

CALIFORNIA INFRASTRUCTURE AND ECONOMIC DEVELOPMENT BANK

STAFF REPORT

This agenda item is a report on the effect Senate Bill 856, which was signed into law on October 19, 2010, (Statutes of 2010, Chapter 719) has on a preliminary loan guarantee commitment the I-Bank has issued to the Imperial Irrigation District (the "IID") and on the I-Bank's authority to guarantee certain bonds issued by the IID. **No Board action is requested.**

Section 69 of Senate Bill 856 ("SB 856/69") significantly affects, and in some instances overrides, the existing preliminary commitment issued to the IID which, by its terms, will expire on December 31, 2010. I-Bank staff's conclusion is that, due to the legislative direction contained in SB 856/69, the best course of action is to permit the preliminary commitment to expire, and for staff and representatives of the I-Bank and the IID to engage in discussions about the implementation of SB 856/69.

I-BANK ACT GUARANTEE AUTHORITY:

The I-Bank is authorized under the Bergeson-Peace Infrastructure and Economic Development Bank Act (the "Act") to use funds on deposit in the California Infrastructure Guarantee Trust Fund (the "Guarantee Trust Fund") to insure bonds issued by local governmental entities for the purpose of financing public infrastructure.

The Act also establishes a mechanism for replenishing Guarantee Trust Fund accounts that are drawn upon. The Act provides that if the Legislature establishes an amount referred to as a "reserve account requirement" for a particular guarantee account and thereafter the I-Bank determines that the amount in that account has fallen below the applicable "reserve account requirement" amount, the I-Bank Executive Director must (a) report to the Legislature and the Governor the amount required to restore the funds set aside to insure bonds to the reserve account requirement, and (b) ask the Governor to request an appropriation of that amount. The Act also provides that the Legislature may, at its discretion, choose to appropriate the sum that would restore the funds set aside to insure bonds to the applicable reserve account requirement amount.

2003 PRELIMINARY COMMITMENT:

On May 28, 2003, the I-Bank Board adopted Resolution No. 03-16, adopting criteria, priorities and guidelines to implement a guarantee program to support the IID's goal of issuing revenue bonds to finance costs of a water supply project consisting of water conservation measures designed to assure that California would continue to receive the maximum amount of water from the Colorado River. Resolution No. 03-16 also authorizing the transfer of \$20 million from the California Infrastructure and Economic Development Bank Fund to the Guarantee Trust Fund. A

copy of the staff report presented on May 28, 2003, and Resolution No. 03-16 are attached as **Attachment 1**.

Thereafter \$20 million was transferred to the Guarantee Trust Fund. As a result of investment earnings, the amount on deposit in the Guarantee Trust Fund set aside to benefit the IID was approximately \$24.2 million as of January 1, 2010.

On June 27, 2003, the I-Bank Board adopted Resolution No. 03-18, approving a preliminary loan guarantee commitment for the IID (the "2003 Preliminary Commitment"). A copy of the staff report presented on June 27, 2003, and Resolution No. 03-18 are attached as **Attachment 2**.

By its terms, the 2003 Preliminary Commitment was to expire on December 31, 2009. Mindful of this termination date, throughout 2009 staff and representatives of the I-Bank and the IID engaged in discussions about the issuance of a final loan guarantee. Two things became clear: first, that the Legislature had never adopted a "reserve account requirement" for any guarantee to be issued by the I-Bank for the benefit of the IID; and second, that there was disagreement about certain provisions of the 2003 Preliminary Commitment. On December 15, 2009, the I-Bank Board adopted Resolution 09-48, clarifying certain provisions of the 2003 Preliminary Commitment and extending it until December 31, 2010. Other provisions of the 2003 Preliminary Commitment remained under discussion. A copy of the staff report presented on December 15, 2009, and Resolution No. 09-48 are attached as **Attachment 3**.

In May of 2010, the IID proposed legislation for the purpose of establishing the "reserve account requirement" for any IID guarantee. In addition, the legislative proposal sought clarification of the terms of the 2003 Preliminary Commitment under discussion. I-Bank staff and staff of the Department of Finance, the Department of Water Resources, and Resources Agency worked with the IID's staff and representatives to craft legislation that could be agreed upon by the Administration and the IID. Staff of the I-Bank and the Department of Finance provided expertise on bond financing and the I-Bank Act. The State's water policy interests were represented by staff of the Department of Water Resources and Resources Agency. The result was SB 856/69, which was signed into law by the Governor on October 19, 2010. A copy of SB 856/69 is attached as **Attachment 4**.

EFFECTS OF SB 856/69:

SB 856/69 established a "reserve account requirement" in the amount of the funds held in the Guarantee Trust Fund for the benefit of the IID pursuant to Resolution 03-18 as of January 1, 2010. That amount was approximately \$24.2 million.

In addition, SB 856/69 requires the I-Bank to guarantee certain bonds issued by the IID; establishes when that guarantee can be drawn upon; and authorizes certain future I-Bank Board actions in relation to that guarantee. A summary of these effects of SB 856/69 is as follows:

Bond Terms:

SB 856/69 requires the I-Bank to guarantee obligations of the IID:

- in an aggregate principal amount which, net of costs of issuance and a reserve account in the maximum amount permitted by federal tax law, provides proceeds of up to \$150 million (in 2003 dollars, adjusted by the construction cost index);
- the proceeds of which will be used for projects or programs to develop “conserved water” as defined in and for the purposes of the quantification and settlement agreement executed on October 10, 2003 (the “Quantification Settlement Agreement”); and
- which may be issued in one or more series from time to time, as determined by the IID, and mature no later than 30 years from the date of issuance of the applicable series; bear interest at a fixed rate; and have level debt service (unless the I-Bank Board determined otherwise).

Guarantee Terms:

SB 856/69 provides that the I-Bank’s guarantee may be used to pay bond debt service if one of three enumerated “triggering events” has occurred, and the IID’s revenues under an existing conserved water transfer agreement between the IID and the San Diego County Water Authority (San Diego Water) or any post-triggering event water transfer agreement with another purchaser or San Diego Water, are insufficient to pay the IID’s costs of operation and maintenance, administration and other noncapital costs related to the bond-financed projects or programs (referred to herein as “authorized IID project related costs”) and debt service on the bonds, but only after the bond reserve account has been exhausted and debt service payments on the bonds for 12 consecutive months have been funded by the IID.

The enumerated triggering events are:

- a court or administrative body order or other action that results in a reduction or elimination of revenues under the existing conserved water transfer agreement between the IID and San Diego Water;
- a default under that water transfer agreement by San Diego Water resulting in a reduction in revenues payable to IID, if the IID has assigned to the I-Bank the IID’s rights to payments under the agreement sufficient for the I-Bank to be made whole in the event recovery is obtained from San Diego Water; or
- the termination of that water transfer agreement for any reason other than as stated above, any time prior to October 3, 2048.

SB 856/69 provides that the IID shall reimburse draws under the guarantee in any fiscal year from revenues received by the IID in that fiscal year under the San Diego Water conserved water transfer agreement or any post-triggering event water transfer agreement that are in excess of authorized IID project related costs and debt service on the bonds due in that fiscal year.

Future I-Bank Board Actions:

SB 856/69 requires the I-Bank to enter into a guarantee agreement consistent with the terms of SB 856/69, as approved by the I-Bank Board. I-Bank staff anticipates future discussions with staff and representatives of the IID as to the IID's bond issuance plans prior to drafting a form of guarantee agreement for presentation to the I-Bank Board for its consideration.

SB 856/69 authorizes the I-Bank to charge an insurance guarantee premium established by the I-Bank Board, that does not exceed one percent (1%) of the principal amount of the guaranteed bonds. The I-Bank is authorized to collect that premium from the proceeds of guaranteed bonds. I-Bank staff will prepare a recommendation as to the amount of this premium when more is known about the IID's bond issuance plans. I-Bank staff anticipates that the premium will be proposed in an amount sufficient to cover I-Bank costs such as:

- those related to providing the guarantee for each series of the IID's bonds, including: staffing costs; cost of the I-Bank's special counsel for assistance in negotiating and drafting one of more bond guarantee agreements; and costs of interagency agreements with Resources Agency departments with knowledge of water conservation matters and the Quantification Settlement Agreement for advice as to whether the projects and programs to be financed by guaranteed bonds meet the requirements of SB 856/69; and
- those related to ongoing oversight of the guarantee including staffing costs for determining the amount of the "reserve account requirement" shortfall and costs of legal and accounting services to assist the I-Bank in determining revenues available to the IID for purposes of meeting its reimbursement obligation to the State.

RELATED LITIGATION:

In January of 2010, a Sacramento County trial court judge found a variety of agreements pertaining to the conservation and transfer of Colorado River water, including the existing conserved water transfer agreement between the IID and San Diego Water, to be constitutionally invalid.

The IID has appealed that trial court decision, and the case remains pending in the third district of the appellate court. It is unknown whether this action will result in a triggering event for purposes of a final I-Bank guarantee.

POTENTIAL FINANCIAL IMPACTS OF A FINAL GUARANTEE:

A final guarantee pursuant to SB 856/69 will commit the approximately \$24.2 million presently held in the Guarantee Trust Fund for the IID for a period of not less than 30 years.

In the event draws on any final guarantee are made to pay debt service on the IID's bonds, and the Legislature subsequently determines to annually appropriate funds to replenish such draws, a final guarantee could have a cumulative General Fund impact of greater than \$700 million.

ATTACHMENT 1: May 28, 2003 Staff Report and Adopted Resolution No. 03-16

See Attachment 2 of Attachment 3

ATTACHMENT 2: June 27, 2003 Staff Report and Adopted Resolution No. 03-18

See Attachment 3 of Attachment 3

ATTACHMENT 3: December 15, 2009 Staff Report and Adopted Resolution No. 09-48

CALIFORNIA INFRASTRUCTURE AND ECONOMIC DEVELOPMENT BANK

STAFF REPORT

ISSUE: Staff requests approval of a clarification and restatement of the terms of the preliminary loan guarantee commitment granted to the Imperial Irrigation District (the "IID") on June 27, 2003 and an extension of the term of that preliminary commitment as so clarified and restated (the "Clarified Preliminary Commitment") until June 30, 2010.

The proposed clarification and restatement of terms and conditions is set forth in **Attachment 1**, as more fully described in this staff report.

BACKGROUND INFORMATION: The I-Bank is authorized under the Bergeson-Peace Infrastructure and Economic Development Bank Act (the "Act") to insure all or part of any series of bonds issued by a sponsor (as defined in the Act) using funds available therefore on deposit in the California Infrastructure Guarantee Trust Fund (the "Guarantee Trust Fund").

On May 13, 2003, the IID submitted an application seeking a preliminary loan guarantee commitment (the "IID Preliminary Application") in accordance with certain proposed criteria, priorities and guidelines of the I-Bank. The IID Preliminary Application requested financial assistance in issuing revenue bonds required to finance \$150 million of net project costs of a water supply project consisting of water conservation measures designed to assure that California would continue to receive the maximum amount of water from the Colorado River (the "Proposed Water Conservation Project").

