RESOLUTION NO. 06-23

RESOLUTION OF THE CALIFORNIA INFRASTRUCTURE AND ECONOMIC DEVELOPMENT BANK APPROVING INFRASTRUCTURE STATE REVOLVING FUND PROGRAM FINANCING NOT TO EXCEED $4,000,000 FOR THE CITY OF SACRAMENTO

WHEREAS, staff of the California Infrastructure and Economic Development Bank ("Staff" and "I-Bank," respectively) has determined that the City of Sacramento ("Borrower") submitted a timely and complete application ("Application") requesting Infrastructure State Revolving Fund ("ISRF") Program financing for the Basin 31 Detention Basin at 65th Street and Broadway Project. (the "Project"); and

WHEREAS, Staff has determined that the Borrower-proposed financing and Project meet all eligibility requirements contained in Government Code Section 63000 *et seq.* ("Act") and the Criteria, Priorities and Guidelines ("Criteria") for the ISRF Program.

WHEREAS, in addition to certain preliminary expenditures, the Borrower may pay certain expenditures (the "Reimbursable Expenditures") in connection with the Project prior to the issuance by the I-Bank of indebtedness for the purpose of financing costs associated with the Project on a long-term basis;

WHEREAS, the I-Bank reasonably expects that a portion of tax-exempt bonds in an aggregate amount not expected to exceed $4,000,000 will be issued to finance the costs of the Project and that certain of the proceeds of the tax-exempt bonds will be used to reimburse the Reimbursable Expenditures; and

WHEREAS, Section 1.150-2 of the Treasury Regulations requires the I-Bank to declare its reasonable official intent to reimburse Reimbursable Expenditures for the Project with proceeds of a subsequent borrowing;

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the California Infrastructure and Economic Development Bank ("Board"), as follows:

Section 1. Based upon information presented at the meeting where adoption of this resolution was presented and the staff report presented to the Board, the Board makes the following findings:

(a) Borrower meets the definition of "sponsor" pursuant to Government Code Section 63010 (u) and is thus an eligible recipient of financing;

(b) The Project meets the definition of "public development facility" pursuant to Government Code Section 63010(q) and is thus an eligible project to be financed;

(c) The categories of Project costs proposed to be paid with ISRF Program funds meet the definition of "Costs" pursuant to Government Code Section 63010(f) and thus are eligible for ISRF Program financing;

(d) Borrower adopted a resolution consistent with the requirements of Government Code Section 63041;

(e) Borrower meets the "need for I-Bank financing" and "readiness to proceed" criteria contained in the Criteria;

(f) Borrower and Project are eligible for tax-exempt financing under Federal law, without an allocation of private activity bond volume cap as required in the Criteria;

(g) The Project will not result in a "business relocation" as defined in the Criteria;

(h) The proposed financing complies with the underwriting criteria and sources of loan repayment specified in the Criteria; and

(i) The proposed Project is financially feasible, with all Project funding sources identified and committed.

Section 2. The provision of ISRF Program funds to the Borrower, consistent with the terms and conditions specified in Attachment A to this resolution, is hereby approved. The Chair or the Executive Director and the Secretary are authorized to execute all documents, certificates and other written agreements reasonably necessary to effectuate the described financing. The authority to execute financing documents shall expire automatically two hundred and ten (210) days from the adoption of this resolution.

Section 3. This resolution does not constitute a commitment to finance the Project, but instead sets forth the terms and conditions that shall be contained in the financing agreement with the Applicant. It is the understanding that the financing agreement will require considerable conditions and agreements on the part of the Applicant in order to adequately protect the interests of the I-Bank. Attachment A is meant solely to call out terms and conditions specific to this financing, and is not meant as a listing of conditions of sufficient specificity to constitute a commitment to finance.

Section 4. This resolution is adopted for purposes of establishing compliance with the requirements of Section 1.150-2 of the Treasury Regulations. This resolution does not bind the I-Bank to make any expenditure, incur any indebtedness, or proceed with the financing of the Project.

Section 5. All of the Reimbursable Expenditures covered by this resolution were made not earlier than 60 days prior to the date of this resolution.

Section 6. The Board hereby declares its reasonable official intent to use proceeds of tax-exempt bonds to reimburse the Borrower for the Reimbursable Expenditures.

Section 7. This resolution shall take effect from and after its adoption.

PASSED, APPROVED, AND ADOPTED at a meeting of the Board of Directors of the California Infrastructure and Economic Development Bank on May 23, 2006, by the following vote:

