countless examples of internal promotions, based on merit, including many women and minorities.**

- 7) Will "Job Training Incentive Program" or other job training programs be used?

**Yes, if we qualify.**

- 8) Will at least 50% of health insurance premiums be covered for employees?

**Yes.**

N. Corporate Citizenship Policy/Plan

List any company policies/plans regarding the promotion of donations and volunteerism policy.

**Company President, Jacqueline Baca, and Senior Vice President, Gene Baca, sit on many community boards that help improve the economic climate in New Mexico including the Federal Reserve - Denver Branch representing northern New Mexico, Think New Mexico, Albuquerque Hispano Chamber of Commerce, New Mexico First, the New Mexico Chile Association and the New Mexico Restaurant Association. In addition:**

- **The company contributes thousands of dollars to New Mexico's United Way Hispano Philanthropic Society and supports a host of organizations through United Way.**
- **Jacqueline Baca served as the first chairperson for New Mexico's United Way Hispano Philanthropic Society which raises money for causes that will help the most vulnerable in our community.**
- **Bueno Foods supports organizations that serve the most vulnerable in our community including impoverished children and women, the homeless and hungry.**
- **Contributes many thousands of dollars to Catholic Charities of New Mexico.**
- **Regularly donates thousands of dollars of food to local food banks, to centers that feed the homeless and to community organizations for their fundraising activities.**
- **Continually supports many church and community fundraising activities by contributing product, money and volunteers especially for programs that benefit women and children.**
- **Participates in and sponsors local fundraising events for many causes.**

O. Positive Contributions

List all positive contributions that the project will make to the neighborhood.

**Bueno Foods' purpose is to have a positive influence on people's lives through our products and organization. Our company strives to make people's lives better through the opportunities and jobs we provide and through community involvement. From its inception, our company has always believed in giving back to its community. As a home-grown part of its community, we want to make a difference.**

P. Management

Who will manage the project during development? Who will manage the Project's operations? If the project will be managed by someone other than the applicant, does the applicant have any long-range involvement?

**Gene Baca will manage the project development and operations.**

#### IV. PROJECT FINANCING

A. Cost of Improvements, Bond Amount and Private Financing

Provide the total cost of the improvements to be constructed and the amount of bonds requested. The amount requested should be no more than that needed to complete the project in addition to equity or conventional financing. Also provide the amount of private financing (equity or conventional financing) involved in this project; this may include the value of land and existing facilities, if relevant.

**Total cost of the improvements is estimated at \$10,000,000 and we are requesting IRB financing in the amount of \$10,000,000.**

**B.     Estimated Value After Completion**

Indicate the estimated appraised value of the project after completion.

**Total appraised value of the project is estimated at \$12,000,000.**

**C.     Feasibility**

Present information to show that the project can reasonably be expected to generate sufficient revenue to liquidate the debt. This information may be an attached pro forma, and should be sufficiently detailed to show the assumptions on which the projections are based. However, a firm commitment to provide financing for the project will be considered sufficient evidence of feasibility, and no pro forma will be needed in such cases.

**We will provide a commitment letter.**

**D.     Construction Schedule**

Give the date of anticipated beginning and completion of construction.

**We anticipate starting the project in June 2021 and completing it in February 2022.**

**E.     Issuance of Bonds**

Provide the anticipated date of bond issuance or a series of bonds.

**The Company anticipates a bond issuance date of June 30, 2021 for tax-exempt bonds.**

Attachments: Attach to the plan a map location of the project (you may use the base maps from the City Zone Atlas if you wish), and any other information as desired to supplement the plan. If you are attaching glossy or colored printed material, please submit 25 copies.

**Table 1. IRB Analysis: Estimated Tax Revenues for Proposed El Encanto, Inc Project, Including Incremental Tax, Present Value of City Taxes and Net Tax Increment, and Cumulative Net Present Value by Year (2020 dollars)**

