COUNTY AGENDA REQUEST

Department:	Development Authority	Presenter(s):	Attorney Roger Murray
Meeting Date:	Thursday, September 26, 2013	Type of Request:	Consent

Wording for the Agenda:

Approval of IPN USA's request for approval of a Tax Exempt Industrial Revenue Bond and use of the proceeds as specified by applicable tax code requirements.

Background/History/Details:

IPN USA is a manufacturer of plastic components and packaging for the beverage industry that has a facility in Peachtree City. IPN did a $25 million facility expansion in 2012 growing from about 30,000 square feet to nearly 100,000 square feet. IPN has come to the Fayette County Development Authority requesting a new tax-exempt industrial revenue bond for approximately $10 million in new equipment. As part of this, IPN will be selling the bond to a financial institution. The tax-exempt status means that the buyer of the bond does not have to pay income tax on the interest received from the bond and, therefore, IPN pays a lower rate for its financing. These types of bonds are primarily available only to small manufacturing companies. Federal tax law limits the types of projects that may be funded with tax-exempt bond proceeds since the interest earned on such bonds is exempt from federal taxation.

Pursuant to the tax code, the issuance of the bonds by IPN requires the County's approval because the project is located within the territorial limits of the County and because the Fayette County Development Authority is the conduit Authority for the bond. In order for the bonds to be excluded from the gross income of the owner of the bonds (i.e. tax exempt) the Board of Commissioners must approve the issuance of the bonds following a public hearing that will be held by the counsel for the Authority.

What action are you seeking from the Board of Commissioners?

Approval of IPN USA's request for approval of a Tax Exempt Industrial Revenue Bond and use of the proceeds as specified by applicable tax code requirements.

If this item requires funding, please describe:

These are private placement bonds with no public monies involved or committed.

Has this request been considered within the past two years?	No	If so, when?	
Is Audio-Visual Equipment Required for this Request?*	No	Backup Provided with Request?	

**** All audio-visual material must be submitted to the County Clerk's Office no later than 48 hours prior to the meeting. It is also your department's responsibility to ensure all third-party audio-visual material is submitted at least 48 hours in advance.***

Approved by Finance	Not Applicable	Reviewed by Legal	
Approved by Purchasing	Not Applicable	County Clerk's Approval	Yes
Administrator's Approval			

Staff Notes:

The Commissioner's approval of this action is not approval of the project for any other purpose and does not obligate the County or the taxpayers to any liability related to the bond in any respect.

Floyd Jones

From: Matt Forshee <mforshee@fayettega.org>
Sent: Monday, August 19, 2013 5:27 PM
To: Steve Brown Fowarding Address
Cc: Floyd Jones; Steve Rapson; Nathan Lee; Roger Murray; Randy Hayes
Subject: TEFRA Bond Approval

Chairman Brown -

I wanted to give you a heads up that we are going to need to come before the BOC at the September 26 meeting.

IPN USA is a PTC manufacturer of plastic components and packaging for the beverage industry. You may recall that they did a $25M facility expansion last year, growing from about 30k sf to nearly 100k sf today.

They have come before us requesting a new tax-exempt industrial revenue bond for about $10M in new equipment. As part of this, they will be selling the bond to a financial institution. The "Tax-exempt" status means that the buyer of the bond does not have to pay income tax on the interest received from the bond and therefore IPN pays a lower rate for their financing. These types of bonds are primarily available only to small manufacturing companies.

Federal tax law limits the types of projects that may be funded with tax-exempt bond proceeds since the interest earned on such bonds is exempt from federal taxation. Pursuant to IRS Code, the issuance of the Bonds by IPN USA requires the County's approval because the Project is located
within the territorial limits of the County and because the FCDA is the conduit Authority for the bond. In order for the interest on the Bonds to be excluded from the gross income of the owner of the Bonds (i.e. tax-exempt), an "applicable elected representative" of the government unit must approve the issuance of the Bonds. As such, the Fayette County Commission will need to vote to "approve the issuance of the bonds". By law, the Commission's approval of the issuance of the Bonds and the use of the proceeds serves to meet the applicable IRS Code requirements. The Commission's approval of this action is not approval of the Project for any other purpose and the Commission is not liable for any fiduciary responsibility as these are private placement bonds with no public monies involved or committed.

