

Washington County, Maryland

Recovery Zone Facility Bonds Program

Background:

Under the provisions of the American Recovery and Reinvestment Tax Act of 2009 (ARRA), a new tax-exempt financing option, known as Recovery Zone Facility Bonds (RZFBs) has been made available to help finance private development projects in Washington County. Projects must be located within Washington County's Recovery Zone. (See attached map.) The Recovery Zone, designated by resolution of the Washington County Board of County Commissioners, includes areas of the County with significant poverty, unemployment, rate of home foreclosures or is in general distress. These characteristics are suggested in the language of the ARRA act.

Description and General Requirements:

RZFBs are a new type of tax-exempt private activity bond that can be used by private businesses for depreciable capital projects (e.g., buildings and equipment) for original use in the active conduct of a qualified business in the Recovery Zone. Interest on RZFBs will be tax-exempt to the lender. The general requirements for RZFB issuance are as follows:

1. The bond issue must meet all the tax requirements for tax-exempt "exempt facility bonds" (Code Section 142) with a few important exceptions (e.g., RZFBs are not subject to the prohibition on acquisition of existing property)
2. at least 95% of the proceeds from the sale of RZFBs must be used for "recovery zone property"
3. the bonds must be issued by January 1, 2011; and
4. the issuer, Washington County, must designate the bonds as RZFBs.

Recovery Zone Property:

Recovery Zone property is generally any depreciable property if (1) the property was constructed, reconstructed, renovated or acquired after the date the designation of the Recovery Zone took effect, (2) the original use of the property in the Recovery Zone commences with the

RZFB beneficiary/owner and (3) the use of the property is in the operation of a “qualified business.”

A qualified business is any trade or business except the business of renting residential real property located in the Recovery Zone to others or any of the following uses: private or commercial golf course, country club, massage parlor, hot tub facility, suntan facility, racetrack or other facility used for gambling or any store that sells alcohol for consumption off premises.

Volume Cap Allocation:

The Secretary of the Treasury allocated volume for RZFBs among the states based on each state’s employment decline for 2008. The State of Maryland received \$313,291,000 in volume cap allocation for RZFBs and, of that amount \$13,958,000 has been allocated to Washington County.

Project Selection Process:

Washington County is seeking proposals for projects to make use of RZFBs. Working toward an overall goal of public benefit to Washington County by means of improving the local economy and quality of life for its residents, thereby maximizing the benefits of this financing alternative, the County will prioritize proposed projects based on:

1. The scope and quality of the applicant’s project and the applicant’s previous project experience;

2. the likelihood of successful underwriting and funding of the Facility Bonds based on the strength of the project or the applicant:
 - a. strength of applicant's project based on revenues,
 - b. strength of applicant's equity commitment, and
 - c. identification of committed bond purchases resulting in placement of the Facility Bonds,
3. the degree to which the project is ready to proceed based on such criteria as, but not limited to, the following:
 - a. demonstrated site control,
 - b. receipt of land-use and zoning entitlements and approvals (attach copies if available at the time of the applicant's submission),
 - c. receipt of signed demolition, remediation, or general contracts demonstrating the ability for construction to proceed (attach copies if available at the time of the applicant's submission),
 - d. plans and drawings including concept plans, and
 - e. receipt of building permits required to commence and complete construction (attach copies if available at the time of the applicant's submission);
4. the quality of the proposed project in terms of design, construction, conformity to Washington County's Comprehensive Master Plan and other adopted plans and policies and the project's impact on the surrounding community;
5. readiness to proceed in time to make the bond issuance deadline of January 1, 2011;
6. creation or retention of jobs, stimulation of additional capital investment and the projected general and associated economic benefit for Washington County;
7. location within Washington County's Priority Funding Areas, which are located in economically stressed areas (i.e., areas with high unemployment, high rate of home foreclosures, significant poverty, and generally distressed areas, etc.);

8. having capital requirements of \$3,000,000 or more;
9. having identifiable benefits that stimulate the expanded purchase of goods and services in Washington County; and
10. ability to provide a letter of intent from the project's intended lender.

RZFBs are private activity revenue bonds subject to the credit conditions of the lender/buyer, including collateral and cash flow requirements. RZFBs will not constitute a debt of Washington County or give rise to any financial liability of Washington County.

All proposals for RZFB financing will be reviewed by a special RZFB Taskforce of the Hagerstown-Washington County Economic Development Commission (EDC) and final decisions for RZFB financing will be at the sole discretion of the EDC. Washington County endorsement of the RZFB project list will be by Resolution of the Washington County Board of County Commissioners.

Standards and Controls:

Any review or approvals referenced or to be granted by the EDC pursuant to an applicant's project are on behalf of the Washington County Board of County Commissioners. Approvals granted by the EDC on behalf of the Washington County Board of County Commissioners are in addition to any other local, State, or Federal governmental or regulatory approvals required.

All appropriate provisions of the Zoning Code of County land-use regulations and building/fire codes shall apply to any Qualifying Project proposed pursuant to an applicant's project.

Building design must adhere to all Federal, State, and local ordinances, and the Americans with Disabilities Act.

The selected project's applicant shall be responsible for obtaining, at his/her cost, all permits, zoning appeals, subdivisions, governmental approvals, and engineering and environmental studies, etc., as required to submit an application and for the financing and development of the project. All costs of development, including any costs of appraisals, surveys, legal description and any other typical development "soft costs" shall be borne by the selected applicant.

Public subsidy or public financing in addition to Facility Bond issuance is not anticipated.

Information Session:

The EDC will host an information session on the RZFB program on January 20, 2010 at 9:00am at 100 West Washington Street, Hagerstown, Maryland. This session will include a brief presentation about RZFBs (project eligibility, criteria, timeline of project selection process, etc.) followed by a question and answer session for prospective applicants.

Due Date:

Proposals will be due to the Economic Development Commission by 4:00pm on March 17, 2010.

If Remaining Funds are Available --- Additional Proposals will be accepted on May 12, 2010.

Selection Date:

The RZFB Taskforce will make recommendations to the Board of County Commissioners within 30 days of the Proposal Due Date.

G:\Recovery Zone Bonds\RZFB Document (12/15/09)