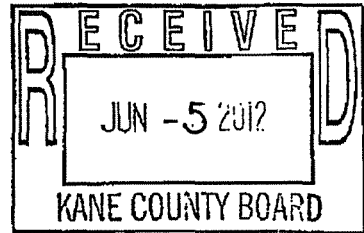


County of Kane
Office of County Board
Kane County Government Center



Karen McConnaughay
Chairman
630-232-5930



719 Batavia Avenue
Geneva, Illinois 60134
Fax 630-232-9188

DOCUMENT VET SHEET

for
Karen McConnaughay
Chairman, Kane County Board

Name of Document: Memoradun of Agreement

Submitted By: Scott Berger

Date Submitted: June 1, 2012

Examined by: Joseph Lulves
(Print name)

Joseph F. Lulves
(Signature)

6-6-12
(Date)

Post on Web: Yes No Atty. Initials JK

Comments:
The attached MOA is for the Recovery Zone Bonds issued in 2010 for On-Cor Frozen Foods. It was authorized by County Board Resolution #10-270. The County Clerk's Office has requested an executed copy of the document for their records/files.

Chairman signed: Yes No 6/11/12
(Date)

Document returned to: _____



AGENDA ITEM EXECUTIVE SUMMARY		Agenda Item #
Date:	August 19, 2010	
Item:	Resolution: Expressing the Preliminary Intent of Kane County, Illinois to issue Recovery Zone Facility Bonds and Authorizing the Execution of a Memorandum of Agreement with On-Cor Frozen Foods, LLC	
Presenter / Sponsor:	Scott Berger, Kane County Office of Community Reinvestment	
Assigned Committee: Finance	Budgeted: <input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A	
If not budgeted, explain funding source: Private Sector	Appropriation: N/A	
Summary: <p>The attached resolution expresses the county's preliminary intent to issue Recovery Zone Facility Bonds, in the amount of \$10,250,000, for On-Cor Frozen Foods. On-Cor intends to use bond proceeds to purchase equipment for use at their new facility in Kane County. The company is relocating operations from Chicago to the east side of Geneva.</p> <p>Kane County has been authorized to issue Recovery Zone Facility bonds under the American Recovery and Reinvestment Act (ARRA). These bonds are intended to stimulate the economy by providing the private sector with access to lower-cost financing compared to traditional methods. Recovery Zone Facility Bonds are "private activity" bonds, the proceeds of which are exempt from the gross income of obligation holders for federal tax purposes.</p> <p>Facility Bonds may be used to help businesses finance the acquisition, construction, and/or rehabilitation of property used in their businesses, and for the purchase of equipment used in their trade or business. When issued, Recovery Zone Facility Bonds will not be general obligations of the county or payable from any taxes or other revenues of the county. Rather, they will be paid from project revenues or other revenues received pursuant to a loan agreement or other similar agreement.</p>		
List Attachments: Resolution: Expressing the Preliminary Intent of Kane County, Illinois to issue Recovery Zone Facility Bonds and Authorizing the Execution of a Memorandum of Agreement with On-Cor Frozen Foods, LLC		
Detailed information available from / at: Scott Berger, bergerscott@co.kane.il.us		
Staff Comments / Recommendations: Staff recommends Committee approval.		

STATE OF ILLINOIS

COUNTY OF KANE

RESOLUTION NO. 10 - 270

**EXPRESSING THE PRELIMINARY INTENT OF KANE COUNTY, ILLINOIS
TO ISSUE RECOVERY ZONE FACILITY BONDS AND AUTHORIZING THE EXECUTION
OF A MEMORANDUM OF AGREEMENT WITH ON-COR FROZEN FOODS, LLC**

WHEREAS, Kane County, Illinois (the "County") is a unit of local government duly organized and validly existing under the Constitution and laws of the State of Illinois and as such, is authorized under the Industrial Building Revenue Bond Act, 50 ILCS 445/1 et seq., as from time to time supplemented and amended (the "Bond Act"), to issue revenue bonds for the purpose of financing in whole or part the construction, rebuilding, acquisition, improvement or extension of an industrial project; and

WHEREAS, On-Cor Frozen Foods, an Illinois limited liability company (together with any affiliated entity, the "Borrower") wishes to finance costs of acquisition and installation of certain manufacturing and related equipment for use in its existing manufacturing facility located at 2088 Geneva Drive, Geneva, Illinois, in the County, including, without limitation, cook kettles, mixers, hold tanks, heat exchangers, flour systems, extruders, conveyors, fillers, spiral freezers, cartoners, palletizers, wrappers and related equipment (collectively, the "Project"); and wishes to have the County issue its revenue bonds to finance costs of the acquisition and installation of the Project; and

WHEREAS, a Memorandum of Agreement (the "Agreement") has been presented to the County under the terms of which the County agrees, subject to the provisions of such Agreement, to issue its revenue bonds to finance the Project; and