On May 28, 2003, the I-Bank Board adopted Resolution No. 03-16, which adopted criteria, priorities and guidelines (the "Criteria") to implement a guarantee program for the purpose of providing financial assistance so that the IID could issue revenue bonds to finance the Proposed Water Conservation Project (the "IID Guarantee Program"), and authorized the Executive Director of the I-Bank to transfer \$20 million from the California Infrastructure and Economic Development Bank Fund to the Guarantee Trust Fund for the IID Guarantee Program. A copy of the staff report presented on May 28, 2003 and Resolution No. 03-16 are attached as **Attachment 2**.

Thereafter \$20 million was transferred to the Guarantee Trust Fund, and as a result of investment earnings, the amount on deposit in the Guarantee Trust Fund for the IID Guarantee Program is currently approximately \$24.1 million.

On June 27, 2003, the I-Bank Board adopted Resolution No. 03-18, finding that the IID Preliminary Application was consistent with the Criteria and the Act, and approving a preliminary loan guarantee commitment for the IID on the terms requested in the IID Preliminary Application (the "2003 Preliminary Loan Guarantee Commitment"). The 2003 Preliminary Loan Guarantee Commitment, as adopted pursuant to Resolution No. 03-18, was to expire:

- On December 31, 2003, if the IID had not entered into a quantification settlement agreement and related water transfer agreements with the San Diego County Water

District (the “SDCWD”), the Metropolitan Water District of Southern California (the “MWD”) and the Coachella Valley Water District (the “CVWD”), as described in Resolution No. 03-18 (collectively, the “Agreements”); and

- On December 31, 2009, unless extended in writing by the I-Bank Board.

A copy of the staff report presented on June 27, 2003 and Resolution No. 03-18 are attached as **Attachment 3**.

A quantification settlement agreement between the IID, MWD and CVWD, and a variety of water transfer agreements, including a fourth amendment to the IID and SDCWD water transfer agreement were entered into on October 10, 2003 (the “QSA and Related Agreements”), thus meeting the December 31, 2003 deadline established by Resolution No. 03-18.

Throughout 2009, staff and representatives of the I-Bank and the IID have engaged in discussions regarding the issuance of a final loan guarantee pursuant to the terms of the 2003 Preliminary Loan Guarantee Commitment prior to the December 31, 2009, deadline. On October 1, 2009, the I-Bank received an application from the IID for a final loan guarantee pursuant to the 2003 Preliminary Loan Guarantee Commitment (the “IID Final Guarantee Application”). I-Bank staff have determined that the IID Final Guarantee Application is substantially complete for purposes of meeting the application deadline of the Criteria.

However, the IID Final Guarantee Application seeks a final loan guarantee with terms that I-Bank staff are unable to conclude are consistent with the terms of the 2003 Preliminary Loan Guarantee Commitment. Because I-Bank staff are unable to make a final loan guarantee recommendation to the I-Bank Board by the 2003 Preliminary Loan Guarantee Commitment expiration deadline of December 31, 2009, I-Bank staff are now seeking clarification from the I-Bank Board of the terms of the 2003 Preliminary Loan Guarantee Commitment and I-Bank staff and IID are seeking an extension of time in order for I-Bank staff to draft a staff recommendation regarding a final guarantee to the I-Bank Board accompanied by guarantee agreements and reimbursement and indemnification agreements consistent with the Clarified Preliminary Commitment.

POTENTIAL FISCAL IMPACTS OF A FINAL GUARANTEE: As discussed in prior meetings of the I-Bank Board, granting a final guarantee pursuant to either the 2003 Preliminary Loan Guarantee Commitment or the Clarified Preliminary Commitment would have the result of committing the approximately \$24.1 million presently held in the Guarantee Trust Fund for a period of 30 years. Further, in the event the Legislature establishes a “reserve account requirement” pursuant to Government Code Section 63063, and subsequently determines to annually appropriate funds to fund draws under a final guarantee in the amount of that requirement, a final guarantee could have a potential General Fund impact of up to approximately \$350 million.

In the event the 2003 Preliminary Loan Guarantee Commitment is not extended, the approximately \$24.1 million currently held in the Guarantee Trust Fund would be available for return to the California Infrastructure and Economic Development Bank Fund to be used for

other I-Bank programs, including, without limitation, the Infrastructure State Revolving Fund Program to finance public development facilities, or for eligible I-Bank administrative expenses.

EXTENSION OF THE 2003 PRELIMINARY LOAN GUARANTEE COMMITMENT: I-Bank staff recommends that the 2003 Preliminary Loan Guarantee Commitment, as clarified and restated in the Clarified Preliminary Commitment, be extended until June 30, 2010 for the purpose of providing I-Bank staff and IID staff and representatives sufficient time to draft final guarantee agreements and reimbursement and indemnification agreements consistent with the Clarified Preliminary Commitment, and substantially final documents for the IID bonds that reflect the terms of the final guarantee agreements and reimbursement and indemnification agreements. Given the status of discussions with the IID, the I-Bank staff have determined that a six-month extension should allow sufficient time to prepare a staff recommendation and the related final guarantee documents for the purpose of obtaining the I-Bank Board's approval of the final terms of the final guarantee and reimbursement and indemnification agreements.

REQUESTED CLARIFICATION AND REINSTATEMENT OF GUARANTEE TERMS AND CONDITION: I-Bank staff and IID staff and representatives have reached an agreement of certain terms and conditions of the 2003 Preliminary Loan Guarantee Commitment, and now propose to clarify and restate these terms and conditions. However, there are still four significant unresolved guarantee terms, more fully discussed below.

IID staff and representatives and I-Bank staff have agreed that the terms set forth in **Attachment 1** in the column entitled "**Clarification and Restatement of the 2003 Preliminary Loan Guarantee Commitment**", except for the four terms for which there is a corresponding proposal in the column entitled "**IID Proposal**", are acceptable terms and conditions for a final loan guarantee. I-Bank staff are of the belief that the terms set forth in the column "Clarification and Restatement of the 2003 Preliminary Loan Guarantee Commitment" are within the scope of the Criteria for the IID Guarantee Program.

The four terms set forth in the column entitled "IID Proposal" are terms proposed by IID in lieu of the corresponding terms in the column entitled "Clarification and Restatement of the 2003 Preliminary Loan Guarantee Commitment." I-Bank staff confirms that the term set forth in the column entitled "IID Proposal" related to the "Amount of the Guarantee", which if approved would permit the issuance of Guaranteed Bonds any time prior to December 31, 2015, is not inconsistent with the terms of the Criteria for the IID Guarantee Program. However, this IID proposal is not recommended by I-Bank staff for the reasons set forth in this staff report. I-Bank staff are not able to confirm that the other three terms set forth in the column entitled "IID Proposal" are clearly within the scope of the Criteria for the IID Guarantee Program.

Discussion Of "IID Proposal":

- 1. IID's Proposal Regarding The Purpose of the Guarantee:** IID and I-Bank staff agree that the IID Guarantee Program is for the purpose of addressing certain financial risks to IID and to enable IID to issue sufficient revenue bonds to finance a water supply project that meets the requirements of the Criteria. (Criteria, Section B). However, IID and I-Bank staff do not

agree as to what financial risks the 2003 Preliminary Loan Guarantee Commitment was intended to address.

IID asserts that the purpose of the IID Guarantee Program is to protect IID in the event that any loss of revenues received by IID from the sale of water made available for sale as a result of the Proposed Water Conservation Project (“Conserved Water Revenues”), except as a result of actions approved by or undertaken by the IID, is insufficient to pay debt service on the IID’s bonds guaranteed by the I-Bank, and that the 2003 Preliminary Loan Guarantee Commitment was intended to provide a guarantee to cover all such loss of revenues. This would include, for example, reductions 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 water or any court order requiring the IID to cease any Conserved Water Revenue generating activity in order to comply with environmental laws, 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 violation of environmental laws, ordinances, regulations, approvals, agreements or permits.

In the context of determining whether to adopt this interpretation of the purpose of the IID Guarantee Program, it is relevant that the validity of the QSA and Related Agreements, which are the source of IID’s Conserved Water Revenues, are currently being litigated in the Sacramento County Superior Court as the “QSA Juedicial Council Coordinatio Proceeding No. JC4353”, and on December 10, 2009, the trial court issued a tentative ruling determining the QSA and Related Agreements are invalid. A a final non-appealable determination on the validity of the QSA and Related Agreements is likely to be delayed by appeals and be several months away, and a favorable decision upholding the validity of these documents is not certain. I-Bank staff recommend that any approval of a Clarified Preliminary Commitment that includes the IID’s proposal regarding the purpose of the IID Guarantee Program (which approval is not recommended by I-Bank staff), should at a minimum exclude any loss of Conserved Water Revenues resulting from this pending litigation.

I-Bank staff has reviewed the Criteria approved by the I-Bank Board (Attachment 2), and cannot conclude with certainty that the purpose of the IID Guarantee Program as originally envisioned was for any other purpose than to protect IID from the financial risk of early termination of the QSA and Related Agreements as that risk of early termination was disclosed to the I-Bank Board in July of 2003. 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. The only remaining anticipated termination event is that of “Non-consensual Termination of the 1998 IID/SDCWA Transfer Agreement” as defined in the QSA and Related Agreements. In sum, it is the I-Bank staff’s conclusion that the only financial risk clearly anticipated by the I-Bank Board when it adopted the 2003 Preliminary Loan Guarantee Commitment that remains is termination by SDCWA in 2038 following notification in 2018 that an acceptable agreement regarding water wheeling rates had not been achieved. The specific language in the IID/SDCWA Transfer Agreement as it currently exists is as follows:

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].

2. IID’s Proposal Regarding the Schedule for Issuing Guaranteed Bonds Set Forth in the “Amount of Guarantee” Term/Condition: The Criteria established a termination date for any preliminary loan guarantee of December 31, 2009, unless extended by the I-Bank Board. I-Bank staff and IID staff and representative have been in discussions regarding the terms of a final loan guarantee for most of 2009. During that time IID consistently represented its intention to issue at least one series of Guaranteed Bonds in 2010. The proposed six month extension of the Clarified Preliminary Commitment was established in large part as a result of this representation.

On December 10, 2009, IID proposed an amendment to the requirement in the “Amount of Guarantee” term that the first series of Guaranteed Bonds be issued no later than December 31, 2010. IID’s proposal was that this requirement be replaced by a statement of anticipation that such bonds would be issued in 2010, but that the first series of Guaranteed Bonds was not required to be issued until December 31, 2015.

I-Bank staff believe this change is inconsistent with the basis on which the six month extension of the Clarified Preliminary Commitment is proposed, and does not recommend that the I-Bank Board approve a Clarified Preliminary Commitment that incorporates this proposal. I-Bank staff note that IID’s proposal could result in the approval of substantially final forms of final guarantee agreements and related reimbursement and indemnification agreements several years prior to finalization of the documents establishing the terms of the obligations that are to be guaranteed.

3. IID’s Proposal Regarding The Term of Guaranteed Bonds: The Criteria state that “The term of any Bonds shall not exceed 30 years.” A difference of opinion regarding how to interpret this limitation arises due to the IID’s proposal to issue bonds in at least two series, one in 2010 and the other at some point prior to December 31, 2015.

