

Attachment 1
 Staff Report – Agenda Item # 6
 December 15, 2009

**California Infrastructure and Economic Development Bank
 Imperial Irrigation District Loan Guarantee
 Clarified and Restated Preliminary Loan Guarantee Commitment
 Term Sheet**

Term/Condition	Clarification and Restatement of the 2003 Preliminary Loan Guarantee Commitment	IID Proposal
Purpose of the Guarantee	To address the financial risk to the Imperial Irrigation District (IID) of early termination of the Quantification Settlement Agreement ¹ and the Related Agreements ² (jointly, the “QSA and Related Agreements”) as understood by the I-Bank Board in July of 2003.	To address the financial risk to the IID that Conserved Water Revenues ³ would be insufficient to pay operation and maintenance expenses for the conserved

¹ The Quantification Settlement Agreement dated as of October 10, 2003, by and among IID, the Metropolitan Water District of Southern California, and Coachella Valley Water District.

² As defined in the Quantification Settlement Agreement and as those agreements existed as of October 10, 2003.

³ Revenues received by IID from the sale of water made available for sale as a result of projects undertaken by IID to meet its obligations under the QSA and Related Agreements (“Conserved Water”) net of operating costs related to those projects.

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	<p>One of the anticipated termination events disclosed to the I-Bank Board in 2003 no longer exists due to subsequent environmental cost assistance provided by the Department of Water Resources.</p> <p>The only remaining anticipated termination event is that of “Non-consensual Termination of the 1998 IID/SDCWA Transfer Agreement” as defined in the Quantification Settlement Agreement. In sum, this is a termination by San Diego County Water Authority in 2038 following notification in 2018 that an acceptable agreement regarding water wheeling rates had not been achieved. See Appendix 1.</p>	<p>water capital improvements plus debt service on the Guaranteed Bonds⁴ (as defined below) for any reason except as a result of actions approved by or undertaken by the IID.</p> <p>This would include, for example, cessation or reduction in Conserved Water Revenues as a result of willful default by any purchaser of conserved water; as a result of any court-ordered delay or termination of transfers or purchases of conserved water⁵ or any court order requiring the IID to cease any Conserved Water Revenue generating activity in order to comply with environmental law, ordinances, regulations, approvals, agreements or permits; as a result of force majeure (war, Act of God, etc.); or as a result of cessation by IID of any Conserved Water Revenue generating activity upon a reasonable determination by IID that such cessation is necessary to prevent an IID</p>

⁴ Any bonds guaranteed by I-Bank pursuant to the terms of this Clarified and Restated Preliminary Loan Guarantee Commitment.

⁵ The validity of the QSA and Related Agreements is currently being litigated, and an unfavorable decision in this pending litigation could result in a termination or delay in receipt of Conserved Water Revenues.

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		violation of environmental laws, ordinances, regulations, approvals, agreements or permits.
Eligible Borrower	<p>IID has provided documentation that it meets the definition of “Sponsor” in Government Code Section 63010(u) as a result of its status as a statutorily established special district.</p> <p>The Guaranteed Bonds will be issued by IID.</p>	
Eligible Project	<p>Projects to be financed through Guaranteed Bonds may be any of those described in Appendix 2 (collectively, the “Water Conservation Project”), provided that:</p> <ul style="list-style-type: none"> ■ The non-leak gate replacements described in Appendix 2 may be financed by Guaranteed Bonds only upon provision by IID to the I-Bank of water conservation estimates pertaining to this portion of the Water Conservation Project; and ■ The turnout gate measurement devices described in Appendix 2 may be financed through Guaranteed Bonds only upon confirmation to the satisfaction of I-Bank staff that such turnout gate measurement devices will assist the IID in meeting its contractual obligations under the QSA and Related Agreements. 	

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Eligible Costs	Project costs to be financed through Guaranteed Bonds may include the costs of construction or development of Eligible Projects; the acquisition and installation of machinery and equipment pertaining to Eligible Projects; financing costs of Eligible Projects; costs of capitalized interest of the Guaranteed Bonds during the period of construction or acquisition of Eligible Projects; debt service reserves related to Guaranteed Bonds; and other expenses incidental thereto.	