WHEREAS, based solely on information supplied by the Borrower, on which the County believes it is reasonable and prudent to rely, all or a portion of the expenditures relating to the Project (the "Expenditures") (i) have been paid within 60 days prior to the date of this Resolution, or (ii) will be paid on or after the passage of this Resolution; and

WHEREAS, for purposes of Treasury Regulations Section 1.150-2, the County (based solely on information supplied by the Borrower, on which the County believes it is reasonable and prudent to rely) reasonably expects to reimburse itself for the Expenditures with the proceeds of the Bonds (as hereinafter defined); and

WHEREAS, the American Recovery and Reinvestment Tax Act of 2009 ("ARRA") grants the County certain authority to issue "recovery zone facility bonds" ("Recovery Zone Facility Bonds") and distribute recovery zone allocation among borrowers; and

WHEREAS, ARRA requires the County to make certain findings of fact and designate the County as a recovery zone (the "Recovery Zone") pursuant to the requirements of ARRA; and

WHEREAS, the County Board (the "County Board") of the County has designated the entire County as a Recovery Zone; and

WHEREAS, the County has considered the Borrower's application for the issuance of Bonds to finance costs of the Project and deems it necessary and desirable to issue its Recovery Zone Facility Bonds to finance costs of the Project for the Borrower.

NOW, THEREFORE, BE IT RESOLVED by County Board of Kane County, Illinois as follows:

SECTION 1. The form, terms and provisions of the Agreement appended to this Resolution as Exhibit A and presented to this meeting are hereby approved.

SECTION 2. The Chairman of the County Board is hereby authorized to execute, and the County Clerk of the County is hereby authorized to attest to the Agreement with the Borrower in substantially the form of such agreement appended to this Resolution as Exhibit A or with such changes as shall be approved by the officers executing the same, such approval to be conclusively evidenced by the execution of such Agreement.

SECTION 3. The officers and employees of the County are hereby authorized to take such further action as is necessary to carry out the intent and purposes of the Agreement as executed and to issue not to exceed \$10,250,000 of its revenue bonds, in one or more series (the "Bonds"), and upon the terms and conditions stated in such Agreement and for the purpose of defraying the cost of the Project and that the same is declared to be for a public purpose, which Agreement is hereby deemed a part of this Resolution.

SECTION 4. The Bonds shall be limited obligations of the County payable solely and only out of the revenues and receipts derived from the trust estate established under a loan agreement, indenture of trust, bond purchase agreement, or any similar document pursuant to which the Bonds are issued. The Project shall be financed by means of a loan of the proceeds of the Bonds to the Borrower, and the Borrower shall agree to make payments in an amount sufficient to pay the principal and purchase price of, and premium, if any, and interest on, and expenses of, the Bonds. No holder of any of the Bonds shall have the right to compel any exercise of the taxing power of the County, and the Bonds shall not constitute an indebtedness or a loan of credit of the County within the meaning of any constitutional or statutory provision.

SECTION 5. The County hereby declares its intent to assist the Borrower under Treasury Regulations Section 1.150-2 to reimburse any expenditures made on costs of the Project prior to the issuance of the Bonds, if issued, with proceeds of the Bonds.

SECTION 6. The County hereby approves the Project and designates \$10,250,000 of recovery zone allocation for the Bonds (or such lesser principal amount of Bonds as shall be issued) to be issued by the County to finance the Project.

SECTION 7. The County hereby designates the Bonds to be issued as Recovery Zone Facility Bonds.

SECTION 8. All resolutions, orders and parts thereof in conflict herewith are hereby superseded to the extent of such conflict.

SECTION 9. If any section, paragraph, clause or provision of this Resolution shall be held invalid, the invalidity of such section, paragraph, clause or provision shall not affect any of the other provisions of this Resolution.

SECTION 10. This Resolution shall be in full force and effect upon its passage and approval by the Chairman.

Passed by the Kane County Board on September 14, 2010.

John A. Cunningham
Clerk, County Board
Kane County, Illinois

Karen McConnaughay
Chairman, County Board
Kane County, Illinois

Vote:
Yes _____
No _____
Voice _____
Abstentions _____

9OnCor

EXHIBIT A

MEMORANDUM OF AGREEMENT

THIS MEMORANDUM OF AGREEMENT is between Kane County, Illinois (the "County") and On-Cor Frozen Foods, LLC (the "Borrower").

1. Preliminary Statement. Among the matters of mutual inducement which have resulted in this Agreement are the following:

(a) The County is authorized under the Industrial Building Revenue Bond Act, 50 ILCS 445/1 et seq., as from time to time supplemented and amended (the "Bond Act"), to issue revenue bonds for the purpose of financing in whole or part the construction, rebuilding, acquisition, improvement or extension of an industrial project and to enter into a loan agreement with the Borrower pursuant to which the proceeds of such revenue bonds may be lent to the Borrower to finance the costs of the construction, renovation and equipping of such a project.