IID asserts that the IID Guarantee Program anticipated the issuance of bonds by IID, and guaranteed by the I-Bank, over several years, and that for that reason the 30 year maximum

maturity should be determined based on the date of issuance of each series of guaranteed bonds, potentially extending the term of any I-Bank guarantee for more than 30 years.

I-Bank staff cannot conclude with certainty that the I-Bank Board authorized the 2003 Preliminary Loan Guarantee Agreement with the understanding that guaranteed bonds could have a cumulative maturity of more than 30 years. A guarantee that includes an annually reinstated reserve account requirement over 30 years could result in an impact on the State's General Fund in the amount of approximately \$350 million, whereas a guarantee that includes an annually reinstated reserve account requirement over 25 years could result in an impact on the State's General Fund in the amount of approximately \$310 million.

4. **IID's Proposal Regarding The Subordination of IID's Obligation to Reimburse the I-Bank For Draws Under the Guarantee:** The Criteria require that the I-Bank and IID execute an agreement detailing the I-Bank's right to reimbursement acceptable to the I-Bank. IID proposes that IID's obligation to reimburse the I-Bank for draws under any final guarantee be subordinate to the rights to the Conserved Water Revenues granted to the holders of all other IID debt existing or issued in the future, and after providing for any capital needs of IID. IID has confirmed that its intention is that the I-Bank's right to reimbursement be subordinate to IID capital needs, regardless of whether such capital needs are related to the Water Conservation Project or the production of Conserved Water Revenues.

I-Bank staff are unable to recommend the reimbursement terms proposed by IID. I-Bank staff have agreed to reimbursement from Conserved Water Revenues subordinate to the rights to Conserved Water Revenues granted to the holders of bonds guaranteed by the I-Bank and the holders of any debt existing as of the date of this Preliminary Loan Guarantee Commitment and the holders of any debt subsequently issued in conformance with debt coverage and security requirements approved by the I-Bank.

I-Bank Board Options Regarding Clarification And Reinstatement: The I-Bank Board has three options with regards to the clarification and reinstatement of the terms and conditions of the 2003 Preliminary Loan Guarantee Commitment (which are relevant only if the I-Bank Board extends the term of the 2003 Preliminary Loan Guarantee Commitment):

1. Accept the column entitled "Clarification and Restatement of the 2003 Preliminary Loan Guarantee Commitment" as consistent with the terms of the Criteria for the IID Guarantee Program pursuant to which the 2003 Preliminary Loan Guarantee Commitment was granted;
2. Accept the column entitled "Clarification and Restatement of the 2003 Preliminary Loan Guarantee Commitment" **as amended** by one or more of the proposals in the column entitled "IID Proposal", determining that the amending proposals in the the "IID Proposal" column are within the scope of the Criteria for the IID Guarantee Program pursuant to which the 2003 Preliminary Loan Guarantee Commitment was granted; or
3. Require I-Bank staff to conduct a process to officially amend the Criteria for the IID Guarantee Program consistent with one or more of the proposals in the "IID Proposal" column and in the process obtain public comments to the proposed Criteria amendments. Proposed Criteria revisions, along with the applicable public comment and I-Bank staff

response would need to be presented for review and approval to the I-Bank Board at a later date.

RECOMMENDATION: I-Bank staff recommend that the Board clarify and restate the 2003 Preliminary Loan Guarantee Commitment as set forth in the column of Attachment 1 entitled "Clarification and Restatement of the 2003 Preliminary Loan Guarantee Commitment" (Option 1 identified above) and extend the term for compliance with that Clarified Preliminary Commitment until June 30, 2010.

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.

Term/Condition	Clarification and Restatement of the 2003 Preliminary Loan Guarantee Commitment	IID Proposal
	<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.

Term/Condition	Clarification and Restatement of the 2003 Preliminary Loan Guarantee Commitment	IID Proposal
		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. 	

Term/Condition	Clarification and Restatement of the 2003 Preliminary Loan Guarantee Commitment	IID Proposal
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.	

Term/Condition	Clarification and Restatement of the 2003 Preliminary Loan Guarantee Commitment	IID Proposal
<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>

Term/Condition	Clarification and Restatement of the 2003 Preliminary Loan Guarantee Commitment	IID Proposal
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>	

Term/Condition	Clarification and Restatement of the 2003 Preliminary Loan Guarantee Commitment	IID Proposal
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.	

Term/Condition	Clarification and Restatement of the 2003 Preliminary Loan Guarantee Commitment	IID Proposal
<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 	

Term/Condition	Clarification and Restatement of the 2003 Preliminary Loan Guarantee Commitment	IID Proposal
	<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.

Term/Condition	Clarification and Restatement of the 2003 Preliminary Loan Guarantee Commitment	IID Proposal
	<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 	

Term/Condition	Clarification and Restatement of the 2003 Preliminary Loan Guarantee Commitment	IID Proposal
	<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.

ATTACHMENT 2: MAY 28, 2003 STAFF REPORT AND RESOLUTION

CALIFORNIA INFRASTRUCTURE AND ECONOMIC DEVELOPMENT BANK AGENDA ITEM I.

STAFF REPORT

ISSUE:

The Imperial Irrigation District ("IID") has requested that the State of California provide a loan guarantee in order to insure that they can issue revenue bonds required to finance water conservation measures designed to ensure that California continues to receive the maximum amount of water from the Colorado River. Pursuant to the CIEDB enabling statute, including Government Code section 63060, the CIEDB has broad authority to provide loan guarantees.

Staff prepared draft Criteria, Priorities and Guidelines ("Criteria") for a loan guarantee for IID and received Board approval to circulate the Criteria for public comment. Government Code section 63040 requires "consultation with the appropriate state and local agencies" prior to establishing the Criteria for the selection of projects to receive assistance from the CIEDB. The Board determined previously that this requirement would be satisfied by circulating draft Criteria for public comment to the CIEDB's agenda mailing list and posting it on the CIEDB's web site. Staff has circulated the draft Criteria in accordance with these guidelines, as well as providing the draft Criteria to IID, the San Diego County Water Agency ("SDCWA"), the Coachella Valley Water District (CVWD) and the Metropolitan Water District of Southern California ("MWD"). One public comment, jointly submitted by C. Wesley Strickland, Esq., of the law firm of Hatch and Parent, and Bob Campbell at SDCWA, was received. Mr. Strickland's and Mr. Campbell's proposed revisions to the Criteria, as well as the CIEDB staff response, are attached as Exhibit 1.

BACKGROUND

On April 29, 1998, IID and SDCWA entered into a 45-year water conservation and transfer agreement ("Transfer Agreement") for the transfer of up to 200,000 acre-feet per year of water supply to SDCWA based upon IID water conservation. MWD and CVWD challenged the IID/SDCWA transfer, resulting in Key Terms of a Quantification Settlement Agreement ("QSA"), which outlined a series of agreements to settle disputes and allow the Transfer Agreement to proceed ("QSA Agreements" and together with the Transfer Agreement, the "Agreements").

The parties to the QSA are historical users of Colorado River water; a resource relied upon by several states. California's use of Colorado River water will in the future be limited to a 4.4 million acre-foot annual apportionment, or up to 800,000 acre-feet less than California's historical use. In January 2001, the Secretary of the Interior adopted Interim Surplus Guidelines ("Guidelines") that would make

available additional surplus Colorado River water to California for a period of 15 years to provide a “soft landing” for California to reduce its long-term use of Colorado River water to its basic 4.4 million acre-foot apportionment. Under the terms of the Guidelines, the additional surplus water is only available if the QSA Agreements were executed by December 31, 2002. This did not occur and the Secretary of the Interior suspended the special surplus criteria of the Guidelines. As a result, California could lose more than 620,000 acre-feet of Colorado River commencing this year unless the Guidelines are reinstated. Major reasons for the lack of approved QSA Agreements by the deadline included concerns about two early termination provisions contained therein and environmental mitigation costs associated with actions undertaken pursuant to the Agreements.

The first cause for early termination arises from the fact that the Agreements will be executed years before the completion of a Habitat Conservation Plan under federal law and a Natural Community Conservation Plan under State law (collectively, "Environmental Plans"). The funds pledged to implement the Environmental Plans exceed current estimates of the cost of the environmental mitigation, but unknown future costs of environmental mitigation could exceed the financial commitment of the parties to the Agreements. Therefore, the Agreements include an early termination provision if actual mitigation costs exceed those funds available to meet those costs.

The second cause for early termination involves negotiation of the transfer price. Pursuant to the Agreements, SDCWA is required to pay MWD for exchange of the water supply made available to SDCWA because of IID conservation measures ("Exchange Fee"). The parties have only negotiated the Exchange Fee for 35 out of 45-years in the term of the Agreements. If the Exchange Fee for the remaining years is above a contractually defined maximum, then the Agreements could terminate in 2037. SDCWA must give notice of its intent to exercise this early termination provision prior to 2017.

When it unanimously approved Assembly Concurrent Resolution No. 251 last Fall, the California Legislature recognized the importance of the successful implementation of the Agreements. The Legislature acknowledged that Colorado River water is oversubscribed and that, for many years, California’s use has exceeded the State’s annual apportionment of 4.4 million acre-feet. The Legislature further recognized that the proposed IID/SDCWA transfer is an integral part of California’s plan to reduce its use of Colorado River water. The Legislature found that the potential loss of up to 800,000 acre-feet per year “would have a significant impact on California’s economy, environment, and quality of life, and could force a greater reliance on water from the fragile ecosystem of the California Bay-Delta to make up the lost water.”

Early termination would eliminate the contract revenues that IID and its landowners would rely upon to finance the water supply capital improvements constituting IID water conservation. The purpose of the proposed loan guarantee

is to address these financial risks and enable IID to issue sufficient revenue bonds to finance the water supply project.

RECOMMENDATION

Staff recommends adoption of Resolution 03-16 authorizing the adoption of the attached Criteria.

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Note: Suggested revisions to the draft Criteria, Priorities and Guidelines jointly submitted by C. Wesley Strickland, Esq., of the law firm of Hatch and Parent, and Bob Campbell at San Diego County Water Agency, are shown as marked changes. The CIEDB staff response to their suggested revisions are shown in bold italics.

**CALIFORNIA INFRASTRUCTURE AND ECONOMIC DEVELOPMENT BANK
Draft Criteria, Priorities and Guidelines
Proposed Imperial Irrigation District, Metropolitan Water District
of Southern California, Coachella Valley Water District, and San Diego
County Water Authority Loan Guarantee**

Response #1: The above suggested revisions were not accepted. See response #6 below.

A. BACKGROUND

On April 29, 1998, the Imperial Irrigation District ("IID") and the San Diego County Water Authority ("SDCWA") entered into a 45-year water conservation and transfer agreement ("Transfer Agreement") for the transfer of up to 200,000 acre-feet per year of water supply to SDCWA based upon IID water conservation. The Metropolitan Water District of Southern California ("MWD") and the Coachella Valley Water District ("CVWD") challenged the IID/SDCWA transfer, resulting in Key Terms of a Quantification Settlement Agreement ("QSA"), which outlined a series of agreements to settle disputes and allow the Transfer Agreement to proceed ("QSA Agreements" and together with the Transfer Agreement, the "Agreements").