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<p>Amount of Guarantee</p>	<p>The maximum guarantee for the first series of Guaranteed Bonds, which must be issued during 2010: The then-current cash amount in the Guarantee Trust Account (currently approx. \$24 million). (“2010 Guarantee”)</p> <p>The maximum guarantee for the second series of Guaranteed Bonds, which must be issued on or before December 31, 2015: A combination of (a) a subordinate interest in the 2010 Guarantee and (b) any amount in the Guarantee Trust Account over and above the maximum 2010 Guarantee amount, which amount may be as a result of interest earnings or Legislative appropriations (<i>if any</i>) pursuant to the reserve account requirements process (<i>if the reserve account is established by the Legislature</i>) set forth in Government Code section 63064. (“Second Series Guarantee”)</p> <p>The maximum aggregate principal amount of Guaranteed Bonds will not exceed that amount necessary to result in bond proceeds, net of costs of issuance to include an underwriter’s discount not greater than .8% and the funding of a maximum reserve account, of \$150 million.</p>	<p>The maximum guarantee for the first series of Guaranteed Bonds, which are anticipated by IID to be issued during 2010, but which must be issued at any time prior to December 31, 2015: The then-current cash amount in the Guarantee Trust Account (currently approx. \$24 million). (“2010 Guarantee”).</p> <p>[No change to second or third paragraph.]</p>

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Credit Rating	<p>Prior to the execution of either the 2010 Guarantee or the Second Series Guarantee, the related series of Guaranteed Bonds must have received an indicative rating of at least Baa1/BBB+/BBB+ (Moody's, S&P or Fitch, respectively) based solely on a pledge of Conserved Water Revenues, provided that the rating may be based on an assumption that the guaranteed early termination risk as set forth in "Purpose of the Guarantee" above will not take place.</p>	
Debt Service Reserve Fund	<p>Each series of Guaranteed Bonds must be secured by a debt service reserve fund in the maximum amount permitted under federal tax law. It is anticipated that the reserve fund for each series of Guaranteed Bonds will be funded from the proceeds of that series of Guaranteed Bonds.</p> <p>The applicable I-Bank guarantee may be drawn upon only following the exhaustion of the applicable debt service reserve fund.</p>	
Amortization Pattern of Bonds	<p>Each series of Guaranteed Bonds will have level debt service amortization.</p>	

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Term of Bonds	Each series of Guaranteed Bonds will have a maximum maturity of no greater than 30 years from the date of issuance of the first series of Guaranteed Bonds.	Each series of Guaranteed Bonds will have a maximum maturity of no greater than 30 years from the date of issuance of that series of guaranteed Bonds.
Fixed Rate	Each series of Guaranteed Bonds will bear interest at fixed interest rates not to exceed 7% per annum.	
IID Resolution	IID Board issued the required resolution on September 29, 2009.	
Prevailing Wages	The Reimbursement and Indemnification Agreement (described below) will contain a certification by IID that the projects described in Appendix 2 will comply with Chapter 1 of Part 7 of Division 2 of the Labor Code (including prevailing wages).	
Funding of Guarantee Trust Account	The Guarantee Trust Account has been funded and is currently invested in the Pooled Money Investment Fund. Investment of this account must conform to Government Code section 63062.	

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<p>Reserve Account Requirement</p>	<p>I-Bank shall comply with Government Code section 63064 if a “reserve account requirement” for the Guarantee Trust Account is established by the California Legislature.</p> <p>IID anticipates working with the Legislature to have a reserve account requirement established for the purpose of establishing the Second Series Guarantee.</p> <p>I-Bank staff will report to the I-Bank Board on a monthly basis as to whether a reserve account requirement has been established.</p>	
<p>Reimbursement and Indemnification Agreement</p>	<p>Simultaneously with the execution of the 2010 Guarantee agreement and the Second Series Guarantee agreement, IID and I-Bank will enter into a “Reimbursement and Indemnification Agreement” each of which shall, at a minimum, include:</p> <ol style="list-style-type: none"> 1. IID’s representations re: its status as a Sponsor; components of the Water Conservation Project and costs thereof to be funded with the proceeds of the Guaranteed Bonds; prevailing wages; and other representations required by the I-Bank. 2. IID’s agreement to hold I-Bank harmless for and indemnify the I-Bank against any claims related to the issuance of the Guaranteed Bonds, the issuance of either the 2010 Guarantee or the Second Series Guarantee, or the acquisition, construction, development or operation of the Water Conservation Project, including but not limited to the 	