Staff and bond attorneys will be present that night to present the project to the Commission.

Just to recap, In order for IPN to be able to sell tax-exempt bonds for project finance purposes, the Commission has to vote to "approve the issuance of the bonds". Essentially, the IRS requires that you rubber stamp this just because you are an elected body. If the Commission were to vote no or otherwise not "approve the issuance of the bond", then IPN USA would not be able to proceed with this type of low-cost financing.

I'm going to ask that our attorney, Mr. Nathan Lee with the firm Glover and Davis, get with the County Clerk, Floyd Jones, to see what steps need to be taken to place this item on the September 26th agenda and to provide any necessary background information for the Commissioners.

Please let me know if you have any questions.

Thank you

Matt

Matt Forshee
President/CEO
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Fb | www.facebook.com/FayetteGA
T | www.twitter.com/fcda

REPORT OF HEARING OFFICER REGARDING PUBLIC HEARING

The undersigned, Matt Forshee, duly appointed hearing officer, HEREBY CERTIFIES, as follows:

(1) A public hearing (the "Hearing") was duly called and held on September 19, 2013 at noon at the office of the Fayette County Development Authority (the "Authority"), which is located at 200 Courthouse Square in Fayetteville, Georgia. The Hearing was open to the public. The time of the Hearing and the room in which the Hearing was held provided a reasonable opportunity for persons of differing views to appear and be heard. Attached as Exhibit A is a list of the people that attended the Hearing.

(2) Notice of the Hearing (the "Notice") was published at least 14 days prior to the date the hearing was held in the Fayette ~~Daily~~County News, a newspaper having general circulation in Fayette County, Georgia, a political subdivision of the State of Georgia (the "County"). A copy of the publisher's affidavit with respect to the Notice is attached hereto as Exhibit B.

(3) The undersigned hereby recommends that the Fayette County Board of Commissioners, the elected legislative body of the County, approve the issuance of the Bonds and the Plan of Finance referred to in the Notice.

(4) The Bonds will not be obligations of the State of Georgia, the County or any other political subdivision or municipality of said State, and no tax revenues or other revenues of the State of Georgia, the County or any other political subdivision or municipality of said State will be used to pay the principal of or interest on the Bonds. The Bonds will be limited obligations of the Authority, payable solely from the moneys pledged therefor.

GIVEN under my hand, this 19th day of September, 2013.

_____

Hearing Officer

Exhibit A: List of Attendees
Exhibit B: Publisher's Affidavit

EXHIBIT A

LIST OF ATTENDEES

EXHIBIT B

PUBLISHER'S AFFIDAVIT

STATE OF GEORGIA

COUNTY OF FAYETTE

The undersigned does hereby certify that he/she is a representative of the Fayette ~~Daily~~County News, a newspaper of general circulation published in Fayette County, and that the attached notice appeared on the date indicated.

_____
Publisher

Sworn to and subscribed
before me this _____ day
of September, 2013.

_____ (Attach Clipping)
Notary Public

My Commission Expires:_____

(Notary Seal)

NOTICE OF PUBLIC HEARING ON PROPOSED PLAN OF FINANCE

NOTICE is hereby given that, pursuant to the provisions of Section 147(f) of the Internal Revenue Code of 1986, as amended, a public hearing will be held at noon on September 19, 2013, at the office of the Fayette County Development Authority (the "Authority"), which is located at 200 Courthouse Square in Fayetteville, Georgia, concerning the proposed issuance by the Authority of up to $10,000,000 in aggregate principal amount of its revenue bonds from time to time and in one or more series (the "Bonds") to finance the equipment referred to below (the "Plan of Finance").

The proceeds derived from the sale of the Bonds will be used by the Authority to (a) acquire manufacturing and related equipment (the "Equipment") that will be leased to IPN USA Corporation, a Georgia corporation (the "Company") and (b) pay the costs of issuing the Bonds. The Equipment will be used by the Company at a plastic container manufacturing facility located at 700 Dividend Drive, Peachtree City, Georgia.