The parties to the QSA are historical users of Colorado River water; a resource relied upon by several states. California's use of Colorado River water will ~~eventually~~in the future be limited to a 4.4 million acre-~~fooeet~~ annual apportionment, or up to 800,000 acre-feet less than California's historical use. In January 2001, the Secretary of the ~~U. S. Department of Interior~~ ("~~Interior~~") ~~adopted~~implemented Interim Surplus Guidelines ("Guidelines") that would make available additional surplus Colorado River water to California for a period of 15-~~years~~ to provide a "soft-landing" for California to reduce its long-term use of Colorado River water to its basic 4.4 million acre-~~fooeet~~ apportionment. Under the terms of the Guidelines, the additional surplus water is only available if the QSA Agreements were executed by December 31, 2002. This did not occur and the Secretary of the Interior suspended the special surplus criteria of the Guidelines. As a result, California could lose more than 620,000 acre-feet of Colorado River commencing this year unless the Guidelines are reinstated. MA major reasons for the lack of approved QSA Agreements by the deadline ~~concerns~~included concerns about two early termination provisions contained therein and expected and potential unexpected environmental mitigation costs associated with actions undertaken pursuant to the Agreements.

The first cause for early termination arises from the fact that the Agreements will be executed years before the completion of a Habitat Conservation Plan under federal law and a Natural Community Conservation Plan under State law (collectively, "Environmental Plans"). The funds pledged to implement the Environmental Plans exceed current estimates of the cost of the environmental mitigation.—~~However,~~ but unknown future costs of environmental mitigation

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could exceed the financial commitment of the parties to the Agreements. Therefore, the Agreements include an early termination provision if ~~either: (i) during the term of the QSA actual mitigation costs exceed funds available to meet those costs current projections; or (ii) mitigation obligations beyond those contained in the Environmental Plans are imposed by the State and/or federal government.~~

The second cause for early termination involves negotiation of the transfer price. Pursuant to the Agreements, SDCWA is required to pay MWD for exchange of the water supply made available to SDCWA because of IID conservation measures ("Exchange Fee"). The parties have only negotiated the Exchange Fee for 35 out of the 45- years in the term of the Agreements. If the Exchange Fee for the remaining years is above a contractually defined maximum, then the Agreements ~~will~~could terminate in 2037. SDCWA must give notice of its intent to exercise this early termination provision prior to 2017.

When it unanimously approved Assembly Concurrent Resolution No. 251 last fall, the California Legislature recognized the importance of the successful implementation of the Agreements. The Legislature acknowledged that Colorado River water is oversubscribed and that, for many years, California's use has exceeded the state's annual apportionment of 4.4 million acre-feet. The Legislature further recognized that the proposed IID/SDCWA transfer is an integral part of California's plan to reduce its use of Colorado River water. The Legislature found that the potential loss of up to 800,000 acre-feet per year "would have a significant impact on California's economy, environment, and quality of life, and could force a greater reliance on water from the fragile ecosystem of the California Bay-Delta to make up the lost water."

Response #2: with the exception of the last sentence added in the second paragraph, the suggested revisions in the above five paragraphs were accepted.

B. PURPOSE OF LOAN GUARANTEE

Early termination would eliminate the contract revenues that IID and its landowners would rely upon to finance the capital investments enhancing water supply based upon IID water conservation. The purpose of the proposed Loan Guarantee is to address these financial risks and enable IID to issue sufficient revenue bonds to finance the water supply project. In addition, the proposed Loan Guarantee would provide financial assistance to the parties to the Agreements for expected and unexpected environmental mitigation costs.

Response #3: the revisions suggested in the above paragraph were not accepted. The CIEDB does not have the statutory authority to use CIEDB funds in the Guarantee Trust Fund as a grant for either expected or unexpected environmental mitigation costs.

C. NATURE OF LOAN GUARANTEE

The Loan Guarantee will consist of a commitment by the CIEDB to:

(1) Unconditionally guarantee the repayment in full of any outstanding debt incurred by IID to fund capital improvements for the creation of Conserved Water provided for under the QSA

EXHIBIT 1 TO May 28, 2003 IID STAFF REPORT

Agreements, in an amount not to exceed \$150 million in 2003 dollars, in the event that the QSA term ends prior to Year 45 of the QSA or, in lieu of an unconditional guarantee, a reasonable economic equivalent. Such guarantee shall be without any rights of recourse, subrogation, reimbursement, contribution, or indemnity against IID;

Response #4: the revisions suggested in the above paragraph were not accepted. Any Loan Guarantee will be a conditional guarantee subject to the limitations described in #12 and #13 of the Term and Conditions of the Guarantee below, among other things. An agreement detailing reimbursement and indemnification provisions will be required to be executed at the time any Loan Guarantee is provided.

(2) Guarantee that to the extent any or all of the \$150 million is not used to guarantee IID debt as described above, as a result of the outstanding debt declining below \$150 million, then the amount not so used shall be available to pay Unexpected Environmental Mitigation Costs, as that term is defined in the QSA Agreements, without any rights of recourse, subrogation, reimbursement, contribution or indemnity against any of the parties. If CIEDB, SDCWA, MWD or CVWD makes available to IID and the obligee of IID's outstanding debt an acceptable financially-equivalent replacement guarantee, then the Loan Guarantee shall be available to guarantee the payment of Unexpected Environmental Mitigation Costs as described in this section C(2); and

Response #5: The revisions suggested in the above paragraph were not accepted. The CIEDB does not have the statutory authority to use CIEDB funds in the Guarantee Trust Fund for a grant for unexpected environmental mitigation costs.

(3) Guarantee the repayment in full of any outstanding debt incurred by MWD, CVWD, SDCWA, or an entity such as a joint powers authority to fund environmental mitigation costs related to the QSA Agreements, to the extent any or all of the \$150 million is not used to guarantee IID debt or pay Unexpected Environmental Mitigation Costs as described above.

Response #6: The revisions suggested in the above paragraph were not accepted. The draft criteria distributed for public comment pertained to a potential loan guarantee for IID only.

DC. APPLICATION PROCESS

1. **Preliminary Loan Guarantee Application.** IID, MWD, CVWD and SDCWA (each an "Applicant") (QUESTION: DOES THE JPA NEED TO BE AN APPLICANT IN ORDER TO LATER RECEIVE A LOAN GUARANTEE?) shall submit a joint Preliminary Loan Guarantee Application to the CIEDB at least 35 days before the date that the CIEDB's board of directors ("Board") will consider the adoption of a Preliminary Loan Guarantee Commitment. The Preliminary Loan Guarantee Application must include: (1) ~~an~~-adopted resolutions of IID's/the Applicants' governing bodies requesting a Preliminary Loan Guarantee Commitment; (2) a findings acknowledging that the Loan Guarantee will be subject to the Terms and Conditions listed in Section E-D below; and (3) other information determined necessary by CIEDB's Executive Director.

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Response #7: The revisions suggested in the above paragraph were not accepted. See response #6.

2. **Preliminary Loan Guarantee Commitment.** If the Board approves a Preliminary Loan Guarantee Application, [the Applicants](#) will be provided with a Preliminary Loan Guarantee Commitment. The Preliminary Loan Guarantee Commitment shall expire on December 31, 2003 if the Agreements are not executed by that date. Upon execution of the [Agreements](#), the Preliminary Loan Guarantee Commitment shall expire on December 31, 2009, unless extended in writing by the Board. [\(BECAUSE WE WON'T KNOW IF IID WILL NEED THE LOAN GUARANTEE UNTIL MAYBE SOMETIME IN THE 2020's, WE WON'T KNOW WHAT'S AVAILABLE FOR ENVIRONMENTAL MITIGATION UNTIL THEN. SO, IT SEEMS A LOAN GUARANTEE APPLICATION FOR MITIGATION COSTS WOULD NOT BE SUBMITTED UNTIL LONG AFTER THIS 2009 DEADLINE. IS THAT A PROBLEM?\)](#)

Response #8: The revisions suggested in the above paragraph were not accepted. See response #6. In regards to questions in parenthesis, the above language already makes it clear that the Board may extend the December 31, 2009 expiration date.

3. **Loan Guarantee Application.** [For each element of the Loan Guarantee described in Section C above, the relevant Applicant or Applicants](#) shall submit a Loan Guarantee Application to the CIEDB at least 75 days before the date that the Board will consider the approval of a Loan Guarantee. The Loan Guarantee Application must include the following: (1) substantially final draft [B](#) bond documents for [any](#) the bonds to be guaranteed by the Loan Guarantee ("Bonds"), including the indenture, official statement and loan agreement; (2) detailed information and documentation demonstrating that [the Applicant or Applicants](#), the projects to be financed with the Bonds, and the Bonds comply with the Terms and Conditions listed in [Section E below](#); and (3) other information and documentation deemed necessary by CIEDB's Executive Director.

Response #9: The revisions suggested in the above paragraph were not accepted. See response #6.

4. **Loan Guarantee.** If the Board approves the Loan Guarantee Application, [the Applicant or Applicants](#) will be issued a Loan Guarantee. The Loan Guarantee will be subject to the Terms and Conditions contained in [Section E below](#) and any other provisions required by the Board.

Response #10: The revisions suggested in the above paragraph were not accepted. See response #6.

E. TERMS AND CONDITIONS OF LOAN GUARANTEE

Any Loan Guarantee will be subject to the following terms and conditions:

¹ Defined in Government Code [Section 63010](#) (e).

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1. **Eligible Borrower.** The Applicant or Applicants must provide documentation that they meets the definition of “Sponsor” contained in Government Code Section 63010(u). Any Bonds to be guaranteed may be issued by the Applicants or another conduit issuer on behalf of the Applicants.

Response #11: The revisions suggested in the above paragraph were not accepted. See response #6.

2. **Eligible Project.** The projects to be financed with Bond proceeds (“Project”) must be consistent with the definitions of “Public Development Facilities” or “Economic Development Facilities” contained in Government Code Sections 63010(g), (p) and (q). Additionally, the Project must be for the purpose of the Applicant or Applicants meeting their contractual obligations under the Agreements.

Response #12: The revisions suggested in the above paragraph were not accepted. CIEDB funds contained an appropriation limitation limiting their use to Public Development Facilities and are thus not eligible to be used for Economic Development Facilities.

3. **Eligible Costs.** The costs of the Projects must be consistent with the definition of “Cost” contained in Government Code Section 63010(f).
4. **Amount.** The amount of any individual Loan Guarantee shall be approved by adopted resolution of the Board. The maximum amount of all Loan Guarantees must not exceed an amount contained in the Guarantee Trust Account (see #12) and allowed by the Reserve Account Requirement (see #13).
5. **Credit Rating Requirement.** Prior to the execution of a Loan Guarantee, the Applicant or Applicants must provide a letter from either Moody’s Investor’s Service, Standard & Poor’s Ratings Service, or Fitch Ratings that the Bonds would be rated at least Baa1/BBB+/BBB+, respectively, if the early termination risk did not exist.

Response #13: The revisions suggested in the above paragraph were not accepted. See response #6.

