



ARLINGTON COUNTY, VIRGINIA

**County Board Agenda Item
Meeting of November 14, 2009**

DATE: November 3, 2009

SUBJECT: Designation of Recovery Zone for Purposes of Issuing Recovery Zone Bonds Under the American Recovery and Reinvestment Act (ARRA)

C. M. RECOMMENDATION:

1. Adopt the attached resolution (Attachment 1) designating the County as a Recovery Zone for purposes of issuing certain bonds as authorized by ARRA and allocating the Recovery Zone Facility Bond portion of the County's bond allocation to the Arlington County Industrial Development Authority (IDA) for potential use by a private business.

ISSUE: Should the County Board designate the entire County as a Recovery Zone in order to preserve maximum flexibility to utilize the County's allocation of tax-advantaged bonds under ARRA?

SUMMARY: Designation of the County as a Recovery Zone will allow the County to keep pursuing possible uses for its \$2 million Recovery Zone bond allocation. Under this program, the County or a private business could issue bonds at potentially lower interest rates. Allocation of a portion of the Recovery Zone bond allocation to the IDA is required as under state law, only the IDA, not the County, is authorized to issue bonds on behalf of a private entity.

BACKGROUND: Under ARRA, the County received \$2 million in Recovery Zone Bond allocation. This allocation is not grant funding, rather it allows the County or a private business (through the IDA) to issue bonds at potentially lower interest rates than it otherwise could. The County's allocation was split between two programs:

1. *Recovery Zone Economic Development Bonds* - \$790,000 – these bonds can only be issued for governmental purposes. Bonds would be issued at a taxable interest rate (the County normally issues on a tax-exempt basis), and the County would receive a subsidy from the federal government of 45% of interest, not principal, on the bonds.
2. *Recovery Zone Facility Bonds* - \$1,186,000 – these bonds can only be used for private businesses and for capital investment purposes. The benefit to the private business is that it could borrow at tax-exempt interest rates instead of taxable interest rates. The allowable purposes are somewhat limited; as an example, residential rental housing is not an allowable use.

County Manager: SMD/INTS

County Attorney: SM

Staff: Michelle Cowan, Acting Director, Department of Management & Finance

30.

Under ARRA, jurisdictions had until January 1, 2011 to use their allocations. On September 30, 2009, Governor Kaine issued an Executive Order imposing much stricter time requirements on localities including the following:

- By December 15, 2009 – localities must have designated a Recovery Zone, identified an eligible project, and secured a commitment letter from a bank or underwriter for the bonds. For the Facility Bonds (the bonds that would benefit a private business), the due date is effectively mid-November in order to meet certain other tax law and hearing requirements.
- By March 15, 2010 – Recovery Zone bonds must be issued.

Failure to meet these deadlines will result in a waiver of the County's allocation. All waived amounts will be recaptured and included in a state-wide pool that will be used for projects that will be determined by the Governor at a future date. It should be noted that the County Manager took a preliminary step on November 2 of filing a Notice of Intent with the state that preserved the County's ability to keep analyzing the benefit and potential uses of this allocation.

DISCUSSION: As noted earlier, an initial step in using Recovery Zone Bond allocation is designation of a Recovery Zone. The ARRA requirements for what qualifies as a Recovery Zone are fairly broad, including any area with significant unemployment or general distress and any area designated as economically distressed by reason of Defense Base Closure and Realignment actions. Given the County's geographically small size and in order to preserve maximum flexibility in identifying projects that could benefit from the Recovery Zone Bond allocation, it is recommended that the entire County be designated as a Recovery Zone.

It should be noted that the County's allocation of Recovery Zone Bonds is very small, less than 1% of the total amount allocated to the state. Because of the fixed transaction costs associated with any bond issue, the County's very small allocation is a significant hurdle in recognizing financial savings. In addition, there are other requirements that apply to the \$790,000 of Economic Development Zone bonds (which can only be used for governmental, not private, purposes), including Davis-Bacon wage rates on construction and the fact that the County's normal tax-exempt interest rates come very close to taxable interest rates less the 45% subsidy on interest payments.

The Recovery Zone Facility Bonds (which can only be used for private businesses) may result in more savings since it allows businesses to incur debt at tax-exempt interest rates. However, the Executive Order and other tax law requirements impose strict time deadlines that require identification of a project by mid-November and the project to have secured financing by mid-December. Staff is actively working to identify a project within this timeframe.

While the savings under this program may be minimal (particularly for the governmental purpose bonds), taking the initial step of designation of a Recovery Zone allows the County to keep analyzing project and financing options. Staff will report back to the County Board later this month on status.