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	<p>portion of the Water Conservation Project financed by Guaranteed Bonds.</p> <ol style="list-style-type: none"> 3. IID's agreement to pay an annual monitoring fee to the I-Bank and to reimburse the I-Bank for its costs (see "fees" below). 4. IID's agreement to reimburse the I-Bank for draws under the 2010 Guarantee or the Second Series Guarantee, as applicable, from Conserved Water Revenues, provided that the I-Bank's right to reimbursement will be subordinate to the rights to Conserved Water Revenues granted to the holders of the Guaranteed Bonds, the holders of any parity debt existing as of the date of this Preliminary Loan Guarantee Commitment ("Current Parity Debt"), or the holders of any parity debt subsequently issued in conformance with parity debt coverage and security requirements approved by the I-Bank ("Approved Parity Debt"). 5. Covenants and conditions usual and customary for a bond guarantee transaction, including but not limited to: <ul style="list-style-type: none"> ■ Limitations on IID mergers, consolidations and asset sales; ■ IID's compliance with all laws; ■ IID's compliance with material obligations under the QSA and Related Agreements and the documents pertaining to the Guaranteed Bonds, any Current Parity 	<ol style="list-style-type: none"> 4. IID's agreement to reimburse the I-Bank for draws under the 2010 Guarantee or the Second Series Guarantee, as applicable, from Conserved Water Revenues, provided that the I-Bank's right to reimbursement will be subordinate to the rights to Conserved Water Revenues granted to the holders of all other IID debt existing or issued in the future, and after providing for all capital needs of IID, regardless of whether such capital needs are related to the Water Conservation Project or the production of Conserved Water Revenues.

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	<p>Debt and any Approved Parity Debt;</p> <ul style="list-style-type: none"> ■ IID's maintenance of its status as a statutorily established water district; ■ IID's maintenance of adequate insurance for the Water Conservation Project (which may be self-insurance if adequately supported) and the application of any available insurance revenues prior to a draw on either the 2010 Guarantee or the Second Series Guarantee; ■ IID's timely construction, development, acquisition and installation of the Water Conservation Project, and efficient operation of the Water Conservation Project so as to maximize Conserved Water Revenues; ■ Annual certifications to the I-Bank as to the status of the construction and acquisition of the components of the Water Conservation Project funded with proceeds of Guaranteed Bonds to confirm that the financed project components and project costs conform to the requirements of the I-Bank Act and this Preliminary Loan Guarantee Commitment; ■ Debt service coverage ratios for Approved Parity Debt sufficient to avoid any impact by such parity debt on the rights of the I-Bank to receive reimbursement from Conserved Water Revenues; ■ Oversight and control of Conserved Water Revenues funds reasonably required to insure IID's compliance 	

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	<p>with its obligation to reimburse the I-Bank from Conserved Water Revenues.</p> <p>Prior to the approval by the I-Bank Board of any 2010 Guarantee agreement or Second Series Guarantee agreement or related Reimbursement and Indemnification Agreements, I-Bank staff must be presented with substantially final versions of documents pertaining to the issuance of proposed Guaranteed Bonds which adequately reflect IID's reimbursement and indemnification obligations, and the I-Bank's rights under the Reimbursement and Indemnification Agreement. Any change to the terms of those substantially final bond related documents must be consistent with the terms of any approved 2010 Guarantee or Second Series Guarantee, as applicable.</p>	
<p>Fees</p>	<p>Upon execution of the guarantee agreement for the 2010 Guarantee, IID will reimburse all I-Bank costs, including out-of-pocket legal and financial advisory fees and internal staff costs (on a documented hourly rate), incurred in connection with the issuance of this preliminary loan guarantee commitment and the guarantee agreement pertaining to the 2010 Guarantee.</p> <p>Upon the execution of the guarantee agreement for the Second Series Guarantee, the I-Bank will again be reimbursed for such costs.</p> <p>IID will pay an annual monitoring fee to the I-Bank in the amount approved by the I-Bank Board.</p>	