The Authority will own the Equipment; however, the Equipment will be leased to and operated by the Company.

All interested persons having views on the proposed issuance of the Bonds, the Plan of Finance or the nature or location of the Equipment being financed may appear and be heard at said hearing.

The Bonds will not be obligations of the State of Georgia, Fayette County, Georgia (the "County") or any other political subdivision or municipality of said State, and no tax revenues or other revenues of the State of Georgia, the County or any other political subdivision or municipality of said State will be used to pay the principal of or interest on the Bonds. The Bonds will be limited obligations of the Authority payable solely from the moneys received from the Company and pledged to the payment of the Bonds.

By: /s/ Matt Forshee
Hearing Officer

RESOLUTION OF FAYETTE COUNTY BOARD OF COMMISSIONERS REGARDING THE ISSUANCE OF THE FAYETTE COUNTY DEVELOPMENT AUTHORITY INDUSTRIAL DEVELOPMENT BONDS FROM TIME TO TIME FOR THE BENEFIT OF IPN USA CORPORATION

WHEREAS, the Fayette County Board of Commissioners (the "Board of Commissioners") is the elected legislative body charged with managing the affairs and finances, and having jurisdiction over, Fayette County, Georgia, a political subdivision of the State of Georgia (the "County"); and

WHEREAS, the Fayette County Development Authority (the "Authority") proposes issuing up to $10,000,000 in aggregate principal amount of its revenue bonds from time to time and in one or more series (the "Bonds") in order to finance the acquisition of certain manufacturing and related equipment referred to below (the "Plan of Finance"); and

WHEREAS, the Authority recommends and has requested that the Board of Commissioners approve the issuance of the Bonds and the Plan of Finance to the extent required by Section 147(f) of the Internal Revenue Code of 1986, as amended (the "Code").

NOW, THEREFORE, IT IS RESOLVED BY THE BOARD OF COMMISSIONERS, AS FOLLOWS:

1. The issuance of the Bonds by the Authority in an aggregate principal amount not to exceed $10,000,000 from time to time and in one or more series and the Plan of Finance are hereby approved to the extent required by Section 147(f) of the Code.

(a) The proceeds derived from the sale of the Bonds will be used by the Authority to (a) acquire manufacturing and related equipment (the "Equipment") that will be leased to IPN USA Corporation, a Georgia corporation (the "Company") and (b) pay the costs of issuing the Bonds. The Equipment will be used by the Company at a plastic container manufacturing facility located at 700 Dividend Drive, Peachtree City, Georgia.

(b) The Authority will own the Equipment; however, the Equipment will be leased to and operated by the Company.

2. This approval is solely for the purpose of complying with the provisions of Section 147(f) of the Code. Such approval does not constitute an endorsement to a prospective purchaser of the Bonds. The Bonds will not be obligations of the State of Georgia, the County or any other political subdivision or municipality of said State, and no tax revenues or other revenues of the State of Georgia, the County or any other political subdivision or municipality of said State will be used to pay the principal of or interest on the Bonds. The Bonds will be limited obligations of the Authority payable solely from the moneys pledged therefor.

This 26th day of September, 2013.

FAYETTE COUNTY, GEORGIA

(SEAL)

By:_____
Chairman, Board of Commissioners

Attest:

By:_____
Clerk, Board of Commissioners

CLERK'S CERTIFICATE

STATE OF GEORGIA

COUNTY OF FAYETTE

I, the undersigned Clerk to the Fayette County Board of Commissioners, as the elected legislative body charged with managing the affairs and finances, and having jurisdiction over, Fayette County, Georgia (the "County") and keeper of the records and seal thereof, DO HEREBY CERTIFY that the foregoing pages of typewritten matter constitute a true and correct copy of the Resolution adopted by the County in a meeting duly called and assembled on September 26, 2013, which meeting was open to the public and at which a quorum was ~~presenting~~present and acting throughout, the original of which Resolution has been duly recorded in the Minute Book of the County which is in my custody and control.

WITNESS my official hand and seal of the County, this 26th day of September, 2013.