6. **Debt Service Reserve Fund.** Any Bonds must have a debt service reserve fund funded at the maximum amount authorized under the Internal Revenue Code for tax-exempt debt.

Response #14: The revision suggested in the above paragraph was accepted.

7. **Amortization Pattern of Bonds.** Any Bonds must be structured with level debt service unless the Board approves specific exceptions are approved by the Board as part of the Loan Guarantee.

Response #15: The revisions suggested in the above paragraph were accepted.

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8. **Term of Bonds.** The term of ~~any~~~~the~~ Bonds shall not exceed 30 years.

Response #16: The revision suggested in the above paragraph was accepted.

9. **Fixed Rate.** The interest rate on ~~any~~~~the~~ Bonds must be a fixed rate.

Response #17: The revision suggested in the above paragraph was accepted.

10. **Required~~HD~~ Resolution.** ~~Each~~HD~~'s~~ Loan Guarantee Application must contain a certified copy of the adopted resolution required by Government Code Section 63041(a).

Response #18: The revisions suggested in the above paragraph were not accepted. See response #6.

11. **Prevailing Wages.** The Project must comply with Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code, including the payment of prevailing wages.

12. **Funding of Guarantee Trust Account.** Upon approval of the Criteria, Priorities and Guidelines, the CIEDB will commit \$20 million from the California Infrastructure and Economic Development Bank Fund to the California Infrastructure Guarantee Trust Fund ("Guarantee Trust Fund"), which is established pursuant to Government Code section 63060. Upon approval of a Preliminary Loan Guarantee Commitment, the CIEDB will commit the \$20 million to a sub account within the Guarantee Trust Fund named the ~~Imperial Irrigation District~~~~QSA~~ Infrastructure Guarantee Trust Account ("~~HD~~~~QSA~~ Guarantee Trust Account"). As long as either the Preliminary Loan Guarantee Commitment or the Loan Guarantee is in effect, funds in the ~~QSA~~~~HD~~ Guarantee Trust Account shall be unconditionally pledged as described in those documents. Interest earnings on the ~~QSA~~~~HD~~ Guarantee Trust Account shall remain within the ~~QSA~~~~HD~~ Guarantee Trust Account, subject to the above-described pledge.

Response #19: The revisions suggested in the above paragraph were not accepted. See response #6.

13. **Reserve Account Requirement.** If the CIEDB determines that the amount in the ~~QSA~~~~HD~~ Guarantee Trust Account is below any Reserve Account Requirement established pursuant to Government Code section 63064, the CIEDB shall follow the procedures contained therein. Currently, those procedures are as follows:

- (1) If the CIEDB determines that the amount in the ~~QSA~~~~HD~~ Guarantee Trust Account is below the Reserve Account Requirement, the Executive Director shall immediately certify in writing to the Joint Legislative Budget Committee, the Speaker of the Assembly, the Senate Committee on Rules, and the Governor, the sum required to restore the ~~QSA~~~~HD~~ Guarantee Trust Account to the Reserve Account Requirement.

EXHIBIT 1 TO May 28, 2003 IID STAFF REPORT

- (2) Upon making the certification, the Executive Director shall ask the Governor to request an appropriation, and shall use his or her best efforts to have a sum requested and appropriated.
- (3) Upon receiving notice that the amount in the QSA~~IID~~ Guarantee Trust Account is below the Reserve Account Requirement, the Legislature may, at its discretion, choose to appropriate and pay to the CIEDB for deposit into the QSA~~IID~~ Guarantee Trust Account that sum that would restore the amount in that account to an amount equal to the Reserve Account Requirement.

Response #20: The revisions suggested in the above paragraphs were not accepted. See response #6.

~~14. **Reimbursement and Indemnification Agreement.** Simultaneous with the execution of a Loan Guarantee, CIEDB and IID shall execute an agreement detailing, among other things, IID representations and CIEDB rights to reimbursement and indemnification acceptable to CIEDB.~~

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Response #21: The revisions suggested in the above paragraph were not accepted. Simultaneous with the execution of any Loan Guarantee, the CIEDB shall require IID to execute an agreement detailing, among other things, IID representations and CIEDB rights to reimbursement and indemnification.

~~15-14. **Fees.** Simultaneous with the execution of a Preliminary Loan Guarantee Commitment or Loan Guarantee, the Applicant or Applicants~~IID~~ must reimburse the CIEDB for all out-of-pocket legal and financial advisory fees and internal staff costs incurred in connection with the issuance of the Preliminary Loan Guarantee Commitment or Loan Guarantee. The CIEDB will also charge an annual monitoring fee in an amount to be authorized by the Board at the time the Loan Guarantee is approved.~~

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Response #22: The revisions suggested in the above paragraph were not accepted. See response #6.

RESOLUTION NO. 03-16

RESOLUTION OF THE CALIFORNIA INFRASTRUCTURE AND ECONOMIC DEVELOPMENT BANK APPROVING CRITERIA, PRIORITIES AND GUIDELINES FOR A POTENTIAL LOAN GUARANTEE FOR THE IMPERIAL IRRIGATION DISTRICT.

WHEREAS, the California Infrastructure and Economic Development Bank (the "Infrastructure Bank") was established pursuant to the Bergeson-Peace Infrastructure and Economic Development Bank Act (California Government Code Section 63000 and following), as now in effect and as it may be amended or supplemented (the "Act"), for the purpose of, among other things, providing financial assistance for public development facilities (as such term is defined in the Act) ("Projects") located in the State of California; and

WHEREAS, the Act requires the Infrastructure Bank to establish criteria, priorities and guidelines ("Criteria") for the selection of Projects to receive assistance from the Infrastructure Bank; and

WHEREAS, the Imperial Irrigation District ("IID") requires financial assistance in order to insure that they can issue revenue bonds required to finance a water supply project consisting of water conservation measures ("Project") designed to ensure that California continues to receive the maximum amount of water from the Colorado River; and

WHEREAS, the Infrastructure Bank has the authority to provide that assistance in the form of a guarantee and desires to establish the Criteria necessary to implement a program for the benefit of the Project ("Program"); and

WHEREAS, Staff has consulted with appropriate state and local agencies in order to obtain input on the proposed Criteria for the Program;

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 Staff has complied with the appropriate method of obtaining the consultation required by Government Code Section 63040(a) by mailing a notice of the proposed Criteria to all persons on the Infrastructure Bank mailing list for meeting agendas with instructions as to how to obtain a copy of the proposed Criteria and by placing a copy of the proposed Criteria on the web site of the Infrastructure Bank.

Section 2. The proposed Criteria for the Program attached hereto as Attachment 1 is hereby approved by the Board.

Section 4. The Executive Director is authorized to transfer \$20 million from the California Infrastructure and Economic Development Bank Fund to the California Infrastructure Guarantee Trust Fund.

PASSED, APPROVED, AND ADOPTED at a meeting of the California Infrastructure and Economic Development Bank on May 28, 2003 by the following vote:

AYES: Hatamiya, Lloyd, Larson

NOES: None

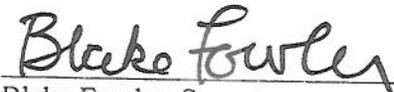
ABSENT: None

ABSTAIN: None



Stanton C. Hazelroth, Executive Director

Attest:



Blake Fowler, Secretary

CALIFORNIA INFRASTRUCTURE AND ECONOMIC DEVELOPMENT BANK
Draft Criteria, Priorities and Guidelines
Proposed Imperial Irrigation District Loan Guarantee

A. BACKGROUND

On April 29, 1998, the Imperial Irrigation District ("IID") and the San Diego County Water Authority ("SDCWA") entered into a 45-year water conservation and transfer agreement ("Transfer Agreement") for the transfer of up to 200,000 acre-feet per year of water supply to SDCWA based upon IID water conservation. The Metropolitan Water District of Southern California ("MWD") and the Coachella Valley Water District ("CVWD") challenged the IID/SDCWA transfer, resulting in Key Terms of a Quantification Settlement Agreement ("QSA"), which outlined a series of agreements to settle disputes and allow the Transfer Agreement to proceed ("QSA Agreements" and together with the Transfer Agreement, the "Agreements").

The parties to the QSA are historical users of Colorado River water; a resource relied upon by several states. California's use of Colorado River water will in the future be limited to a 4.4 million acre-foot annual apportionment, or up to 800,000 acre-feet less than California's historical use. In January 2001, the Secretary of Interior adopted Interim Surplus Guidelines ("Guidelines") that would make available additional surplus Colorado River water to California for a period of 15 years to provide a "soft-landing" for California to reduce its long-term use of Colorado River water to its basic 4.4 million acre-foot apportionment. Under the terms of the Guidelines, the surplus water is only available if the QSA Agreements were executed by December 31, 2002. This did not occur and the Secretary of the Interior suspended the special surplus criteria of the Guidelines. As a result, California could lose more than 620,000 acre-feet of Colorado River commencing this year unless the Guidelines are reinstated. Major reasons for the lack of approved QSA Agreements by the deadline included concerns about two early termination provisions contained therein and expected and potential unexpected environmental mitigation costs associated with actions undertaken pursuant to the Agreements.

The first cause for early termination arises from the fact that the Agreements will be executed years before the completion of a Habitat Conservation Plan under federal law and a Natural Community Conservation Plan under State law (collectively, "Environmental Plans"). The funds pledged to implement the Environmental Plans exceed current estimates of the cost of the environmental mitigation, but unknown future costs of environmental mitigation could exceed the financial commitment of the parties to the Agreements. Therefore, the Agreements include an early termination provision if during the term of the QSA actual mitigation costs exceed funds available to meet those costs.

The second cause for early termination involves negotiation of the transfer price. Pursuant to the Agreements, SDCWA is required to pay MWD for exchange of the water supply made available to SDCWA because of IID conservation measures ("Exchange Fee"). The parties have only negotiated the Exchange Fee for 35 out of 45 years in the term of the Agreements. If the Exchange Fee for the remaining years is above a contractually defined maximum, then the

Agreements could terminate in 2037. SDCWA must give notice of its intent to exercise this early termination provision prior to 2017.

When it unanimously approved Assembly Concurrent Resolution No. 251 last fall, the California Legislature recognized the importance of the successful implementation of the Agreements. The Legislature acknowledged that Colorado River water is oversubscribed and that, for many years, California's use has exceeded the state's annual apportionment of 4.4 million acre-feet. The Legislature further recognized that the proposed IID/SDCWA transfer is an integral part of California's plan to reduce its use of Colorado River water. The Legislature found that the potential loss of up to 800,000 acre-feet per year "would have a significant impact on California's economy, environment, and quality of life, and could force a greater reliance on water from the fragile ecosystem of the California Bay-Delta to make up the lost water."

B. PURPOSE OF LOAN GUARANTEE

Early termination would eliminate the contract revenues that IID and its landowners would rely upon to finance the capital investments enhancing water supply based upon IID water conservation. The purpose of the proposed Loan Guarantee is to address these financial risks and enable IID to issue sufficient revenue bonds to finance the water supply project.

