

**CALIFORNIA INDUSTRIAL DEVELOPMENT FINANCING ADVISORY COMMISSION
INDUSTRIAL DEVELOPMENT BONDS**

Meeting Date: March 26, 2008

Request for Initial and Final Resolution for Tax Exempt Bond Approval

Prepared by: *Deanna Hamelin*

Issuer: California Municipal Finance Authority (CMFA)	Amount Requested: \$10,000,000
Borrower: Vernon B, LLC and/or affiliates	Application No.: 08-0007
User: Real Mex Foods, Inc. and/or affiliates	IR & FR No.: 08-0007
Location: City of Vernon (Los Angeles County)	

Borrower/User/Background: Vernon B, LLC (“Vernon B” or the “Borrower”) is owned by Chalmers Equity Group and Chalmers Corporation, both of which are privately held companies. The Chalmers companies, often under the dba of C.E.G. Construction, build and develop industrial projects. Vernon B owns the manufacturing facility to be occupied by Real Mex Foods, Inc. (“Real Mex” or the “User”).

Real Mex is not affiliated with Vernon B. Real Mex is a manufacturer and distributor of bulk food packages and individually wrapped retail food products under the Real Mex Food label. Real Mex supplies packages to restaurant chains such as Chevy’s and El Torito and sells directly to amusement parks, club stores, and institutional customers. Real Mex plans to expand outside sales of its retail product line by offering additional premium quality Mexican entrees. Real Mex currently occupies a manufacturing facility in the City of Santa Fe Springs. It will relocate its manufacturing operations to the Project facility in the City of Vernon (see Relocation of Company Operations below). In addition, Real Mex has a distribution facility located in the City of Buena Park.

Real Mex is a subsidiary of Real Mex Restaurants, Inc., which is controlled by Sun Cantinas, LLC (an affiliate of Sun Capital Partners, Inc.) through 100% ownership of the voting stock of its parent, RM Restaurant Holding Corporation.¹ In its Form 10-Q filed with the Securities and Exchange Commission (SEC) for the quarter ending September 30, 2007, Real Mex Restaurants, Inc. describes itself as follows:

We are one of the largest full-service casual dining Mexican restaurant chain operators in the United States in terms of number of restaurants. As of September 30, 2007 we operated 188 restaurants, of which 156 were located in California, with additional restaurants in Arizona, Florida, Indiana, Illinois, Maryland, Missouri, Nevada, New Jersey, New York, Oregon, Virginia and Washington. Our four major subsidiaries are El Torito Restaurants, Inc., Acapulco Restaurants, Inc., Chevys Restaurants, LLC and a purchasing, distribution, and manufacturing subsidiary, Real Mex Foods, Inc. Our primary restaurant concepts, El Torito, El Torito Grill, Acapulco and Chevys, offer high quality Mexican food, a wide selection of alcoholic beverages and excellent guest service. In addition to the El Torito, El Torito Grill, Acapulco and Chevys

¹ Information obtained from Real Mex Restaurants, Inc.’s 10-K filed with the SEC for the year ending December 31, 2006.

concepts, we operate nine additional restaurant locations, all of which are also full service Mexican formats, under the following brands: Las Brisas; Casa Gallardo; El Paso Cantina; GuadalaHarry's; and Who Song & Larry's.

Given the size of the User and the fact the Borrower is not the manufacturer, staff requested confirmation from Special Tax Counsel that the proposed Project is eligible for Industrial Development Bond (IDB) financing. Special Tax Counsel responded that it has performed quite a bit of the due diligence on this Project already, more than it typically does prior to the receipt of tax-exempt allocation, and that is not aware of any issues that would prohibit the firm from delivering its tax opinion at closing. Special Tax Counsel stated that, nonetheless, it reserves the right to perform further tax diligence and receive an executed and completed tax certificate, in form and substance acceptable to the firm, prior to the delivery of its tax opinion. Based upon information provided by the User and Borrower, Special Tax Counsel stated that it believes that the Project will meet the capital expenditure test under federal tax law. Given that the Borrower is not a manufacturer and is unaffiliated with the User, Special Tax Counsel will require both the Borrower and the User to execute the tax regulatory agreement confirming, among other things, their capital expenditures. Both the Borrower and the User will be subject to all of the tax covenants.