FISCAL IMPACT: Designation of the entire County as a Recovery Zone has no immediate fiscal impact; the issuance of Recovery Zone Bonds may result in lower financing costs for the County or a private business located in the County.

RESOLUTION DESIGNATING ARLINGTON COUNTY, VIRGINIA AS A RECOVERY ZONE FOR PURPOSES OF RECOVERY ZONE BONDS AND REALLOCATING VOLUME CAP ALLOCATION FOR RECOVERY ZONE FACILITY BONDS

WHEREAS, the American Recovery and Reinvestment Act of 2009 (Pub. L. No. 111-5), in part, added Sections 1400U-1 through 1400U-3 to the Internal Revenue Code of 1986, as amended (the "Code"), that authorize state and local governments to issue two new categories of bonds (together, "Recovery Zone Bonds") entitled (i) "recovery zone economic development bonds" and (ii) "recovery zone facility bonds," the purposes of which are to lower costs of state and local government borrowing and thereby to promote job creation and economic recovery in areas particularly affected by employment declines;

WHEREAS, the Code imposes a national bond volume limitation of \$10 billion for recovery zone economic development bonds and \$15 billion for recovery zone facility bonds, of which Arlington County, Virginia (the "County") has been allocated \$790,000 in recovery zone economic development bonds and \$1,186,000 in recovery zone facility bonds (the "RZF Bond Allocation");

WHEREAS, recovery zone economic development bonds may be used to finance certain "qualified economic development purposes" and recovery zone facility bonds may be used to finance certain "recovery zone property," both generally for use within or attributable to areas designated as "recovery zones;"

WHEREAS, the Code defines the term "recovery zone" as, among other things, "any area designated by the issuer as having significant poverty, unemployment, rate of home foreclosures or general distress" and "any area designated by the issuer as economically distressed by reason of the closure or realignment of a military installation pursuant to the Defense Base Closure and Realignment Act of 1990;"

WHEREAS, the entire geographic area of the County is experiencing general distress resulting from, in part, an overall unemployment rate of 4.1% as of August 2009 (an increase of 1.6% over the unemployment rate in August 2008) and economic distress resulting from certain office space in the County being vacated and jobs relocated outside the County as a result of Base Realignment and Closure Commission recommendations;

WHEREAS, the County has determined that as a result of such general and economic distress, the entire geographic area of the County qualifies to be designated as a recovery zone for purposes of issuing Recovery Zone Bonds; and

WHEREAS, the County Board desires to facilitate the issuance of Recovery Zone Bonds by the County, the Industrial Development Authority of Arlington County, Virginia or any other entity permitted to undertake the issuance of bonds for projects located in or attributable to the County;

NOW, THEREFORE, BE IT RESOLVED BY THE COUNTY BOARD OF ARLINGTON COUNTY, VIRGINIA, THAT:

1. Incorporation of Recitals. Each of the recitals set forth above is incorporated and restated as if set forth herein.

2. Designation of Recovery Zone. The entire geographic area of Arlington County, Virginia is hereby designated a "recovery zone" for purposes of issuing Recovery Zone Bonds under the provisions of Code Sections 1400U-1 through 1400U-3.

3. Reallocation of RZF Bond Allocation. In accordance with U.S. Department of Treasury Notice 2009-50 the County hereby allocates its RZF Bond Allocation to the Industrial Development Authority of Arlington County, Virginia (the "Authority") for the purpose of assisting in financing certain recovery zone property.

4. Further Actions. The Chairman and Vice Chairman of the County Board and the County Manager, or any of them, are authorized to execute and deliver on behalf of the County such instruments, documents or certificates, and to do and perform such things and acts, as they shall deem necessary or appropriate to carry out the transactions authorized by this Resolution; and all of the foregoing, previously done or performed by such officers or agents of the County, are in all respects approved, ratified and confirmed.

5. Effective Date. This resolution shall take effect immediately upon its passage.

**CERTIFICATE OF THE CLERK OF THE
COUNTY BOARD OF ARLINGTON COUNTY, VIRGINIA**

At a regular meeting of the County Board of Arlington County, Virginia, held on the 14th day of November, 2009 the following County Board members were recorded as present:

PRESENT:

On motion of _____, seconded by _____, the foregoing Resolution was adopted by a majority of the members of the County Board present by a roll call vote, the votes being recorded as follows:

MEMBER

VOTE

Dated: _____, 2009

CLERK, ARLINGTON COUNTY BOARD