CHAPTER 100 BONDS

PURPOSE

Industrial development bonds ("IDBs") were developed by the US Congress and the Missouri General Assembly to facilitate the financing of business projects.

"CHAPTER 100" CITY OR COUNTY INDUSTRIAL DEVELOPMENT BONDS

Sec. 100.010 to 100.200, RSMo allows cities or counties to purchase or construct certain types of projects with bond proceeds and to lease or sell the project to a company. These "industrial development" bonds may be issued either as a **"revenue"** bond or a **general obligation** bond.

ELIGIBLE PROJECTS

The purchase, construction, extension and improvement of warehouses, distribution facilities, and industrial plants, including the real estate either within or without the limits of such municipalities, buildings, fixtures, and machinery; except that any project of a municipality having fewer than eight hundred inhabitants shall be located wholly within the limits of the municipality.

REVENUE BOND

An industrial development "revenue " bond does not require a public vote and does not have the general credit of the city as a guarantee. Since revenue bonds are merely a "pass through" (as the bonds are sold on the basis of the company's credit), there are four reasons that Chapter 100 Revenue Bonds may be a benefit:

- The interest received by the bondholders may be exempt from federal and state income taxes, if the project is eligible. (See Tax-Exempt Bond Requirements)
- Real estate or other assets may be exempt from some or all property taxes if structured as a lease to the company. (See Property Tax Exemption/Abatement)
- The company may desire an "off-balance sheet" lease structure, with the city/county owning the facility. The lease could be structured as an "operating" lease under generally accepted accounting standards; and
- If the city/county owns the facility and purchases the building materials, the building materials would likely be exempt from state and local sales taxes. (See Sales Tax Exemption)

PROPERTY TAX EXEMPTION/ABATEMENT

Upon the approval of the city/county issuer, it may be possible to exempt/abate most of the real and/or personal property tax of new real estate improvements and new machinery financed by a Chapter 100 bond. To enact this procedure, the city/county must own the assets financed by the bonds and an eligible company would lease the assets from the city/county for the term of the bonds. The amount and term of abatement/exemption depends on a negotiation with the city/county issuer, as they have the discretion to abate any portion of the property taxes. In effect, the property tax is exempt by virtue of public ownership, however, the city/county may require that a portion of the payments otherwise due will be paid in the form of a payment in lieu of tax.

PLAN

Any municipality proposing a Chapter 100 project for industrial development shall first, by majority vote of the governing body of the city/county, approve the plan for the project. The plan shall include the following information pertaining to the proposed project:

- A description of the project;
- An estimate of the cost of the project;
- A statement of the source of funds to be expended for the project;
- A statement of the terms upon which the facilities to be provided by the project are to be leased or otherwise disposed of by the municipality; and
- Such other information necessary to meet the requirements of sections 100.010 to 100.200.

MISCELLANEOUS PROVISIONS

Property may be owned by an IDC and leased to a company. IDCs have no power to enact eminent domain. Wage rates and bidding are not required for Chapter 349 bonds.

"Project" means the purchase, construction, extension and improvement of plants, buildings, structures, or facilities, whether or not now in existence, including the real estate, used or to be used as a factory, assembly plant, manufacturing plant, processing plant, fabricating plant, distribution center, warehouse building, public facility, waterborne vessels excepting commercial passenger vessels for hire in a city not within a county built prior to 1950, office building, for profit or not for profit hospital, not for profit nursing or retirement facility or combination thereof, physical fitness, recreational, indoor and resident outdoor facilities operated by not for profit organizations, commercial or agricultural facility, or facilities for the prevention, reduction or control of pollution. Included in all of the above shall be any required fixtures, equipment and machinery. Excluded are facilities designed for the sale or distribution to the public of electricity, gas, water or telephone, together with any other facilities for cable television and those commonly classified as public utilities. Projects of a municipal authority must be located wholly within the incorporated limits of the municipality except that such projects may be located outside the corporate limits of such municipality and within the county in which the municipality is located with permission of the governing body of the county. Projects of a county authority must be located within an unincorporated area of such county except that such projects may be located within the incorporated limits of a municipality within such county, when approved by the governing body of the municipality.

INDUCEMENT RESOLUTION

Prior to the commencement of the project, the issuer must authorize an "inducement resolution", which basically indicates the issuer agrees to issue the bonds if a buyer can be found. Since the issuer is not providing a guarantee for the borrower, the only reason an inducement resolution would be denied is if the project would in some way be an embarrassment to the issuer. (Such a situation may be an environmental problem, competition with an existing industry, past financial problems, or obvious inability to service the debt.) In reality, if the project is not creditworthy, the company will not be able to attract a buyer for the bonds. Therefore, the issuer doesn't have to worry about a thorough credit analysis of the company.

The bonds should generally be issued within a year from the date of the inducement resolution. The issuer may provide an extension. Generally, the federal tax laws provide that any costs incurred within 60 days prior to the date of the inducement resolution may be financed with bond proceeds.

Examples of projects that have utilized Chapter 100 Bonds in Jefferson City, Missouri include Unilever (multiple projects), Command Web, Modern Litho Print and Alpla.