

ITEMS FOR DISCUSSION
May 17, 2010

1. Items from County Manager
 - a. Pender County Industrial Facilities & Pollution Control Financing Authority-
Recovery Zone Facility Bonds Issuance.
2. Items from County Attorney
3. Items from County Commissioners





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May 7, 2010

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Mr. Rick Benton
Pender County Manager
805 S. Walker Street
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Mr. Todd Nunn
Peak Resources, Inc.
1422 Burtonwood Drive
Gastonia, North Carolina 28054

\$7,000,000

The Pender County Industrial Facilities and
Pollution Control Financing Authority
Recovery Zone Facility Bonds
(Avant & Nunn LLC Project) Series 2010

Dear Mr. Benton and Todd:

As we discussed, this letter will provide an outline of the steps a company must go through in order to use recovery zone facility bonds to finance recovery zone property in North Carolina. I understand that Avant & Nunn LLC, or a related or affiliated company (the "Company") intends to renovate and expand an existing skilled nursing facility (the "Project") located at 2778 Country Club Drive, Hampstead, Pender County, North Carolina.

In general, a recovery zone facility bond must be approved at three different levels: The Pender County Industrial Facilities and Pollution Control Financing Authority (the "Authority"), the Pender County Board of Commissioners (the "County") and the North Carolina Local Government Commission (the "LGC"). In addition, the Authority will need to request, on behalf of the Company, an allocation of authority (the "Allocation") to issue recovery zone facility bonds from the North Carolina Tax Reform Allocation Committee ("TRAC"). As bond counsel, we take care of arranging and drafting many of these approvals, but there are some that require input from the Company with respect to the Project itself. We note that as bond counsel, while we will assist the Company with the process as much as we can, we are not the Company's counsel. Our role is to ensure that the bonds are properly issued and qualify for tax-exempt treatment, and our attorney-client relationship is with the Authority. The Company will need to hire its own counsel to review documents and provide any necessary opinions on its behalf. Our fee as bond counsel will be a fixed fee of \$35,000 plus expenses (not expected to exceed \$1,000), including preparation of transcripts.

Before I outline the procedures, I want to remind you of several requirements for projects eligible for recovery zone facility bond financing. Under Section 1400U-3 of the Internal Revenue Code of 1986 (the "Code"), as amended by the American Reinvestment and Recovery Act ("ARRA"), recovery zone facility bond financing is available only to pay costs

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of "recovery zone property" which is defined as property that is subject to the allowance for depreciation under Section 168 of the Code, located in a recovery zone and is used in the active conduct of a trade or business. Land is not depreciable, and therefore the cost of land is not an eligible cost. Such property must be used in a recovery zone declared by the County, and must be acquired and constructed after the recovery zone is declared. We understand that the Pender County Board of County Commissioners declared the entire county as a "recovery zone". Note that all tax exempt bond financed property must be depreciated using alternative (i.e., straight line) depreciation rather than accelerated depreciation.

The steps that must be taken for the issuance of a recovery zone facility bond in North Carolina are as follows:

A. Inducement and Request for Recovery Zone Allocation. The recovery zone facility bonds will be issued under Chapter 159C of the North Carolina General Statutes, as amended (the "Act"). The first step in issuing recovery zone facility bonds is to obtain an inducement resolution from the Authority, which includes authorization for the Authority to apply for an Allocation of authority to issue such bonds from TRAC. Federal and state law permit a Company to reimburse itself for capital expenditures paid up to 60 days prior to the date of the inducement resolution (so long as such expenditures were paid after the recovery zone was declared). Someone from the Company should attend this meeting to describe the Project. A sample resolution and agreement are included.

B. Request for Allocation. Under the Code and rules adopted by TRAC (04 NCAC .0401 - .0404), the Authority must file a Request for Reallocation with TRAC requesting Allocation for the Bonds. TRAC also requires the Company to file a supplemental application and to provide evidence of financial feasibility. I have included copies of these forms with this letter. TRAC meets approximately once per month to consider requests for reallocation.

C. Public Hearing. Once the Company and the Authority are notified that the Bonds have received Allocation, the next step at the county level is to have a public hearing before the Board of County Commissioners, at which the Board will "approve in principle" the recovery zone facility bond financing. Someone from the Company should be present to answer any questions (there usually are none). Notice of the public hearing describing with some specificity the Project (including precise location of the proposed facility) must be published in the local paper at least 14 days prior to the meeting. The bonds must be issued within one year of the public hearing, or a second hearing must be held. The Pender County Board of Commissioners meets the first Monday of each month. We will work with Trey

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Thurman to schedule the public hearing at one of these meetings, and will take care of drafting and publishing the notice.

D. Financial Feasibility. In order for the bonds to be approved by the LGC, the bonds must either be privately placed with a financial institution or other qualified institutional buyer, have an investment grade rating in the United States (i.e., BBB or better), or have credit enhancement (such as a letter of credit) that results in the bonds having an investment grade rating. Therefore, it is important for the Company to work with a bank and/or underwriting firm early in the process to obtain a commitment letter or other indication of the financing structure for the bonds.

E. Documents. Once you have obtained a commitment letter or other term sheet from the bank or financial institution that will buy the bonds or issue a letter of credit to support the bonds, bond counsel, underwriter's counsel and counsel to the purchaser or letter of credit provider will proceed to draft documents for the transaction. That process will include several conference calls to walk through the documents. If the bonds are being sold into the marketplace (rather than privately placed) those documents will include an offering memorandum or official statement describing the bonds. So long as there is credit enhancement, the Company will not be required to provide more than cursory information about the Company in that document.

F. LGC. The bond issue and the documents must also be approved by the LGC. The LGC meets only on the first Tuesday of each month. The documents should be in substantially final form approximately two weeks before the LGC meeting. No one is required to attend this meeting.

G. Final Local Approvals. Once the documents are in substantially final form, the Authority will meet again to give its final approval to the transaction and to authorize the appropriate officers to sign the documents.

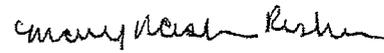
A possible (if somewhat aggressive) timeline for this process is attached.

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Please call me if you have any questions about this process. I look forward to working with you on this transaction.

Very truly yours,



Mary Nash Rusher

MKR:smd
cc: Trey Thurman, Esq.

Time Line for Issuance of Recovery Zone Facility Bonds

<u>Action Required</u>	<u>Date(s)</u>
Inducement by Authority	End of May, 2010
Allocation of RZ bonds by TRAC	By June 7, 2010
Commitment from bank	May, 2010
Identify working group (i.e. bank, various counsel)	June, 2010
Pre-application conference with LGC	Mid June, 2010
Publish notice of public hearing	14 days before meeting
Public hearing at County Commissioners' meeting	June 21, 2010 (or 1 st meeting in July)
Draft documents and hold document session(s)	June and July, 2010
Authority meets to approve bonds and documents	Late July, 2010
LGC meeting to approve documents	August 3, 2010
Bond issue closes	Mid August, 2010