

ALAMEDA COUNTY RECOVERY ZONE FACILITY BOND USE CRITERIA AND PLAN

I. Background

The American Recovery and Reinvestment Act of 2009 (ARRA) authorized the issuance of a new type of tax-exempt private activity bonds called Recovery Zone Facility Bonds (RZFBs), to allow designated projects to be financed with lower borrowing costs, promote job creation and economic recovery in areas affected by employment decline.

These tax-exempt private activity bonds are structured and sold just like Industrial Development Bonds (IDBs) – but do not need to meet the more limited use categories of IDBs. These bonds will be issued by the Industrial Development Authority of Alameda County (just as it does for IDBs) on behalf of the business, including any projects approved by the cities in the County that receive allocation.

II. Federal & State Criteria:

Recovery Zone: To be eligible, all projects have to be within Alameda County and eligible expenditures have to be made after January 26, 2010 - the day Alameda County adopted the resolution that designated the entire County as its “Recovery Zone”.

Issuance Deadlines: The ARRA requires that RZFBs be issued/closed before January 1, 2011. However, the State is requiring bond documentation by August 15, 2010 for bonds that will close after that date. That means the project would have to be initiated around **July 20, 2010** in order for the required documents to be processed. Note: This is the State’s attempt to identify and re-allocate any unused allocation, but the required documents (an Inducement Resolution, Public TEFRA Hearing, bank commitment letter and a letter from bond counsel) require about a month to process - bond closing could be done in about a month.

Eligible Users: Any trade or business, *with the exception of* residential rental, golf courses, country clubs, massage parlors, hot tub and suntan facilities, racetracks, facilities primarily used for gambling businesses or any store, the principal business of which is the sale of alcoholic beverages for off-premise consumption.

Eligible Uses: Any depreciable property that:

1. Was acquired after the date of designation of a recovery zone (January 26, 2010);
2. The original use of the equipment or facility must occur within the recovery zone;
3. Substantially all of property must be used by a qualified business in the active conduct of its business;
4. Existing property (facilities) are eligible for purchase, but the land purchase costs need to be financed with equity or taxable bonds, etc.; and
5. Davis-Bacon Act federal prevailing wage requirements for construction projects applies to RZFBs.

III. Alameda County Allocations

Alameda County has been issued a volume cap allocation of **\$8,644,000 for Recovery Zone Economic Development Bonds** and **\$12,966,000 for Recovery Zone Facility Bonds**.

In addition, the four cities in Alameda County received Facility Zone Allocation: Berkeley, \$2,337,000 (did not reserve theirs); Hayward, \$2,750,000; Fremont, \$4,456,000; and Oakland, \$7,581,000.

IV. Credit Worthiness and Size Requirements:

Because these bonds are sold with a bank Letter of Credit guarantee (“publicly” sold facility projects or very large equipment purchases) or smaller equipment only (“private” placement with the bond purchaser (like a leasing company), the business has to qualify for conventional bank financing (that are currently quite stringent) and projects have to be large enough to be feasible.

1. Credit worthiness - The business must be able to meet the “current” credit requirements of a financial institution or bond purchaser that typically are:
 - A. Business has been profitable for the last 2-3 years;
 - B. Existing cash flow is sufficient to accommodate the additional debt service; and
 - C. Able to provide 25-30% equity on facilities and 10% for equipment.
2. Project size - there is a cost effective minimum for bond sales:
 - A. \$2 million minimum for variable rate “public” placements with bank Letters of Credit Minimum
 - B. \$1 million for fixed-rate, shorter-term equipment bonds that are “privately” sold);
 - C. Maximum – the County’s RZFB tax-exempt allocation of \$12,966,000 establishes the maximum of tax-exempt bonds currently available, (though part of the County’s allocation could be used to supplement a City’s allocation), and in any case, a taxable bond may be issued to cover any additional project costs. Usually, the project maximum is determined by how much the bank/bond purchaser is willing to guarantee/purchase.

V. Project Timelines

This bond issuance plan will be submitted by 1/31/2010 and all bonds issued by 8/15/2010 or CDLAC will be notified and provided the required information. The Federal requirement is that the bonds have to be issued before 1/1/2011. Therefore, issuance timelines would likely be:

- 8/6/2009 – Stimulus Ad placement San Francisco Business Times, Commercial Realtors Insert
- 1/26/2010 – Purchases Are Eligible in Alameda County for Recovery Zone financing
- 1/31/2010 – Recovery Zone Plan Delivered to CDLAC
- 2/4/2010 – Stimulus Recovery Zone Facility Bonds (RZFB) and Industrial Development Bonds (IDB) email Update went to 28 previous IDB contacts businesses)
- 3/15/10 – Stimulus Recovery Zone Facility Bonds (RZFB) / (IDB) email information & application form to 1300 business prospects from Harris InfoSource database
- 4/19/2010 – Marketing completed and projects are processed for credit worthiness/qualification
- 5/17/2010 – Alameda County RZFB Application Deadline
- 6/1/2010 – Alameda County Finance Committee Reviews/Selects Projects for Allocation
- 7/1/2010 – Projects submitted to County BOS (TEFRA Hearing) and Industrial Development Authority of Alameda County (Inducement Resolution
- 8/15/2010 – Documents due CDLAC for any projects closing after that date
- 1/1/2011 – All RZFB Bonds closed and items expenditures made

VI. Project Processing Procedures

Like IDBs, Facility Bonds are sold based entirely on the credit and security of the business for which the bond is sold - there are no credit enhancements provided by the local, state or federal government.

1. Staff for Alameda County/East Bay Economic Development Alliance markets the program via website, advertisements and emails
2. Staff "prequalifies" requests for Alameda County Facility Zone allocation, pursuant to federal and bank lending criteria;
3. Staff meets with companies and describing funding options and verifies project qualification;
4. Staff obtains preliminary bank/bond purchase approvals;
5. Staff makes a recommendation to the Alameda County Finance Committee on which projects to finance;
6. Approved projects that are credit worthy are submitted to the Board of Supervisors for Inducement and the Public TEFRA hearing;
7. Bond documents are prepared and CDLAC notified of projects being processed;
8. An Approving Resolution is adopted by the issuing authority, the Industrial Development Authority of Alameda County (which is the Board of Supervisors), for Alameda County and its cities;
9. Bonds are closed within 30-45 days;
10. State and Federal notifications are made.

Staff and the bond team are also available to assist East Bay cities with their Facility Zone allocation in the selection of projects that qualify for bond financing and processing of the bonds.

The IDA of Alameda County may also issue Facility bonds for Alameda County cities, and the bond team can process and arrange the issuance of Facility bonds for Contra Costa cities with allocation.

Once the application has been reviewed, applicants will be advised if the project meets the minimum eligibility requirements. If your project meets the minimum requirements and you desire to pursue financing, you will then be required to submit a timeline of major milestones that will demonstrate that the financing can be completed by December 31, 2010.

Any questions should be addressed to Walt Vennemeyer, Progressive Capital, who is the Financial Advisor of the County's Tax-Exempt bond program.

A Word 2003 and a PDF version of this application and more info on Facility Bonds are available at: www.eastbayeda.org/business_resources_incentives/StimulusRecoveryZoneFacilityBonds.htm

When completed the application should be signed, scanned and e-mailed, mailed or faxed to the following address:

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