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## **Memorandum**

**DATE:** December 6, 2002  
**TO:** Bruce Walden  
**FROM:** Jack Waaler  
**RE:** Clark Lindsey Bonds

It is important to Clark Lindsey that before the end of the year, the city approve certain documents relating to bonds previously issued in 1996.

Apparently, there is an opportunity to gain a lower interest rate, but since the bonds were issued under the authority of the city, our cooperation is required.

A letter with more detailed explanation by Kurt Froelich is attached.

Should anyone want to see the actual bond documents, call Linda Peterson in the Legal Department.

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December 4, 2002

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**Re: City of Urbana, Illinois / Clark Lindsey Village / 1996 Bonds – Amendments.**

Dear Jack:

On December 30, 1996 the City issued \$3,000,000 Capital Improvement and Refunding Revenue Bonds, Series 1996 (Clark-Lindsey Village, Inc. Project) (the “**1996 Bonds**”) to finance and refinance facilities for Clark-Lindsey. By this, Clark-Lindsey caused the refunding of the City’s 1988 bonds for Clark-Lindsey (\$1,330,000 balance) and the construction of new facilities (\$1,670,000). The interest rate for the 1996 Bonds was 6.0% and had a feature allowing bondholders to compel a refinancing by Clark-Lindsey at any time after December 1, 2006 (either a balloon or some type of “**put option**” as this is not uncommon in longer term bank bond purchases). With lower prevailing interest rates, Clark-Lindsey and Busey Bank have agreed to lower the interest rate to 5.0% and extend the put option in favor of Busey Bank to December 1, 2012.

Although someone on behalf of Clark-Lindsey has already contacted the City about this, you have asked me to outline the nature of the actions which the City is asked to take, if at all, for these changes in the 1996 Bonds.

The 1996 Bonds are a form of so-called “**industrial revenue bonds**” (“**IRBs**”) under The Industrial Project Revenue Bond Act. By changes in 1980 any “**capital project**,” including Clark-Lindsey’s facilities, becomes technically an “**industrial project**.” (The City as a home rule unit could do this type of financing in any case.) The Clark-Lindsey facilities are financed with a more federally tax-favored type of IRB called a qualified 501(c)(3) bond. Unlike other types of IRBs these do not impact the City’s IRB cap limitation in each calendar year (now \$75

per capita) and are so-called “**bank-qualified**” (much as the City’s own bonds can be), making them attractive to bank bond purchasers. As with all IRBs, under express provisions in applicable law the 1996 Bonds are not a City obligation as to payment, but solely that of Clark-Lindsey. The City, by choice, provides the mechanism for tax-exempt financing.

The financing documents include a Loan Agreement (and Note from Clark-Lindsey) between the City and Clark Lindsey and an Assignment Agreement between the City and Busey Bank (by which almost everything is assigned to the bank and the City’s involvement ends). The City Council is asked to adopt an amending and supplementing resolution to that of 1996, which also would authorize amendments to the 1996 Loan Agreement and Assignment Agreement and to the 1996 Note and Bonds.

Under federal tax law a change in interest rate and in the put option, as Busey Bank and Clark Lindsey propose, effects a technical refunding of the 1996 Bonds. This requires the City Council’s approval of the proposed resolution (with the accompanying Loan Agreement Amendment and Assignment Agreement Amendment).

Please call me with any questions or comments.

Very truly yours,

KURT P. FROEHLICH, Ltd.