

Recovery Zone Facility Bonds, Definition, Uses, Application Process and Selection Criteria

Nature of Bonds. ARRA enables the County to issue Recovery Zone Facility Bonds and to pass along its ability to borrow money on a tax exempt basis for most types of private business activities located in the Recovery Zone. The Recovery Zone was designated as the entirety of Missoula County by the County Commissioners at their September 30, 2009 meeting. The Recovery Zone Facility Bonds will be issued by the County in accordance with the provisions of the Montana Economic Development Bond Act in Title 90, Chapter 5, Part 1 (the “Act”) and applicable provisions of the Treasury Department. Under the Act, the County will issue the Recovery Zone Facility Bonds and loan the proceeds thereof (the “Loan”) to the private borrower (the “Borrower”), who will enter into a loan agreement (the “Loan Agreement”) whereby the Borrower agrees to repay the Loan. The County will assign an interest in the Loan Agreement to the purchaser of the Recovery Zone Facility Bonds, who may require a mortgage on the facility being financed and other security for the Loan. The Recovery Zone Facility Bonds will be special limited obligations of the County; payable solely from the Loan repayments of the Borrower and other security provided by the Borrower and will not give rise to any pecuniary obligation of the County. Neither the County’s credit nor its taxing power will be pledged to the repayment of the Recovery Zone Facility Bonds. The Borrower shall be responsible for securing a purchaser for the Recovery Zone Facility Bonds. All Recovery Zone Facility Bonds must be issued by December 31, 2010.

Types of Eligible Projects. Recovery Zone Facility Bonds can be used for nongovernmental purposes that historically would not qualify for tax-exempt financing; 95% of proceeds (net of any reasonably required reserve funds) must be used for property in the Recovery Zone that is acquired, constructed, reconstructed or renovated after designation of the Recovery Zone. Recovery Zone Facility Bonds cannot be used for residential rental property, private or commercial golf courses and country clubs, massage parlors, hot tub facilities, suntan facilities, racetrack/gambling facilities, or stores whose primary business is the sale of alcohol for consumption off-premise.

Application Procedure. Developers of eligible projects shall request an allocation of the Recovery Zone Facility Bond authority by filing a letter of application with the Chief Financial Officer, which shall include the following information:

- description of the project, including square footage and size of facility;
- street address and legal description;
- estimated costs of the project;
- name and address of owner or developer of the project;
- estimated date of commencement of project; and

- the name, addresses, and contact person for the lender or purchaser of Recovery Zone Facility Bonds.

Evaluation of Application and Criteria for Allocation of Authority.

Criteria. The County will take the following factors into consideration in allocating its Recovery Zone Facility Bonds:

- whether the project would aid or enable the County to accomplish the goals and objectives of preserving and creating jobs and promoting economic recovery;
- whether the developer has sufficient financial resources to undertake the project and complete the closing of the Recovery Zone Facility Bond financing by December 31, 2010;
- whether the developer has firm commitment from a lender to purchase the Recovery Zone Facility Bonds, and under what conditions;
- the number of jobs created during construction of the project;
- the number of long term jobs expected to be available after construction; and
- the need for the project.

Public Hearing; Allocation; Status Report. Allocation of the Recovery Zone Facility Bond authority will be made by the Board after a public hearing on the project as required by the Act and the Internal Revenue Code. As a condition of the allocation, the County will require monthly status reports on the project and the financing arrangements and the County may nullify the allocation if the Commission determines that a particular project is not likely to successfully complete the financing by the deadline.

County Fees for Recovery Zone Facility Bonds. The County hereby imposes an administrative fee of \$5,000 to cover a portion of the County's staff time in processing the sale and issuance of Recovery Zone Facility Bonds. An application or request for the issuance of Recovery Zone Facility Bonds shall be accompanied by a check in the amount of \$1,000 made payable to Missoula County, which amount is not refundable. The remaining \$4,000 shall be due and payable at the closing on the Recovery Zone Facility Bonds.

Expenses and Costs. The applicant for Recovery Zone Facility Bonds shall be responsible for paying or reimbursing the County for any out-of-pocket costs incurred in publishing any required notices for public hearings and any other out-of-pocket costs and shall enter into a written agreement with the County to that effect. The applicant shall be responsible for paying all costs associated with the sale and issuance of the Recovery

Zone Facility Bonds, including the costs of the County's Bond Counsel. Such fees and charges may be paid from the proceeds of such bonds, subject to any federal limitations relating to the Recovery Zone Facility Bonds.

Compliance with Wage and Hours Requirements; Montana Labor Preference. The Act requires that contracts for projects financed by Recovery Zone Facility Bonds issued under the Act must give preference to the employment of bona fide Montana residents if their qualifications are substantially equal to those of nonresidents. Contractors on Recovery Zone Facility Bond financed projects must agree to pay the standard prevailing wage rate in effect for the district in which the project is located.

Tax Exempt Bonds versus Taxable Bonds. The interest rate savings utilizing tax exempt financing over taxable financing is approximately 250 basis points or 2.5%. This is a tremendous savings to any private borrower and will depending on the size of the project cover the costs of issuance plus provide additional savings over the life of the borrowing.

Additional Questions. Any additional questions should be directed to Andrew Czorny, County Chief Financial Officer; E-Mail – aczorny@co.missoula.mt.us Phone 258-4919