

**RESOLUTION NO. 09-06**

**RESOLUTION OF THE CALIFORNIA INFRASTRUCTURE AND ECONOMIC DEVELOPMENT BANK INSTRUCTING STAFF REGARDING THE APPROVING THE FINANCING OF COSTS PAID OR INCURRED BY THE INFRASTRUCTURE STATE REVOLVING FUND PROGRAM PROJECT SPONSORS PRIOR TO THE EFFECTIVE DATE OF FINANCING AGREEMENTS.**

**WHEREAS**, the California Infrastructure and Economic Development Bank (the "I-Bank") is established pursuant to the Bergeson-Peace Infrastructure and Economic Development Bank Act (California Government Code Section 63000 et seq.) (the "Act"), for the purpose of promoting, among other things, a system of public improvements essential to the economic well-being of the citizens of the State of California (the "State") and that are necessary to maintain, as well as create, employment within the State;

**WHEREAS**, the I-Bank is authorized under the Act to, among other things, finance the "costs" of the categories of "public development facilities" located in the State, as requested by "sponsors" ("Project Sponsors"), all as defined in the Act, pursuant to the authority and requirements of the Act;

**WHEREAS**, the I-Bank has adopted Criteria, Priorities and Guidelines (the "Criteria") for a program to finance public development facilities known as the Infrastructure State Revolving Fund Program (the "ISRF Program");

**WHEREAS**, the ISRF Program is funded in part by the issuance of bonds by the I-Bank (the "ISRF Program Bonds"), and the ISRF Program transactions that are either funded from the proceeds of, or pledged to the security of various series of ISRF Program Bonds must be structured in conformance with certain federal tax law requirements that apply to the ISRF Program Bonds and in conformance with certain contractual agreements made by the I-Bank in relation to the ISRF Program Bonds;

**WHEREAS**, the Board adopted Resolution 00-32 to, among other things, establish when a Project Sponsor may use the proceeds of an ISRF Program financing to reimburse costs incurred by the Project Sponsor prior to the execution of the ISRF Program financing agreement;

**WHEREAS**, the reimbursement limitations established in Resolution 00-32 are more stringent than required by the Act or the federal tax law or agreements pertaining to the use of proceeds of the ISRF Program Bonds, and from time-to-time have either inhibited the I-Bank's ability to finance costs of a ISRF Program project that would have otherwise been eligible under the Act and the laws and agreements pertaining to the ISRF Program Bonds or have made it difficult for Project Sponsors to evidence their readiness to proceed within six months of receiving a financing commitment, as required by the Criteria;

**WHEREAS**, the Criteria express the Board's intention that the ISRF Program be used to finance public development facilities that are in need of ISRF Program financing, and the use of ISRF Program funds as a replacement for funding otherwise available to the Project Sponsor is inconsistent with this expression;

**WHEREAS**, the Resolution 00-32 also provides instructions to I-Bank staff as to how to interpret the Act's definitions of "public development facilities" and "public parking facilities" one of the categories of public development facilities, and how to identify a nonprofit corporation "formed on behalf of" a Project Sponsor;

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

**Section 1.** The Board hereby finds that the above recitals are true and correct.

**Section 2.** Costs paid by a Project Sponsor are eligible for reimbursement from ISRF Program financings, to the extent permitted by federal regulations pertaining to the reimbursement of costs from the proceeds of tax-exempt bonds ("Federal Tax Regulations"), as follows:

(a) The following "preliminary costs", subject to the aggregate amount limitation of the Federal Tax Regulations, notwithstanding when they were incurred or paid: costs of architectural, engineering, surveying, soil and environmental testing and reports, studies (including environmental impact, rate and feasibility studies), CEQA reports, the issuance of ISRF Program Bonds, and similar costs not including land acquisition, site preparation or similar costs incident to the commencement of construction.

(b) Costs of land acquisition and ISRF Program fees, to the extent paid within the time-limits established by the Federal Tax Regulations.

(c) All other project costs to the extent paid on or after the date of the adoption of a resolution by this Board approving the ISRF Program financing, or such later date permitted by the Federal Tax Regulations.

**Section 3.** This Resolution supersedes Section 4 of Resolution 00-32 adopted on June 9, 2000, and shall take effect from and after its adoption.

**PASSED, APPROVED, AND ADOPTED** at a meeting of the California Infrastructure and Economic Development Bank on February 24, 2009, by the following vote:

AYES: Bonner, Rockwell, Lujano, Rice

NOES: None

ABSENT: Marin

ABSTAIN: None

By   
Stanton C. Hazelroth, Executive Director

Attest:

By   
Roma Cristia-Plant, Secretary