AYES: Kelley, Trujillo, Sheehan, Marin

NOES: None

ABSENT: None

ABSTAIN: None

By: _____
Stanton C. Hazelroth, Executive Director

ATTEST

By: _____
Blake Fowler, Secretary

ATTACHMENT A

1. **Applicant:** City of Sacramento.
2. **Project:** Basin 31 Detention Basin at 65th Street and Broadway Project.
3. **Amount of Financing:** Not to exceed $4,000,000.
4. **Maturity:** Not to exceed 30 years.
5. **Funding Availability:** I-Bank's financing commitment is subject to the availability of funds from either, or a combination of, proceeds of a revenue bond issue or I-Bank equity funds. The City shall execute the I-Bank financing agreement within 210 days of May 23, 2006.
6. **Repayment/Security:** Senior parity lien on the gross revenues of the Storm Drainage Fund.
7. **Interest Rate:** 67% of Thompson's Municipal Market Data Index for an "A" rated tax-exempt security with a weighted average life similar to the I-Bank financing based on the rates of May 1, 2006.
8. **Fees:** Financing origination fee of .85% of the I-Bank financing and an annual fee of .3% of the outstanding principal balance.
9. **Type of Financing Agreement:** Installment Sale Agreement.
10. **Financing Agreement - Covenants and Requirements:** The Installment Sale Agreement shall include, among other things, the following covenants:
    a. Storm Drainage fees shall not be reduced below an amount in which gross revenues net of operation and maintenance costs (excluding transfers) are less than 1.25 times the amount of actual total senior debt service.
    b. Storm Drainage Fund gross revenues may be pledged to secure future parity debt if gross revenues net of operation and maintenance costs (excluding transfers and adjusted for rate increases and system expansions) will provide debt service coverage of 1.25 times maximum annual debt service on all outstanding senior debt including the parity debt to be issued. The City may pledge Storm Drainage Funds to secure future subordinate debt without restriction.
    c. The City may request to prepay all or a portion of the financing amount. A request for a reduction is considered a prepayment. The I-Bank shall respond promptly to any prepayment request, and shall make every effort to accommodate the request, subject to the prepayment restrictions of the bonds to which this financing is pledged. Notwithstanding the above, the City shall be authorized to prepay all or a portion of the outstanding principal balance according to the following: 102% of the outstanding principal balance if the prepayment date is on or after ten years, but less than eleven years, from the effective date of the Installment Sale Agreement; 101% of the outstanding principal balance if the prepayment date is on or after eleven years, but less than twelve years, from the effective date of the Installment Sales Agreement; or without premium if the prepayment date is twelve years or more from the effective date of the Installment Sale Agreement. The City may on any date provide for a legal defeasance of the principal amount outstanding and any additional payment then due.
    d. An agreement to indemnify the I-Bank and its directors, officers and employees from any liability arising from the Installment Sale Agreement or from construction or operation of the Project.

11. **Conditions Precedent to Execution of I-Bank Installment Sale Agreement.** The following are some of the conditions, which will be required precedent to the to execution of the I-Bank Installment Sale Agreement:
    a. Receipt of a final Project cost breakdown acceptable to the I-Bank.
    b. Receipt of an opinion of legal counsel to the City that the City has the legal authority to enter into the Installment Sale Agreement, that there is no litigation currently pending or threatened that would in any way affect pledged revenues, and that the Installment Sale Agreement is a legal, binding and enforceable agreement of the City.
    c. Adopted City resolution authorizing the execution and delivery of the Installment Sale Agreement and approving certain other matters in connection therewith.
12. **Conditions Precedent to Initial Disbursement.** The following are some of the conditions, which will be required precedent to the initial disbursement of I-Bank funds:
    a. Execution of an Installment Sale Agreement consistent with the terms contained herein.
    b. Executed tax certificate.
    c. Evidence acceptable to the I-Bank that the City acquired the land for the Project.
    d. Evidence of compliance with all wetlands permit conditions.
13. **Conditions Precedent to Initial Construction Disbursement.** The following are some of the conditions, which will be required precedent to the initial construction disbursement of I-Bank funds for the Project:
    a. Certificate of the City Manager, legal counsel or other individual acceptable to I-Bank that the City has obtained any and all rights-of-ways, lot line adjustments, easements, and orders of possession, which are required for construction and operation of the Project.
    b. Certification by the City Manager, legal counsel or other individual acceptable to I-Bank that all required permits have been obtained for the construction of the Project.
    c. A written statement by the City Manager, legal counsel or other individual acceptable to I-Bank that:
        i. All construction contracts and subcontracts necessary for the construction of the Project have been awarded, and were awarded pursuant to competitive bidding and City procedures normally required for similar construction projects.
        ii. Project costs are consistent with the Sources and Uses listed in this staff report.
        iii. All prime construction contracts include a requirement that the contractor maintains appropriate builder's risk insurance and name the City as additional insured and loss payee, require the contractor to maintain liability insurance and name the City as an additional insured, and include performance and payment bond provisions and name the City as additional payee.
        iv. All construction contracts are let to the lowest responsible bidder at a fixed price subject to increase only for allowable extra work, change orders approved by the City, and damages or delays authorized by the laws of the State.
        v. All construction contracts require payment of prevailing wage rates and compliance with Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 of the California Labor Code;
        vi. All construction contracts require payment of workers' compensation insurance by contractors and subcontractors.
        vii. All construction contracts include the nondiscrimination provisions.

viii. The City has utilized the contractor pre-qualification forms developed by the Department of Industrial Relations as set forth in AB 574 (Chapter 972 of the Statutes of 1999) codified in Public Contract Code Section 20101 et seq.

14. **Conditions Precedent to Final Disbursement.** The following are some of the conditions precedent to final disbursement of I-Bank funds:
    a. Recorded Project Notice of Completion or other evidence of completion.
    b. Lien waivers for the Project, or passage of the applicable statutory time periods for filing mechanics and other similar liens.
    c. Certification that the Project has been completed in accordance with the approved plans and specifications, and that the completed Project is consistent with the definition of Project in this staff report and is acceptable to the City.
    d. Certification that the City has obtained all licenses and permits (including operating permits), and approvals from any governmental agency or authority having jurisdiction over the City in connection with the Project.
15. **Financial and Other Reporting Requirements.** The following are some of the financial and other reporting requirements that will be required:
    a. Audited annual City financial statements, due within 210 days of fiscal year end.
    b. Other information as the I-Bank may request from time to time.