_____

Clerk

(SEAL)

Document comparison by Workshare Compare on Monday, August 26, 2013 9:01:47 AM

Input:	
Document 1 ID	file://\\MBF-DC01\data\WDDOCS\1366\~VER\1\00057393.DOC
Description	00057393
Document 2 ID	file://\\MBF-DC01\data\WDDOCS\1366\00057393.DOC
Description	00057393
Rendering set	standard

Legend:	
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Format change	
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Deleted cell	
Moved cell	
Split/Merged cell	
Padding cell	

Statistics:	
	Count
Insertions	3
Deletions	3
Moved from	0
Moved to	0
Style change	0
Format changed	0
Total changes	6

REPORT OF HEARING OFFICER REGARDING PUBLIC HEARING

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Hearing Officer

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EXHIBIT A

LIST OF ATTENDEES

EXHIBIT B

PUBLISHER'S AFFIDAVIT

STATE OF GEORGIA

COUNTY OF FAYETTE

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_____
Publisher

Sworn to and subscribed
before me this _____ day
of September, 2013.

_____ (Attach Clipping)
Notary Public

My Commission Expires:_____

(Notary Seal)

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The proceeds derived from the sale of the Bonds will be used by the Authority to (a) acquire manufacturing and related equipment (the "Equipment") that will be leased to IPN USA Corporation, a Georgia corporation (the "Company") and (b) pay the costs of issuing the Bonds. The Equipment will be used by the Company at a plastic container manufacturing facility located at 700 Dividend Drive, Peachtree City, Georgia.

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By: /s/ Matt Forshee
Hearing Officer

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WHEREAS, the Authority recommends and has requested that the Board of Commissioners approve the issuance of the Bonds and the Plan of Finance to the extent required by Section 147(f) of the Internal Revenue Code of 1986, as amended (the "Code").

NOW, THEREFORE, IT IS RESOLVED BY THE BOARD OF COMMISSIONERS, AS FOLLOWS:

1. The issuance of the Bonds by the Authority in an aggregate principal amount not to exceed $10,000,000 from time to time and in one or more series and the Plan of Finance are hereby approved to the extent required by Section 147(f) of the Code.

(a) The proceeds derived from the sale of the Bonds will be used by the Authority to (a) acquire manufacturing and related equipment (the "Equipment") that will be leased to IPN USA Corporation, a Georgia corporation (the "Company") and (b) pay the costs of issuing the Bonds. The Equipment will be used by the Company at a plastic container manufacturing facility located at 700 Dividend Drive, Peachtree City, Georgia.

(b) The Authority will own the Equipment; however, the Equipment will be leased to and operated by the Company.

2. This approval is solely for the purpose of complying with the provisions of Section 147(f) of the Code. Such approval does not constitute an endorsement to a prospective purchaser of the Bonds. The Bonds will not be obligations of the State of Georgia, the County or any other political subdivision or municipality of said State, and no tax revenues or other revenues of the State of Georgia, the County or any other political subdivision or municipality of said State will be used to pay the principal of or interest on the Bonds. The Bonds will be limited obligations of the Authority payable solely from the moneys pledged therefor.

This 26th day of September, 2013.

FAYETTE COUNTY, GEORGIA

(SEAL)

By:_____
Chairman, Board of Commissioners

Attest:

By:_____
Clerk, Board of Commissioners

CLERK'S CERTIFICATE

STATE OF GEORGIA

COUNTY OF FAYETTE

I, the undersigned Clerk to the Fayette County Board of Commissioners, as the elected legislative body charged with managing the affairs and finances, and having jurisdiction over, Fayette County, Georgia (the "County") and keeper of the records and seal thereof, DO HEREBY CERTIFY that the foregoing pages of typewritten matter constitute a true and correct copy of the Resolution adopted by the County in a meeting duly called and assembled on September 26, 2013, which meeting was open to the public and at which a quorum was present and acting throughout, the original of which Resolution has been duly recorded in the Minute Book of the County which is in my custody and control.

WITNESS my official hand and seal of the County, this 26th day of September, 2013.

_____

Clerk

(SEAL)