(b) The Borrower wishes to obtain satisfactory assurance from the County that the proceeds of the sale of such revenue bonds of the County will be made available to the Borrower to finance costs of acquisition and installation of certain manufacturing and related equipment for use in its existing manufacturing facility located at 2088 Geneva Drive, Geneva, Illinois in the County, including, without limitation, cook kettles, mixers, hold tanks, heat exchangers, flour systems, extruders, conveyors, fillers, spiral freezers, cartoners, palletizers, wrappers and related equipment (collectively, the "Project").

(c) Subject to the conditions contained herein and to the due compliance with all requirements of law, the County, by virtue of such statutory authority as may now or hereafter be conferred by the Bond Act, will issue and sell its revenue bonds, in one or more series, in an aggregate principal amount not to exceed \$10,250,000 (the "Bonds") to finance the costs of the Project.

(d) The County has determined that it is necessary and in the best interests of the County to authorize its obligations to pay costs of the Project and costs related to the issuance of its obligations.

(e) The Borrower has presented the County with evidence satisfactory to the County of its intention to reimburse itself for expenditures relating to the Project which it may pay from funds which are not proceeds of the Bonds.

(f) The Bonds shall be limited obligations of the County payable solely and only out of the revenues and receipts derived from the trust estate established under a loan agreement, indenture of trust, bond purchase agreement, or any similar document pursuant to which the Bonds are issued; the Project shall be financed by means of a loan of the proceeds of the Bonds to the Borrower, and the Borrower shall agree to make payments in an amount sufficient to pay the principal and purchase price of, and premium, if any, and interest on, and expenses of, the Bonds. No holder of any of the Bonds shall have the right to compel any exercise of the taxing power of the County, and the Bonds shall not constitute an indebtedness or a loan of credit of the County within the meaning of any constitutional or statutory provision.

2. Undertakings on the Part of the County. Subject to the conditions above stated, the County agrees as follows:

(a) That it will authorize the issuance and sale of the Bonds pursuant to the terms of the Bond Act as then in force.

(b) That it will, at the proper time and subject in all respects to the prior advice, consent and approval of the Borrower, adopt or cause to be adopted, such proceedings and authorize the execution of such documents as may be necessary and advisable for the authorization, issuance, and sale of the Bonds as aforesaid, and that it will enter into a loan agreement whereby the Borrower will pay to or on behalf of the County such sums as shall be sufficient to pay the principal and interest and redemption premium, if any, and expenses on the Bonds as and when the same shall become due and payable.

(c) The County hereby declares its intent to assist the Borrower under Treasury Regulations Section 1.150-2 to reimburse any expenditures made on costs of the Project prior to the issuance of the Bonds with proceeds of the Bonds.

(d) The County hereby designates the Bonds to be issued as Recovery Zone Facility Bonds.

3. Undertakings on the Part of the Borrower. Subject to the conditions above stated, the Borrower agrees as follows:

(a) That it will use all reasonable efforts to find one or more purchasers for the Bonds.

(b) That contemporaneously with the delivery of the Bonds the Borrower will enter into a loan agreement with the County under the terms of which the Borrower will obligate itself to pay to or on behalf of the County sums sufficient in the aggregate to pay the principal of and interest and redemption premium, if any, and expenses on the Bonds as and when the same shall become due and payable.

4. General Provisions.

(a) All commitments of the County under Paragraph 2 hereof and of the Borrower under Paragraph 3 hereof are subject to the condition that on or before December 31, 2010 (or such other date as shall be mutually satisfactory to the County and the Borrower), the County and the Borrower shall have agreed to mutually acceptable terms and conditions of the loan agreement and of the Bonds and other instruments or proceedings relating to the Bonds. The decision not to approve or agree to any term or condition of any document or not to take any action prior to issuance of the Bonds shall rest solely within the complete discretion of the parties to this Agreement.

All costs and expenses in connection with the Project, including the fees and expenses of counsel to the County, Greenberg Traurig LLP, as bond counsel, County's Counsel and any other fees required to be paid by the County upon the issuance of the Bonds, shall be paid from the proceeds of the Bonds or by the Borrower. If the events set forth in (a) of this Paragraph 4 do not take place within the time set forth or any extension thereof and the Bonds in an amount not exceeding the amount stated above are not sold within such time, the Borrower agrees that it will reimburse the County for all reasonable and necessary direct out-of-pocket expenses which the County may incur at the Borrower's request or as a result of or arising out of this Agreement including but not limited to the payment of attorney and other consultant fees arising from the execution of this Agreement and the performance by the County of its obligations hereunder, and this Agreement shall thereupon terminate.

IN WITNESS WHEREOF, the parties hereto have entered into this Agreement by their officers thereunto duly authorized as of the 14th day of September, 2010.

Kane County, Illinois

On-Cor Frozen Foods, LLC

By: [Signature]
Name: Karen McConnaughay
Title: Chairman, Kane County Board

By: [Signature]
Name: WILLIAM J. WETMORE, JR.
Title: VICE PRESIDENT

Attest by: _____

Name: _____

Title: _____