C. APPLICATION PROCESS

1. **Preliminary Loan Guarantee Application.** IID shall submit a Preliminary Loan Guarantee Application to the CIEDB at least 35 days before the date that the CIEDB's board of directors ("Board") will consider the adoption of a Preliminary Loan Guarantee Commitment. The Preliminary Loan Guarantee Application must include: an adopted resolution of IID's governing body requesting a Preliminary Loan Guarantee Commitment; a finding acknowledging that the Loan Guarantee will be subject to the Terms and Conditions listed in Section D below; and other information determined necessary by CIEDB's Executive Director.
2. **Preliminary Loan Guarantee Commitment.** If the Board approves a Preliminary Loan Guarantee Application, IID will be provided with a Preliminary Loan Guarantee Commitment. The Preliminary Loan Guarantee Commitment shall expire on December 31, 2003 if the Agreements are not executed by that date. Upon execution of the QSA, the Preliminary Loan Guarantee Commitment shall expire on December 31, 2009, unless extended in writing by the Board.
3. **Loan Guarantee Application.** IID shall submit a Loan Guarantee Application to the CIEDB at least 75 days before the date that the Board will consider the approval of a Loan Guarantee. The Loan Guarantee Application must include the following: (1) substantially final draft Bond documents for the bonds to be guaranteed by the Loan Guarantee ("Bonds"¹), including the indenture, official statement and loan agreement; (2) detailed information and documentation demonstrating that IID, the projects to be financed with the

¹ Defined in Government Code section 63010 (e).

Bonds, and the Bonds comply with the Terms and Conditions listed in Section D; (3) other information and documentation deemed necessary by CIEDB's Executive Director.

4. **Loan Guarantee.** If the Board approves the Loan Guarantee Application, IID will be issued a Loan Guarantee. The Loan Guarantee will be subject to the Terms and Conditions contained in Section D and any other provisions required by the Board.

D. TERMS AND CONDITIONS OF LOAN GUARANTEE

Any Loan Guarantee will be subject to the following terms and conditions:

1. **Eligible Borrower.** IID must provide documentation that it meets the definition of "Sponsor" contained in Government Code Section 63010(u). The Bonds to be guaranteed may be issued by IID or another conduit issuer on behalf of IID.
2. **Eligible Project.** The projects to be financed with Bond proceeds ("Project") must be consistent with the definition of "Public Development Facilities" contained in Government Code Sections 63010(p). Additionally, the Project must be for the purpose of IID meeting its contractual obligations under the Agreements.
3. **Eligible Costs.** The costs of the Project must be consistent with the definition of "Cost" contained in Government Code Section 63010(f).
4. **Amount.** The amount of any individual Loan Guarantee shall be approved by adopted resolution of the Board. The maximum amount of all Loan Guarantees must not exceed an amount contained in the Guarantee Trust Account (see #12) and allowed by the Reserve Account Requirement (see #13).
5. **Credit Rating Requirement.** Prior to the execution of a Loan Guarantee, IID must provide a letter from either Moody's Investor's Service, Standard & Poor's Ratings Service, or Fitch Ratings that the Bonds would be rated at least Baa1/BBB+/BBB+, respectively, if the early termination risk did not exist.
6. **Debt Service Reserve Fund.** Any Bonds must have a debt service reserve fund funded at the maximum amount authorized under the Internal Revenue Code for tax-exempt debt.
7. **Amortization Pattern of Bonds.** Any Bonds must be structured with level debt service unless the Board approves specific exceptions as part of the Loan Guarantee.
8. **Term of Bonds.** The term of any Bonds shall not exceed 30 years.
9. **Fixed Rate.** The interest rate on any Bonds must be a fixed rate.
10. **IID Resolution.** IID's Loan Guarantee Application must contain a certified copy of the adopted resolution required by Government Code Section 63041(a).

11. **Prevailing Wages.** The Project must comply with Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code, including the payment of prevailing wages.
12. **Funding of Guarantee Trust Account.** Upon approval of the Criteria, Priorities and Guidelines, the CIEDB will commit \$20 million from the California Infrastructure and Economic Development Bank Fund to the California Infrastructure Guarantee Trust Fund ("Guarantee Trust Fund"), which is established pursuant to Government Code section 63060. Upon approval of a Preliminary Loan Guarantee Commitment, the CIEDB will commit the \$20 million to a sub account within the Guarantee Trust Fund named the Imperial Irrigation District Infrastructure Guarantee Trust Account ("IID Guarantee Trust Account"). As long as either the Preliminary Loan Guarantee Commitment or the Loan Guarantee is in effect, funds in the IID Guarantee Trust Account shall be unconditionally pledged as described in those documents. Interest earnings on the IID Guarantee Trust Account shall remain within the IID Guarantee Trust Account, subject to the above-described pledge.
13. **Reserve Account Requirement.** If the CIEDB determines that the amount in the IID Guarantee Trust Account is below any Reserve Account Requirement established pursuant to Government Code section 63064, the CIEDB shall follow the procedures contained therein. Currently, those procedures are as follows:
 - (1) If the CIEDB determines that the amount in the IID Guarantee Trust Account is below the Reserve Account Requirement, the Executive Director shall immediately certify in writing to the Joint Legislative Budget Committee, the Speaker of the Assembly, the Senate Committee on Rules, and the Governor, the sum required to restore the IID Guarantee Trust Account to the Reserve Account Requirement.
 - (2) Upon making the certification, the Executive Director shall ask the Governor to request an appropriation, and shall use his or her best efforts to have a sum requested and appropriated.
 - (3) Upon receiving notice that the amount in the IID Guarantee Trust Account is below the Reserve Account Requirement, the Legislature may, at its discretion, choose to appropriate and pay to the CIEDB for deposit into the IID Guarantee Trust Account that sum that would restore the amount in that account to an amount equal to the Reserve Account Requirement.
14. **Reimbursement and Indemnification Agreement.** Simultaneous with the execution of a Loan Guarantee, CIEDB and IID shall execute an agreement detailing, among other things, IID representations and CIEDB rights to reimbursement and indemnification acceptable to CIEDB.
15. **Fees.** Simultaneous with the execution of a Preliminary Loan Guarantee Commitment or Loan Guarantee, the IID must reimburse the CIEDB for all out-of-pocket legal and financial advisory fees and internal staff costs incurred in connection with the issuance of the Preliminary Loan Guarantee Commitment or Loan Guarantee. The CIEDB will also charge an annual monitoring fee in an amount to be authorized by the Board at the time the Loan Guarantee is approved.

ATTACHMENT 3: JUNE 27, 2003 STAFF REPORT AND RESOLUTION

**CALIFORNIA INFRASTRUCTURE AND ECONOMIC DEVELOPMENT BANK
AGENDA ITEM**

STAFF REPORT

ISSUE:

The Imperial Irrigation District ("IID") has requested that the State of California provide a loan guarantee in order to better assure that they can issue revenue bonds required to finance water conservation measures designed to ensure that California continues to receive the maximum amount of water from the Colorado River. Pursuant to the CIEDB enabling statute, including Government Code section 63060, the CIEDB has broad authority to provide loan guarantees. At the May 28, 2002, meeting of the CIEDB Board, Criteria, Priorities and Guidelines ("Criteria") were adopted for a potential Imperial Irrigation District Loan Guarantee. A Preliminary Loan Guarantee Application has been received from IID for a Preliminary Loan Guarantee Commitment. The application is consistent with the Criteria.

BACKGROUND

On April 29, 1998, IID and the San Diego County Water Authority ("SDCWA") entered into a 45-year water conservation and transfer agreement ("Transfer Agreement") for the transfer of up to 200,000 acre-feet per year of water supply to SDCWA based upon IID water conservation. The Metropolitan Water District of Southern California ("MWD") and the Coachella Valley Water District ("CVWD") challenged the IID/SDCWA transfer, resulting in Key Terms of a Quantification Settlement Agreement ("QSA"), which outlined a series of agreements to settle disputes and allow the Transfer Agreement to proceed ("QSA Agreements" and together with the Transfer Agreement, the "Agreements").

The parties to the QSA are historical users of Colorado River water; a resource relied upon by several states. California's use of Colorado River water will in the future be limited to a 4.4 million acre-foot annual apportionment, or up to 800,000 acre-feet less than California's historical use. In January 2001, the Secretary of the Interior adopted Interim Surplus Guidelines ("Guidelines") that would make available additional surplus Colorado River water to California for a period of 15 years to provide a "soft landing" for California to reduce its long-term use of Colorado River water to its basic 4.4 million acre-foot apportionment. Under the terms of the Guidelines, the additional surplus water is only available if the QSA Agreements were executed by December 31, 2002. This did not occur and the Secretary of the Interior suspended the special surplus criteria of the Guidelines. As a result, California could lose more than 620,000 acre-feet of Colorado River commencing this year unless the Guidelines are reinstated. Major reasons for the lack of approved QSA Agreements by the deadline included concerns about two early termination provisions contained therein and expected and potential

unexpected environmental mitigation costs associated with actions undertaken pursuant to the Agreements.

The first cause for early termination arises from the fact that the Agreements will be executed years before the completion of a Habitat Conservation Plan under federal law and a Natural Community Conservation Plan under State law (collectively, "Environmental Plans"). The funds pledged to implement the Environmental Plans exceed current estimates of the cost of the environmental mitigation, but unknown future costs of environmental mitigation could exceed the financial commitment of the parties to the Agreements. Therefore, the Agreements include an early termination provision if actual mitigation costs exceed those funds available to meet those costs.

The second cause for early termination involves negotiation of the transfer price. Pursuant to the Agreements, SDCWA is required to pay MWD for exchange of the water supply made available to SDCWA because of IID conservation measures ("Exchange Fee"). The parties have only negotiated the Exchange Fee for 35 out of 45-years in the term of the Agreements. If the Exchange Fee for the remaining years is above a contractually defined maximum, then the Agreements could terminate in 2037. SDCWA must give notice of its intent to exercise this early termination provision prior to 2017.

When it unanimously approved Assembly Concurrent Resolution No. 251 last Fall, the California Legislature recognized the importance of the successful implementation of the Agreements. The Legislature acknowledged that Colorado River water is oversubscribed and that, for many years, California's use has exceeded the State's annual apportionment of 4.4 million acre-feet. The Legislature further recognized that the proposed IID/SDCWA transfer is an integral part of California's plan to reduce its use of Colorado River water. The Legislature found that the potential loss of up to 800,000 acre-feet per year "would have a significant impact on California's economy, environment, and quality of life, and could force a greater reliance on water from the fragile ecosystem of the California Bay-Delta to make up the lost water."

Early termination would eliminate the contract revenues that IID and its landowners would rely upon to finance the water supply capital improvements constituting IID water conservation. The purpose of the proposed loan guarantee is to address these financial risks and enable IID to issue sufficient revenue bonds to finance the water supply project.

RECOMMENDATION

Staff recommends adoption of Resolution 03-18 which constitutes a Preliminary Loan Guarantee Commitment for the Imperial Irrigation District.