Project Information: The Borrower currently owns a 99,000 square foot food processing facility in the City of Vernon. The facility previously served as a meat packing plant for Oscar Mayer and had been vacant for 13 years prior to being acquired by the Borrower from the City of Vernon Redevelopment Agency (RDA). The purchase agreement between the City of Vernon RDA and the Borrower stipulates that the building must be leased to a manufacturer. Real Mex is currently leasing the facility from Vernon B, LLC. Bond proceeds will be used for the renovation of the existing building, including base improvements, including paint, roof removal/replacement, electrical and compliance code upgrades, and T1 specialty improvements, including mechanical, ventilation, and refrigeration system upgrades and increased office space.

Anticipated Timeline: The renovations and improvements began in March 2007 and were completed in January 2008.

Prior Actions/Financing: Neither the Borrower nor the User has outstanding tax-exempt financings.

Statutory Criteria: 1) Public Benefits, 2) Relocation and 3) Bond Issue Qualification. Points have been awarded based on evaluation consistent with CDLAC guidelines. CDLAC does not require the evaluation of points for all statutory criteria.

PUBLIC BENEFITS: Consistent with CDLAC guidelines, the Project was awarded a total of 20 verifiable points. Although none of the 20 points awarded [are](#) based upon the creation or retention of jobs, the User employs 371 individuals at its California facilities and expects to hire an additional 40 employees within two years of the Project completion.

RELOCATION OF COMPANY OPERATIONS (No point evaluation required): The User will be relocating from the City of Santa Fe Springs to the City of Vernon. The new facility is

within close proximity to the Santa Fe Springs location, and therefore all Santa Fe Springs employees will be retained to work in the Vernon facility. The relocation is due to inadequate space at the Santa Fe Springs facility, which could not be expanded to provide greater manufacturing capacity. In addition, the Real Mex's lease at the Santa Fe Springs location expired. Real Mex provided a letter from the City Manager of the City of Santa Fe Springs, which states that the City of Santa Fe Springs has no objections to the relocation of the Company to the City of Vernon (see Attachment A).

QUALIFICATION OF BOND ISSUANCE (No point evaluation required): Based upon the proposed financial structure, and based upon the application and other materials submitted to CIDFAC for the proposed Project, staff believes the bonds that will be issued in connection with the Project: (a) will be adequately secured; (b) will be fair, just, and equitable to a purchaser of the bonds; and (c) will not work a fraud upon the bond purchaser. Final determination of qualification of the bonds will be subject to review of final bond documents prior to the issuance of bonds.

Status Of Permit/Other Required Approvals:

- The California Municipal Finance Authority approved a reimbursement and inducement resolution in an aggregate amount not to exceed \$10,000,000 for the Project on February 16, 2007.
- A TEFRA hearing was held by the City of Vernon on April 2, 2007, and no comments in support of or opposition to the Project were received. Although the TEFRA hearing has not reached the one-year expiration date yet, the bonds will be issued more than one year after the April 2, 2007 TEFRA hearing date. Therefore, the City of Vernon will conduct another TEFRA hearing, following the publication of a TEFRA notice in the appropriate newspaper, on April 7, 2008. Staff's recommendation and the approval resolution is contingent upon submission of (1) proof of publication of the new TEFRA notice, (2) proof that the City of Vernon conducted the TEFRA hearing and approved the issuance of bonds for the Project, and of the completion of Vernon's City Council's TEFRA hearing and (3) proof that no negative comments were received during the TEFRA process notification of any comments received in support of or opposition to the Project.
- The Company provided verification from the City of Vernon that the project meets local land use and zoning requirements and that all construction permits are in place.

Financing Details:

CMFA will issue a tax-exempt bond on a private placement basis. GE Government Finance, Inc. (GEGF), which is a Qualified Institutional Buyer (QIB) as defined by SEC Rule 144A, will purchase the bond. The bond:

- will be used to refinance a taxable bridge loan and;
- will have a fixed interest rate of 5.35%

The bonds will be issued in accordance with CIDFAC's private placement policy, which has the following requirements:

- The bond purchaser must be a Sophisticated Investor as defined under SEC Rule 144A.

