

SALT LAKE CITY COUNCIL STAFF REPORT

DATE: June 6, 2003

SUBJECT: **INDUSTRIAL DEVELOPMENT REVENUE BOND
SPRING AIR MOUNTAIN-WEST**

AFFECTED COUNCIL DISTRICTS: District 3

STAFF REPORT BY: Gary Mumford

**ADMINISTRATIVE DEPT.
AND CONTACT PERSON:** Community and Economic Development
Luann Clark

CC: Rocky Fluhart, David Nimkin, Alison Weyher, David Dobbins, LuAnn Clark,
Bob Gore, Ed Rutan, Chris Bramhall, Dan Mulé, DJ Baxter

Spring Air Mountain-West, Inc., located in Salt Lake City at 402 West 300 North, is requesting that the City issue industrial development revenue bonds in an amount not to exceed \$4,600,000 to help the company finance expansion and modernization of its manufacturing facility. Repayment of the bonds will be the responsibility of Spring Air Mountain-West. The bonds will not be considered an obligation of the City.

Spring Air Mountain-West has finalized its direct-pay letter-of-credit with U.S. Bank to guarantee repayment of the bonds. Under this direct-pay letter-of-credit, U.S. Bank will make the bond repayments regardless of whether Spring Air Mountain-West is financially able to reimburse the bank.

On February 7, 2003, the Council received a briefing regarding Spring Air Mountain-West's application for industrial development revenue bonds. On February 18th, the Council adopted a resolution giving preliminary approval for the issuance of the bonds. On March 11th, the Council held a public hearing in compliance with the Tax Equality and Fiscal Responsibility Act (TEFRA). No one spoke at the public hearing. Bond counsel notified Council staff that the advertising didn't make all necessary disclosures. Bond counsel is requesting that the TEFRA hearing be held again to be sure that it is valid. Bond counsel has provided the Council Office with the suggested wording for the notice of the public hearing. (See attached.)

The IRS has set a "volume cap" for each state (\$150 million per year for Utah) for entities issuing industrial development revenue bonds or private activity bonds. (Providers of health care or educational services are not subject to the volume cap.) The Utah Legislature has established priorities for allocating the volume cap with most going to the Utah Housing Finance Agency for first-time single-family homeowners or to college student loan programs. On January 8, 2003, the Utah Private Activity Bond Authority authorized up to \$4,455,000 for industrial revenue bonds subject to City Council approval and issuance. This authorization was valid for 90 days. Spring Air Mountain-West received an extension that is valid until July 10th. Spring Air Mountain-West will apply for an additional extension in case there are any delays in closing the sale of the bonds.

Spring Air's bond counsel requests that the Council set the date for a TEFRA hearing to be held on July 1st. Following the hearing, Spring Air Mountain-West requests that the Council consider a resolution authorizing and approving the issuance of industrial development revenue bonds, authorizing the execution, delivery and performance of an indenture, a loan agreement, a bond purchase agreement and other documents related to the bonds; and authorizing and directing that other necessary and appropriate actions be taken in connection with the bonds. (See attached draft of the resolution.)

CHRONOLOGY:

- January 3, 2003** - Spring Air Mountain-West submitted an application requesting Salt Lake City to act as a conduit issuer of industrial revenue bonds.
- January 8, 2003** - The Utah Private Activity Bond Authority authorized up to \$4,455,000 for industrial development revenue bonds subject to approval and issuance by a local government. The allocation was valid for 90 days. The authorization was later extended until July 10, 2003. Spring Air Mountain-West will apply for another extension in case there are any delays in closing the sale of the bonds.
- January 24, 2003** - The City's Small Business Revolving Loan Fund Committee reviewed the application and approved it to be forwarded to the Mayor and City Council.
- February 7, 2003** - The Council discussed the application from Spring Air Mountain-West at its work session. Council Members were generally supportive of issuing the bonds.
- February 18, 2003** - The Council adopted a resolution giving preliminary approval for the issuance of the bonds.
- March 11, 2003** - The Council held a public hearing. No one spoke at the hearing. Bond counsel notified Council staff that the advertising didn't make all necessary disclosures. Bond counsel is requesting that the TEFRA hearing be held again to be sure that it is valid.