TERM SHEET -- Appendix 1

Article 4, Section 4.1(c) of Revised Fourth Amendment to Agreement Between Imperial Irrigation District and San Diego County Water Authority for Transfer of Conserved Water

4.1(c) Early Termination. The Authority may elect to terminate at the end of year 35 [2038] if conditions identified in (ii) below are satisfied;

* * * * *

(ii) Actual Wheeling Rate Trigger and Notice – If the Actual Wheeling Rate as determined [through negotiation, arbitration or litigation by year 15 (2018)] exceeds one-hundred twenty-five percent (125%) of the Base Wheeling Rate or the Authority has been unable to reach agreement with MWD or complete binding arbitration, litigation or other dispute-resolution mechanism, then the Authority has the right to terminate this Agreement for Transfer of Conserved Water as of the end of Agreement Year 35 [2038], but only if the Authority gives notice of such early termination no later than the end of Agreement Year 15 [2018].

TERM SHEET – Appendix 2

ELIGIBLE PROJECT AND ELIGIBLE COSTS SUMMARY

Proceeds from the Guaranteed Bonds will be used to finance a portion of the following public capital improvements (collectively, the “Water Conservation Project”). None of the portions of the Water Conservation Project funded from the proceeds of Guaranteed Bonds will be located on private property and all of the portions of the Water Conservation Project funded from the proceeds of Guaranteed Bonds will be owned and operated by IID. In compliance with federal tax laws, the weighted average maturity of the bonds issued by IID to finance the Water Conservation Project will not exceed 120% of the weighted average life of the portions of the Water Conservation Project so financed.

36 mid-lateral operating reservoirs - \$54,861,000 estimated

These reservoirs are expected to have capacities ranging from 8 to 75 acre-feet. Their main function is to provide for daily flow regulation as required by upstream and downstream water user demand changes thereby reducing spillage. Some reservoirs will be inline (built within the existing canals), and others will be located adjacent to existing laterals. Water inflow and outflow will be controlled either using pumps or by gravity. Costs associated with the mid-lateral operating reservoirs include earthwork, lining of the reservoirs as appropriate, acquisition and construction of automated control devices and other appurtenant improvements. The estimated water conserved from these reservoirs is 29,200 to 35,900 acre-feet.

34 delivery canal interconnections - \$42,318,000 estimated

Costs associated with the canal interconnections include the acquisition of intertie materials and construction of interconnections that route spill from the end or a spill structure of one lateral to an adjacent lateral via a lined canal or pipeline. Some of the interties will have associated reservoirs to regulate the flow into the receiving lateral. Other associated improvements include pumps, flow measurement and control devices such as weirs or flumes, and automated control gates. The canal interconnections work in conjunction with the Mid-valley collector system.

Mid-valley collector system - \$117,587,000 estimated

The Mid-valley collector system includes all costs associated with the upgrading of certain lateral canals to accommodate the spills captured by the canal interconnections. Additional costs include the construction of four new reservoirs ranging in size from 50 to 300 acre-feet with associated pumping plants and pipelines in order to regulate and distribute captured spills to water users. The central part of the Imperial Valley between the New and Alamo rivers is low and does not have enough irrigated area to use the entire captured spill that collects there. The Mid-valley collector

system collects existing system spill as well as spill that is routed to this low area from lateral interties to the south and moves this water to higher elevations in the north and west for customer use. The estimated water conserved from the canal interconnections and the Mid-valley collector system is 30,800 to 38,200 acre-feet.

20 non-leak gate replacements - \$250,000 estimated

Costs include acquisition and installation of non-leak gates. The non-leak gates are anticipated to be placed at sub-lateral headings that are not automated and where leakage is a problem.

5,500 farm turnout gate measurement devices - \$68,750,000 estimated

Costs include the acquisition and installation of measuring devices that provide real-time flow rate, water level measurement, and gate position. These systems utilize existing turnout delivery gates and structures.