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- The Sophisticated Investor must sign a “traveling” sophisticated investor letter, which will outline the requirements and restrictions and which will follow the deal in the event the bonds are sold or traded at a later date.
- The security of the private placement debt must be collateral provided by the Borrower.
- The bonds will be issued in minimum denominations of \$250,000.

Given that the Borrower is not a manufacturer and is unaffiliated with the User, Special Tax Counsel will require both the Borrower and the User to execute the tax regulatory agreement confirming, among other things, their capital expenditures. Both the Borrower and the User will be subject to all of the tax covenants.

Financing team:

Issuer: CMFA
Bond Counsel: Squire, Sanders and Dempsey LLP
Special Tax Counsel: Kutak Rock LLP
Private Placement Purchaser: GE Government Finance, Inc.

Legal Questionnaire: The Staff has reviewed the Borrower’s/User’s responses to the questions contained in the Legal Status portion of the Application. There was no information disclosed that raises questions concerning the financial viability or legal integrity of the Borrower or the User.

Recommendation: Staff recommends approval of Initial and Final Resolution No. 08-0007 for an amount not to exceed \$10,000,000 in tax-exempt bonds for Vernon B LLC and Real Mex Foods, Inc., subject to: (1) submission of (A) proof of publication of the new TEFRA notice and (B) proof that the City of Vernon conducted the TEFRA hearing and approved the issuance of bonds for the Project; and of the completion of Vernon’s City Council’s TEFRA hearing and (B2) proof that no negative comments were received during the TEFRA process notification of any comments received in support of or opposition to the Project; (23) staff analysis and approval of final bond documents; and, (34) the receipt of bond counsel’s opinion and CDLAC allocation approval, as set forth in Initial and Final Resolution Nos. 08-0007.

**REAL MEX FOODS, INC. AND/OR
AFFILIATES**

Bond Amount: \$10,000,000

City of Vernon (Los Angeles County)

Application No. 08-0007

March 26, 2008

STAFF SUMMARY – CIDFAC

Prepared by: *Deanna Hamelin*

ISSUE:

On behalf of Vernon B, LLC (the “Borrower”), and/or affiliates, the California Municipal Finance Authority (“CMFA” or the “Issuer”) requests approval of the Initial and Final Resolution No. 08-0007 for an amount up to \$10,000,000. Bond proceeds will be used for the renovation of an existing 99,000 square foot facility, which includes base improvements, including paint, roof removal/replacement, electrical and compliance codes, and T1 specialty improvements, including mechanical, ventilation and refrigeration system upgrades and additional office space.

CDLAC. The Company anticipates receiving allocation at the March 26, 2008 CDLAC meeting.

BORROWER/USER:

Vernon B, LLC (“Vernon B” or the “Borrower”) is owned by Chalmers Equity Group and Chalmers Corporation, both of which are privately held companies. The Chalmers companies, often under the dba of C.E.G. Construction, build and develop industrial projects. Vernon B owns the manufacturing facility to be occupied by Real Mex Foods, Inc. (“Real Mex” or the “User”).

Real Mex is not affiliated with Vernon B. Real Mex is a manufacturer and distributor of bulk food packages and individually wrapped retail food products under the Real Mex Food label. Real Mex supplies packages to restaurant chains such as Chevy’s and El Torito, and sells directly to amusement parks, club stores, and institutional customers. Real Mex plans to expand outside sales of its retail product line by offering additional premium quality Mexican entrees. Real Mex currently occupies a manufacturing facility in the City of Santa Fe Springs. It will relocate its manufacturing operations to the Project facility in the City of Vernon (see Relocation of Company Operations below). In addition, Real Mex has a distribution facility located in the City of Buena Park.