RESOLUTION NO. 03-18

RESOLUTION OF THE CALIFORNIA INFRASTRUCTURE AND ECONOMIC DEVELOPMENT BANK APPROVING A PRELIMINARY LOAN GUARANTEE COMMITMENT FOR THE IMPERIAL IRRIGATION DISTRICT

WHEREAS, the Imperial Irrigation District ("IID") and the San Diego County Water Authority ("SDCWA"), entered into a 45-year water conservation and transfer agreement ("Transfer Agreement") for the transfer of up to 200,000 acre-feet per year of water supply to SDCWA based upon IID water conservation, and subsequently, IID, SDCWA, the Metropolitan Water District of Southern California and the Coachella Valley Water District negotiated terms of a Quantification Settlement Agreement ("QSA") which describes a series of agreements regarding, *inter alia*, settlement of disputes among the parties arising from the Transfer Agreement ("QSA Agreements" and together with the Transfer Agreement, the "Agreements"); and

WHEREAS, the IID requires a loan guarantee in order to insure that they can issue revenue bonds required to finance a water supply project consisting of water conservation measures ("Project") needed to implement the Agreements and ensure that California continues to receive the maximum amount of water from the Colorado River; and

WHEREAS, pursuant to Resolution 03-16, adopted May 28, 2003 the CIEDB Board adopted criteria, priorities and guidelines ("Criteria") for a potential loan guarantee for the IID and committed \$20 million from the California Infrastructure and Economic Development Bank Fund to the California Infrastructure Guarantee Trust Fund ("Guarantee Trust Fund"), which is established pursuant to Government Code section 63060; and

WHEREAS, on May 13, 2003 the IID submitted to CIEDB a Preliminary Loan Guarantee Application ("Application") requesting a preliminary loan guarantee, attached hereto as Exhibit A; and

WHEREAS, Staff has determined that the Applicant-proposed preliminary loan guarantee and Project meet threshold eligibility requirements contained in Government Code Section 63000 *et seq.* ("Act") and the Criteria;

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

Section 1. The Board hereby finds that the Application is consistent with the Criteria and the Act.

Section 2. The Board hereby approves a preliminary loan guarantee on the terms requested in the Application.

Section 3. This resolution, in combination with the Application, shall constitute the Preliminary Loan Guarantee Commitment.

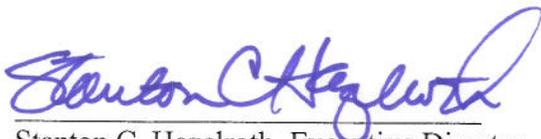
Section 4. The Executive Director is hereby authorized to transfer all funds in the Guarantee Trust Fund to a sub-account hereby established thereunder entitled the Imperial Irrigation District Infrastructure Guarantee Trust Account ("IID Guarantee Trust Account"). As long as either the Preliminary Loan Guarantee Commitment or a loan guarantee consistent with the Preliminary Loan Guarantee Commitment is in effect, funds in the IID Guarantee Trust Account shall be unconditionally pledged as described in those documents. Interest earnings on the IID Guarantee Trust Account shall remain within the IID Guarantee Trust Account, subject to the above-described pledge.

Section 5. This Preliminary Loan Guarantee Commitment shall expire on December 31, 2003 if the Agreements are not executed by that date. Upon execution of the Agreements, the Preliminary Loan Guarantee Commitment shall expire on December 31, 2009, unless extended in writing by the Board.

Section 6. 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 June 27, 2003, by the following vote:

AYES: HATAMIYA, LLOYD, LARSON
NOES: NONE
ABSENT: NONE
ABSTAIN: NONE


Stanton C. Hazelroth, Executive Director

Attest:


Blake Fowler, Secretary



IMPERIAL IRRIGATION DISTRICT

GENERAL MANAGER'S OFFICE • P. O. BOX 937 • IMPERIAL, CA 92251

May 13, 2003

Mr. Stan Hazelroth
Chief Executive Officer
California Infrastructure and Economic Development Bank
1102 Q Street, Suite 6000
Sacramento, CA 95814

Dear Mr. Hazelroth:

The Imperial Irrigation District (IID) hereby submits a Preliminary Loan Guarantee Application to the California Infrastructure and Economic Development Bank in accordance with the Bank's Criteria, Priorities and Guidelines for the Proposed Imperial Irrigation District Loan Guarantee Program. This Preliminary Loan Guarantee Application includes: an adopted resolution of IID's governing body requesting a Preliminary Loan Guarantee Commitment; a finding acknowledging that the Loan Guarantee will be subject to the Terms and Conditions listed in Section D of the Criteria; and other information determined necessary by CIEDB's Executive Director.

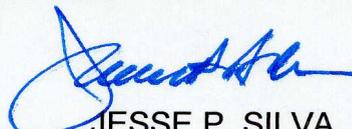
1. **Eligible Borrower.** IID is an irrigation district (special district) which meets the definition of "Sponsor" contained in Government Code Section 63010(u).
2. **Eligible Project.** The projects to be financed with Bond proceeds ("Project") will be consistent with the definition of "Public Development Facilities" contained in Government Code Sections 63010(p). Additionally, the Project shall be for the purpose of IID meeting its contractual obligations under the Agreements.
3. **Eligible Costs.** The costs of the Projects shall be consistent with the definition of "Cost" contained in Government Code Section 63010(f).
4. **Amount.** The amount of any individual Loan Guarantee shall be approved by adopted resolution of the Board. The maximum amount of all Loan Guarantees will not exceed an amount contained in the Guarantee Trust Account (see #12) and allowed by the Reserve Account Requirement (see #13).

Item 6 - ATT 3 - Page 5 of 7

5. **Credit Rating Requirement.** Prior to the execution of a Loan Guarantee, IID will provide a letter from either Moody's Investor's Service, Standard & Poor's Ratings Service, or Fitch Ratings that the Bonds would be rated at least Baa1/BBB+/BBB+, respectively, if the early termination risk did not exist.
6. **Debt Service Reserve Fund.** The Bonds will have a debt service reserve fund funded at the maximum amount authorized under the Internal Revenue Code for tax-exempt debt.
7. **Amortization Pattern of Bonds.** The Bonds will be structured with level debt service unless specific exceptions are approved by the Board as part of the Loan Guarantee.
8. **Term of Bonds.** The term of the Bonds will not exceed 30 years.
9. **Fixed Rate.** The interest rate on the Bonds will be a fixed rate.
10. **IID Resolution.** IID's Loan Guarantee Application will contain a certified copy of the adopted resolution required by Government Code Section 63041(a).
11. **Prevailing Wages.** The Project will comply with Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code, including the payment of prevailing wages.

As you know, our objective is to obtain a standby financing commitment, consistent with the appropriate provisions of the Bergeson-Peace Infrastructure and Economic Development Bank Act, that will guarantee \$150,000,000 of net project costs. Thank you for your consideration.

Sincerely,



JESSE P. SILVA
General Manager

Attachment: Resolution

IMPERIAL IRRIGATION DISTRICT

RESOLUTION NO. 5-2003

OFFICIAL INTENT OF THE IMPERIAL IRRIGATION DISTRICT TO SUBMIT A PRELIMINARY LOAN GUARANTEE APPLICATION TO THE CALIFORNIA INFRASTRUCTURE AND ECONOMIC DEVELOPMENT BANK

WHEREAS, the Imperial Irrigation District (the "District") requires financial assistance in order to ensure that the District can issue revenue bonds required to finance a water supply project consisting of water conservation measures ("Project") designed to assure that California continues to receive the maximum amount of water from the Colorado River as well as for other purposes, and

WHEREAS, the District intends to obtain a Preliminary Loan Guarantee from the California Infrastructure and Economic Development Bank in accordance with the Bank's Criteria, Priorities and Guidelines for the Proposed Imperial Irrigation District Loan Program ("Bank's Criteria"); and

WHEREAS, the Bank's Criteria require an adopted resolution of the District's governing body requesting the Preliminary Loan Commitment; and

WHEREAS, the District acknowledges that the Loan Guarantee will be subject to the terms and conditions listed in Section D of the Bank's Criteria.

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Imperial Irrigation District as follows:

Section 1. The Board of Directors of the District finds and determines that the foregoing recitals are true and correct.

Section 2. This resolution is adopted by the Board of Directors of the District for the purposes of establishing compliance with the Bank's Criteria.

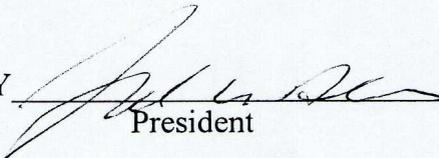
Section 3. This resolution shall take effect from and after its adoption.

PASSED AND ADOPTED this 13 day of May, 2003

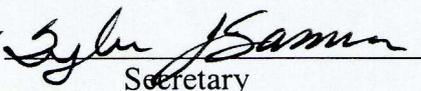


IMPERIAL IRRIGATION DISTRICT

BY


President

BY


Secretary

RESOLUTION NO. 09-48

RESOLUTION OF THE CALIFORNIA INFRASTRUCTURE AND ECONOMIC DEVELOPMENT BANK ADOPTING A CLARIFIED AND RESTATED PRELIMINARY LOAN GUARANTEE COMMITMENT FOR THE IMPERIAL IRRIGATION DISTRICT, CLARIFYING AND RESTATING THE TERMS OF THE PRELIMINARY LOAN GUARANTEE COMMITMENT GRANTED TO THE IMPERIAL IRRIGATION DISTRICT ON JUNE 27, 2003, AND EXTENDING THE TERM OF THE PRELIMINARY LOAN GUARANTEE COMMITMENT AS SO CLARIFIED AND RESTATED UNTIL JUNE 30, 2010.

WHEREAS, the California Infrastructure and Economic Development Bank (the "I-Bank") is formed within state government for the purpose of administering the provisions of the Bergeson-Peace Infrastructure and Economic Development Bank Act (the "Act"); and

WHEREAS, the Act authorizes the I-Bank to insure all or part of any series of bonds issued by a sponsor, as defined in the Act, using funds available therefore on deposit in the California Infrastructure Guarantee Trust Fund (the "Guarantee Trust Fund"); and

WHEREAS, on May 13, 2003, the Imperial Irrigation District (the "IID") submitted to the I-Bank an application seeking a preliminary loan guarantee commitment in accordance with certain proposed criteria, priorities and guidelines of the I-Bank for the purpose of obtaining financial assistance in order to issue revenue bonds required to finance \$150 million of net project costs ("IID Preliminary Application") of a water supply project consisting of water conservation measures designed to assure that California would continue to receive the maximum amount of water from the Colorado River (the "Proposed Water Conservation Project"); and

WHEREAS, on May 28, 2003, this Board adopted Resolution No. 03-16, adopting criteria, priorities and guidelines ("Criteria") to implement a guarantee program for the purpose of providing financial assistance so that the IID could issue revenue bonds to finance the Proposed Water Conservation Project (the "IID Guarantee Program"); and

WHEREAS, pursuant to Resolution No. 03-16, this Board also authorized the Executive Director of the I-Bank to transfer \$20 million from the California Infrastructure and Economic Development Bank Fund to the Guarantee Trust Fund for the IID Guarantee Program; and

WHEREAS, pursuant to Resolution No. 03-16, \$20 million was transferred to the Guarantee Trust Fund, and as a result of investments of that deposit, the amount on deposit in the Guarantee Trust Fund for the IID Guarantee Program is currently approximately \$24.1 million; and