	Gross Receipts Taxes (GRT)						Property Tax		Other Taxes	Pre-Abatement Revenues	Foregone			City Costs	Fiscal Impact		
	Company Employees	Indirect and Induced Employees	Company Purchases	Construction	Construction Employees	Utilities	Real (Company)	Personal (Company)			Real Property Tax	Personal Property Tax	GRT		Annual	Present Value	Cumulative
2021	72,047	27,047	759,867	195,456	24,978	513	26,954	100,317	4,586	1,245,474	24,258	90,285	654,708	39,455	436,767	436,767	436,767
2022	75,844	28,596	136,847	-	-	545	25,974	100,209	4,750	372,764	23,376	90,188	92,824	40,867	125,509	123,800	560,567
2023	82,023	31,018	76,870	-	-	548	24,993	89,612	5,063	310,129	22,494	80,651	37,631	43,565	125,788	122,387	682,954
2024	86,139	32,539	78,273	-	-	552	24,013	78,191	5,242	304,950	21,612	70,372	37,631	45,106	130,229	124,983	807,936
2025	88,794	33,553	79,731	-	-	556	23,033	65,947	5,317	296,931	20,730	59,352	37,631	45,748	133,470	126,350	934,286
2026	90,126	34,056	81,248	-	-	560	22,053	52,879	5,317	286,239	19,848	47,591	37,631	45,748	135,421	126,451	1,060,737
2027	91,478	34,567	82,825	-	-	564	21,073	38,987	5,317	274,812	18,966	35,089	37,631	45,748	137,378	126,533	1,187,270
2028	92,850	35,086	84,466	-	-	568	20,093	24,272	5,317	262,651	18,083	21,845	37,631	45,748	139,343	126,596	1,313,866
2029	94,243	35,612	86,172	-	-	572	19,113	23,064	5,317	264,092	17,201	20,758	37,631	45,748	142,754	127,929	1,441,795
2030	95,656	36,146	87,946	-	-	576	18,132	23,064	5,317	266,838	16,319	20,758	37,631	45,748	146,382	129,395	1,571,189
2031	97,091	36,688	89,792	-	-	580	17,152	23,064	5,317	269,684	15,437	20,758	37,631	45,748	150,110	130,884	1,702,073
2032	98,548	37,239	91,711	-	-	584	16,172	23,064	5,317	272,634	14,555	20,758	37,631	45,748	153,942	132,398	1,834,472
2033	100,026	37,797	93,707	-	-	588	15,192	23,064	5,317	275,691	13,673	20,758	37,631	45,748	157,881	133,937	1,968,409
2034	101,526	38,364	95,783	-	-	592	14,212	23,064	5,317	278,858	12,791	20,758	37,631	45,748	161,930	135,503	2,103,912
2035	103,049	38,820	97,941	-	-	596	13,232	23,064	5,317	282,019	11,909	20,758	37,631	45,748	165,973	136,996	2,240,907
2036	104,595	39,282	100,187	-	-	600	12,252	23,064	5,317	285,296	11,026	20,758	37,631	45,748	170,133	138,517	2,379,424
2037	106,164	39,751	102,522	-	-	605	11,272	23,064	5,317	288,694	10,144	20,758	37,631	45,748	174,412	140,068	2,519,493
2038	107,756	40,227	104,950	-	-	609	10,291	23,064	5,317	292,215	9,262	20,758	37,631	45,748	178,815	141,650	2,661,142
2039	109,372	40,711	107,475	-	-	613	9,311	23,064	5,317	295,864	8,380	20,758	37,631	45,748	183,347	143,262	2,804,405
2040	111,013	41,202	110,102	-	-	617	8,331	23,064	5,317	299,646	7,498	20,758	37,631	45,748	188,011	144,907	2,949,312
Total	1,908,340	718,300	2,548,415	195,456	24,978	11,539	352,848	827,183	104,713	6,725,480	317,563	744,464	1,424,895	900,965			

**Gross Receipts Taxes, Company Employees:** Gross receipts taxes on local purchases by new operating personnel employed by applicant.

**Gross Receipts Taxes, Indirect and Induced Employees:** Gross receipts taxes on local spending by those supported by company's purchases of local goods and services and by spending by operating personnel.

**Gross Receipts Taxes, Company Purchases:** Gross receipts taxes on increased company purchases of local goods and services as a result of the project.

**Gross Receipts Taxes, Construction:** Gross receipts taxes on contractor receipts and on local spending by construction workers and those supported indirectly by the project.

**Total Revenues:** Gross receipt tax revenues and other revenues associated with the additional population resulting from the project.

**Foregone Property Taxes:** Property taxes that would have been paid on land, buildings and equipment financed by the IRB. Title to properties financed are held by the City and the properties are exempt from taxes during the life of the bond. There is a minimum Payment in Lieu of Taxes of 5% of the taxes foregone.

**City Costs:** Costs of providing City services and infrastructure to the additional population and additional employment supported by the project. Costs include general fund expenditures, the subsidy for Transit, city street fund expenditures and average spending over past 5 years in the City's Capital Acquisition less that supported by Federal funds or transfers. The cost of services provided by the city is split between businesses (based on employment) and residents (based on additional population).

**Fiscal Impact, Annual:** The annual fiscal impact is the total revenue less the cost for each year of the Industrial Revenue Bond.

**Fiscal Impact, Present Value:** Present value of the stream of annual net fiscal impacts discounted to current values. Here the discount rate is the real rate of interest on GO bonds.

**Fiscal Impact, Cumulative:** The running total of state present value fiscal impacts over the life of the Industrial Revenue Bond, where the last year is the net present value of the Industrial Revenue Bond.

**Company Purchases** includes employer paid health care insurance as well as G&S expenditures.

**Property Tax** includes Real and Personal property for applicant and employees.