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Given the size of the User and the fact the Borrower is not the manufacturer, staff requested confirmation from Special Tax Counsel that the proposed Project is eligible for Industrial Development Bond (IDB) financing. Special Tax Counsel responded that it has performed quite a bit of the due diligence on this Project already, more than it typically does prior to the receipt of tax-exempt allocation, and that is not aware of any issues that would prohibit the firm from delivering its tax opinion at closing. Special Tax Counsel stated that, nonetheless, it reserves the right to perform further tax diligence and receive an executed and completed tax certificate, in form and substance acceptable to the firm, prior to the delivery of its tax opinion. Based upon information provided by the User and Borrower, Special Tax Counsel stated that it believes that the Project will meet the capital expenditure test under federal tax law. Given that the Borrower is not a manufacturer and is unaffiliated with the User, Special Tax Counsel will require both the Borrower and the User to execute the tax regulatory agreement confirming, among other things, their capital expenditures. Both the Borrower and the User will be subject to all of the tax covenants.

The principal owners of the Borrower are as follows:

Chalmers Equity Group.	90%
Chalmers Corp.	10%
Total:	100%

Legal Questionnaire. The Staff has reviewed the Borrower's and the User's responses to the questions contained in the Legal Status portion of the Application. There was no information disclosed that raises questions concerning the financial viability or legal integrity of the Borrower or the User.

Prior Actions and Financings. Neither the Borrower nor the User has outstanding tax-exempt financings.

PROJECT INFORMATION:

The Borrower currently owns a 99,000 square foot food processing facility in the City of Vernon. The facility previously served as a meat packing plant for Oscar Mayer and had been vacant for 13 years prior to being acquired by the Borrower from the City of Vernon Redevelopment Agency (RDA). The purchase agreement between the City of Vernon RDA and the Borrower stipulates that the building must be leased to a manufacturer. Real Mex is currently leasing the facility from Vernon B, LLC. Bond proceeds will be used for the renovation to the existing building, including base improvements, such as paint, roof removal/replacement,

electrical and compliance code upgrades, and T1 specialty improvements, which include mechanical, ventilation, and refrigeration system upgrades and increased office space.

The anticipated Project and issuance costs are listed below:

Rehabilitation of	
Existing Building	\$9,750,000
Bond Issuance Expenses	250,000
Total:	<u>\$10,000,000</u>

Anticipated Timeline. The renovation and improvements began in March 2007 and were completed in January 2008.

Status Of Permit/Other Required Approvals:

- CMFA approved a reimbursement and inducement resolution in an aggregate amount not to exceed \$10,000,000 for the Project on February 16, 2007.
- A TEFRA hearing was held by the City of Vernon on April 2, 2007, and no comments in support of or opposition to the Project were received. Although the TEFRA hearing has not reached the one-year expiration date yet, the bonds will be issued more than one year after the April 2, 2007 TEFRA hearing date. Therefore, the City of Vernon will conduct another TEFRA hearing, following the publication of a TEFRA notice in the appropriate newspaper, on April 7, 2008. Staff’s recommendation and the approval resolution is contingent upon submission of (1) proof of publication of the new TEFRA notice, (2) proof that the City of Vernon conducted the TEFRA hearing and approved the issuance of bonds for the Project, and of the completion of Vernon’s City Council’s TEFRA hearing and (23) notification of any comments received in support of or opposition to the Project.~~proof that no negative comments were received during the TEFRA process.~~
- The Company provided verification from the City of Vernon that the project meets local land use and zoning requirements and that all construction permits are in place.

STATUTORY CRITERIA: 1) Public Benefits, 2) Relocation and 3) Bond Issue Qualification. Points have been awarded based on evaluation consistent with CDLAC guidelines. CDLAC does not require the evaluation of points for all statutory criteria.

- 1) **PUBLIC BENEFITS:** The staff assigned a total of 20 verifiable points to the Project, which are detailed below:

Community Economic Need (5 points):

Unemployment Rate (0 points): The Project is located in the City of Vernon, which has 91 residents per the 2000 census data and a 0% unemployment rate. To be awarded points in this category, the Project area must have an unemployment rate of at least 125% of the statewide average of 4.9%.

Poverty Rate (5 points): The poverty rate of the Project area is 32.8%, which is 309% of the statewide average of 10.6%.

Special Designation Area (0 points): The Project area is not located in a special designation area.

Median Family Income (0 points): No points were awarded in this category because the median family income of the project area is not less than 80% of the statewide average.

Employment Benefits (Job Creation/Retention = 0 points): Although none of the 20 points awarded [are](#) based upon the creation or retention of jobs, the User employs 371 individuals at its California facilities and expects to hire an additional 40 people within two years of the Project completion.

Welfare-to-Work Plan (0 points): No information was provided indicating the Company's participation in a Welfare-to-Work program.

Health Care Benefits (0 points): No information was provided regarding healthcare benefits for the Borrower's or User's employees.

Average Hourly Wage (0 points): No points were awarded in this category.

Land Use/Energy Efficiency (15 points):

Land Use (5 points): The User provided verification that the Project will involve the reuse of a vacant building.

Public Transit Corridor (5 points): The User provided verification that the Project is located within a public transit corridor. The Los Angeles Metro Transit Line bus route 254 is within ¼ of a mile of the Project site.

Energy Efficiency (5 points): The User provided a letter from R-Cold, Inc., manufacturer of the cold storage and refrigeration systems improvements for the Project facility, which indicates a reduction in energy usage by 15% compared to the previous system.

- 2) **RELOCATION OF COMPANY OPERATIONS (No point evaluation required):**
The User will be relocating from the City of Santa Fe Springs to the City of Vernon. The new Project facility is within close proximity to the Santa Fe Springs location, and therefore all Santa Fe Springs employees will be retained to work in the Vernon facility. The relocation is due to inadequate space at the Santa Fe Springs facility, which could not be expanded to provide greater manufacturing capacity. In addition, the Real Mex's lease at the Santa Fe Springs location expired. Real Mex provided a letter from the City Manager of the City of Santa Fe Springs, which states that the City of Santa Fe Springs has no objections to the relocation of the Company to the City of Vernon (see Attachment A).

- 3) **QUALIFICATION OF BOND ISSUANCE (No point evaluation required):** Based upon the proposed finance structure, and based upon the application and other materials submitted to CIDFAC for the proposed Project, staff believes the bonds that will be issued in connection with the Project: (a) will be adequately secured; (b) will be fair, just, and equitable to a purchaser of the bonds; and (c) will not work a fraud upon the bond purchaser. Final determination of qualification of the bonds will be subject to review of final bond documents prior to the issuance of bonds.

FINANCING DETAILS:

CMFA will issue a tax-exempt bond on a private placement basis. GE Government Finance, Inc. (GEGF), which is a Qualified Institutional Buyer (QIB) as defined by the Securities and Exchange Commission’s (SEC) Rule 144A, will purchase the bond. The bond:

- will be used to refinance a taxable bridge loan; and
- will have a fixed interest rate of 5.35%.

The bonds will be issued in accordance with CIDFAC’s private placement policy, which has the following requirements:

- The bond purchaser must be a Sophisticated Investor as defined under SEC Rule 144A.
- The Sophisticated Investor must sign a “traveling” sophisticated investor letter, which will outline the requirements and restrictions and which will follow the deal in the event the bonds are sold or traded at a later date.
- The security of the private placement debt must be collateral provided by the Borrower.
- The bonds will be issued in minimum denominations of \$250,000.

Given that the Borrower is not a manufacturer and is unaffiliated with the User, Special Tax Counsel will require both the Borrower and the User to execute the tax regulatory agreement confirming, among other things, their capital expenditures. Both the Borrower and the User will be subject to all of the tax covenants.

FINANCING TEAM:

Issuer: CMFA
Bond Counsel: Squire, Sanders and Dempsey LLP
Special Tax Counsel: Kutak Rock LLP
Private Placement Purchaser: GE Government Finance, Inc.

RECOMMENDATION: Staff recommends approval of Initial and Final Resolution No. 08-0007 for an amount not to exceed \$10,000,000 in tax-exempt bonds for Vernon B LLC and Real Mex Foods, Inc., subject to: (1) submission of (A) proof of publication of the new TEFRA notice ~~and of the completion of Vernon’s City Council’s TEFRA hearing~~ and (B) [proof that the City of Vernon conducted the TEFRA hearing and approved the issuance of bonds for the Project; proof that no negative comments were received during the TEFRA process](#) (2) [notification of any comments received in support of or opposition to the Project](#); (23) staff analysis and approval of final bond documents; and, (34) the receipt of bond counsel’s opinion and CDLAC allocation approval, as set forth in Initial and Final Resolution Nos. 08-0007.

INITIAL AND FINAL RESOLUTION
OF THE
CALIFORNIA INDUSTRIAL DEVELOPMENT FINANCING
ADVISORY COMMISSION (CIDFAC)
INDUSTRIAL DEVELOPMENT BONDS
IR/FR #: 08-0007

WHEREAS, the California Municipal Finance Authority (the “Authority”) has transmitted the application of Vernon B LLC and/or its affiliates, (the “Applicant”) for the issuance of \$10,000,000 of tax exempt bonds under the provisions of the California Industrial Development Financing Act, and has informed the California Industrial Development Financing Advisory Commission (the “Commission”) that it has adopted a resolution declaring its intention to issue such bonds and that the City of Vernon has held a public hearing regarding the issuance of the bonds and has approved the issuance of the bonds by the Authority; and

WHEREAS, the Commission has reviewed the application and the materials submitted with the application.

NOW, THEREFORE, the Commission resolves as follows;

Section 1. The Commission, based on its review of the application and the information submitted therewith, does determine that:

(a) the public benefits from the acquisition of the facility described in the application likely will substantially exceed any public detriment from the issuance of the bonds in the estimated principal amount of \$10,000,000; and

(b) use of the Project described in the application and the operation of the facility described in the application is reasonably necessary to prevent the relocation of

substantial operations of the Applicant from an area within the State of California to an area outside of the State of California.

Section 2. The Commission conditionally finds that the proposed issuance of the bonds qualifies under the provisions of Article 5 of Title 10 of the Government Code, and further finds that:

(a) the bonds will be adequately secured and the funds available to the Applicant will apparently be sufficient to pay the principal of and interest on the bonds to be issued; and

(b) based on its review of the preliminary material submitted to it and as provided for under Government Code Section 91571, the proposed issuance will be fair, just and equitable to a purchaser of the bonds, and that the bonds proposed to be issued and the methods to be used by the Authority in issuing them will not be such as will work a fraud upon the purchaser thereof.

Section 3. The Commission determines that it is appropriate to the proposed transaction that the qualification of the proposed issuance be subject to the following conditions:

(a) that the Applicant submit (1) proof of publication of the new TEFRA notice, ~~and of the completion of Vernon's City Council's TEFRA hearing~~ (2) proof that the City of Vernon conducted the TEFRA hearing and approved the issuance of bonds for the Project, and (23) ~~proof that no negative comments were received during the TEFRA process~~ notification of any comments received in support of or in opposition to the Project;

(b) that the Bond Counsel Opinion, when ready for execution, be submitted to Commission staff;

(c) that the final legal documents, when ready for execution, be submitted for review by Commission staff. Submitted documents shall include:

- (i) Loan Agreement,
- (ii) Indenture of Trust,
- (iii) Purchase Contract,
- (iv) Bond Resolution,
- (v) Letter of Credit,
- (vi) Other documents which, in the opinion of Commission staff, are necessary to the review of the transaction;

(d) that the Commission staff determine that the final documents associated with the transaction have been developed in form and content substantially similar to the representations in the application on which the findings under Section 2. above are based;

(e) that the bonds, when issued, are within the maximum limitation of bonds authorized in the California Industrial Development Financing Act (Section 91573(a) of California Government Code);

(f) that the Commission receive all applicable fees prior to the issuance of the bonds or that bond documents indicate that such fees are to be paid from the proceeds of the bonds; and

(g) that the Applicant has agreed to comply with Section 91533(l) of the Government Code relating to the payment of prevailing wages.

Section 4. This Resolution shall cease to be effective if the above-described bonds have not been issued within six months after the date of adoption of this Resolution.

Section 5. In compliance with the provision of the California Industrial Development Financing Act (Section 91754 California Government Code), the qualification of the proposed

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bond issue by this resolution is permissive only, and does not constitute a recommendation or endorsement of the bonds so qualified by the Commission.