WHEREAS, on June 27, 2003, this Board adopted Resolution No. 03-18, finding that the IID Preliminary Application was consistent with the Criteria and the Act, and approving a preliminary loan guarantee commitment for the IID (the “2003 Preliminary Loan Guarantee Commitment”); and

WHEREAS, pursuant to Resolution No 03-18, the 2003 Preliminary Loan Guarantee Commitment is to expire on December 31, 2009, unless extended in writing by this Board; and

WHEREAS, throughout 2009, staff and representatives of the I-Bank and the IID have engaged in discussions regarding the issuance of a final loan guarantee pursuant to the terms of the 2003 Preliminary Loan Guarantee Commitment; and

WHEREAS, on October 1, 2009, the I-Bank received an application from the IID for a final loan guarantee pursuant to the 2003 Preliminary Loan Guarantee Commitment (the “IID Final Guarantee Application”); and

WHEREAS, I-Bank staff have determined that the IID Final Guarantee Application is substantially complete for purposes of meeting the application deadline of the Criteria, but has also notified IID that the IID Final Guarantee Application seeks a guarantee with terms that I-Bank staff are unable to conclude are consistent with the terms of the 2003 Preliminary Loan Guarantee Commitment; and

WHEREAS, I-Bank staff and the IID seek approval of the I-Bank Board of proposed clarifications and restatements of the terms of the 2003 Preliminary Loan Guarantee Commitment and an extension of time in order to draft guarantee agreements and reimbursement and indemnification agreements consistent with the clarified and restated terms of the 2003 Preliminary Loan Guarantee Commitment; and

WHEREAS, the IID has informed I-Bank staff of its intention to issue debt obligations in the first quarter of 2010, and that IID anticipates that such debt obligations will be eligible for a guarantee issued pursuant to the terms of the 2003 Preliminary Loan Guarantee Commitment;

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

Section 1. The above findings are true and correct in all material respects.

Section 2. The clarified and restated terms of the 2003 Preliminary Loan Guarantee Commitment as set forth in the term sheet attached to this Resolution and incorporated herein by this referenced (the “Term Sheet”) are consistent with the Act and the Criteria.

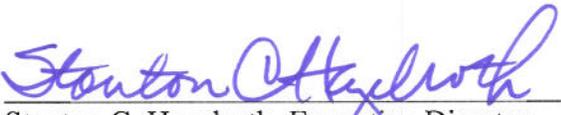
Section 3. The term of the 2003 Preliminary Loan Guarantee Commitment as clarified and restated in the Term Sheet (the “Clarified Preliminary Commitment”) is hereby extended until December 31, 2010 for the purpose of permitting I-Bank staff and IID staff and representatives sufficient time to draft final guarantee agreements and reimbursement and indemnification agreements consistent with the Clarified Preliminary Commitment.

Section 4. Any proposed form of final guarantee and proposed form of a related reimbursement and indemnification agreement that are presented to this Board for approval must be consistent with the 2003 Preliminary Loan Guarantee Commitment as clarified and restated in the Clarified Preliminary Commitment; reflected in substantially final documents pertaining to the bonds that are anticipated to be guaranteed by the proposed final guarantee that have been received by the I-Bank within sufficient time to be reflected in any proposed form of final guarantee and any proposed form of reimbursement and indemnification agreement; and presented to this Board for approval on or before December 31, 2010.

Section 5. This resolution shall take effect from and after its adoption.

PASSED, APPROVED, AND ADOPTED this 15th day of December, 2009, by the following vote:

AYES: Sheehy, Lujano, Berte, Zuniga, Rice
NOES: NONE
ABSENT: NONE
ABSTAIN: NONE


Stanton C. Hazelroth, Executive Director

ATTEST:


Roma Cristia-Plant, Secretary
of the Board of Directors

Attachment 1
 Resolution No. 09-48
 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.

Term/Condition	Clarification and Restatement of the 2003 Preliminary Loan Guarantee Commitment	IID Proposal
	<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. 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. 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.

Term/Condition	Clarification and Restatement of the 2003 Preliminary Loan Guarantee Commitment	IID Proposal
		violation of environmental laws, ordinances, regulations, approvals, agreements or permits.
Eligible Borrower	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. The Guaranteed Bonds ⁶ will be issued by IID.	

⁶ Any bonds guaranteed by I-Bank pursuant to the terms of this Clarified and Restated Preliminary Loan Guarantee Commitment.

Term/Condition	Clarification and Restatement of the 2003 Preliminary Loan Guarantee Commitment	IID Proposal
<p>Eligible Project</p>	<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 Agreements⁷. 	
<p>Eligible Costs</p>	<p>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</p>	

⁷The 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, and the "Related Agreements" as defined in that Quantification Settlement Agreement as those agreements existed as of October 10, 2003.

Term/Condition	Clarification and Restatement of the 2003 Preliminary Loan Guarantee Commitment	IID Proposal
<p>Amount of Guarantee</p>	<p>Bonds during the period of construction or acquisition of Eligible Projects; debt service reserves related to Guaranteed Bonds; and other expenses incidental thereto.</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>

Term/Condition	Clarification and Restatement of the 2003 Preliminary Loan Guarantee Commitment	IID Proposal
<p>Credit Rating</p>	<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>	
<p>Debt Service Reserve Fund</p>	<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>	
<p>Amortization Pattern of Bonds</p>	<p>Each series of Guaranteed Bonds will have level debt service amortization.</p>	

Term/Condition	Clarification and Restatement of the 2003 Preliminary Loan Guarantee Commitment	IID Proposal
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.	

Term/Condition	Clarification and Restatement of the 2003 Preliminary Loan Guarantee Commitment	IID Proposal
<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 	

Term/Condition	Clarification and Restatement of the 2003 Preliminary Loan Guarantee Commitment	IID Proposal
	<p>portion of the Water Conservation Project financed by Guaranteed Bonds.</p> <p>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).</p> <p>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").</p> <p>5.4. <u> </u> Covenants and conditions usual and customary for a bond guarantee transaction, including but not limited to:</p> <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 	<p>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.</p>

Term/Condition	Clarification and Restatement of the 2003 Preliminary Loan Guarantee Commitment	IID Proposal
	<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 	

Term/Condition	Clarification and Restatement of the 2003 Preliminary Loan Guarantee Commitment	IID Proposal
	<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.

ATTACHMENT 4: Section 69 of Senate Bill 856

Senate Bill No. 856

CHAPTER 719

An act to amend Sections 159.5, 160, 23399, and 23954.5 of, and to add Sections 154.2 and 210 to, the Business and Professions Code, to amend Section 337.5 of, and to add Section 348.5 to, the Code of Civil Procedure, to amend Section 94949 of, and to add and repeal Section 94874.3 of, the Education Code, to amend Sections 927, 927.2, 927.3, 927.5, 927.6, 927.7, 927.9, 7076, 7097.1, 7114.2, 7591, 7592, 11544, 16429.1, 17556, and 17557 of, to add Sections 927.13, 7072.3, 11546.4, 17570, and 17570.1 to, to repeal Sections 926.16 and 926.19 of, and to repeal Chapter 2 (commencing with Section 13996) of Part 4.7 of Division 3 of Title 2 of, the Government Code, to amend Section 50199.9 of the Health and Safety Code, to amend Sections 62.9, 1771.3, 1771.5, 1771.7, 1771.75, 1771.8, and 1777.5 of the Labor Code, to add Section 11105.8 to the Penal Code, to amend Section 5164 of the Public Resources Code, to amend Sections 11006 and 19558 of the Revenue and Taxation Code, to amend Sections 1088, 1112.5, 1113.1, 1275, 13021, and 13050 of, and to add Article 9 (commencing with Section 1900) to Chapter 7 of Part 1 of Division 1 of, the Unemployment Insurance Code, to amend Section 1673.2 of the Vehicle Code, and to amend and supplement the Budget Act of 2009 (Chapter 1 of the 2009–10 Third Extraordinary Session) by amending Item 0820-001-3086 of Section 2.00 of that act, relating to state government, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 19, 2010. Filed with
Secretary of State October 19, 2010.]

LEGISLATIVE COUNSEL'S DIGEST

SB 856, Committee on Budget and Fiscal Review. State government.

(1) Existing law provides for the regulation of various professions and vocations by regulatory boards within the Department of Consumer Affairs. Existing law creates in the department a Division of Investigation and authorizes the Director of Consumer Affairs to employ investigators, inspectors, and deputies as are necessary to investigate and prosecute all violations of any law, the enforcement of which is charged to the department or to any board in the department. Inspectors used by the boards are not required to be employees of the Division of Investigation, but may be employees of, or under contract to, the boards. Investigators of the Division of Investigation and of the Medical Board of California and the Dental Board of California have the authority of peace officers and are in the division and appointed by the director.

This bill would authorize specified healing arts boards to employ individuals to serve as experts and would authorize those boards and the

(33) Existing law creates the California Infrastructure and Economic Development Bank for the purpose of, among other things, providing financial assistance for public development facilities located in California. Existing law establishes the California Infrastructure Guarantee Trust Fund within which there is a guarantee reserve account to fund secure commitments under contracts to guarantee all or part of the bonds in the bank. Existing law permits the Legislature to establish for the guarantee reserve account a reserve account requirement. Existing law requires the bank to take all reasonable steps to maintain the reserve account requirement, and if the bank determines that the amount in the reserve account is below the reserve account requirement, the executive director of the bank is to certify to various parties in the Legislature the sum required to restore the reserve fund to the requirement, and upon making the certification, request an appropriation. Existing law provides that the obligation of the bank and the state to pay any guarantee is a limited obligation of the bank payable solely from amounts deposited in the guarantee trust fund that are made available under the respective contracts of guarantee, and prohibits the guarantee of loans or bonds from directly, indirectly, or contingently obligating the state to levy or to pledge any form of taxation or to make any appropriation for their payment. In 2003, the California Infrastructure and Economic Development Bank and the Imperial Irrigation District entered into a preliminary loan guarantee agreement.

This bill would require that funds in the California Infrastructure Guarantee Trust Fund, as of January 1, 2010, held for the benefit of the Imperial Irrigation District, be deposited in a guarantee reserve account in the fund, which the bill would establish, and would provide that this amount is the reserve account requirement, as specified, for the purpose of meeting the obligations of the Imperial Irrigation District up to \$150,000,000 in connection with certain water agreements. The bill would require that the California Infrastructure and Economic Development Bank guarantee certain bonds relating to the Imperial Irrigation District projects, and that the reserve account be paid for the benefit of bondholders in the event of a shortfall, as specified. The bill would specify the characteristics of these bonds, and would establish the limits of the liability of the Imperial Irrigation District, the California Infrastructure and Economic Development Bank, and the state in connection to them.

(34) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

(35) This bill would declare that it is to take effect immediately as an urgency statute.

Appropriation: yes.

Director of Finance shall allocate those funds among the Citizens Redistricting Commission, the Secretary of State, and the Bureau of State Audits not sooner than the date that both of the following have occurred:

(1) The State Auditor has randomly drawn the names of eight individuals who shall serve on the Citizens Redistricting Commission pursuant to subdivision (f) of Section 8252 of the Government Code.

(2) Thirty days have elapsed since the Department of Finance has submitted to the Chairperson of the Joint Legislative Budget Committee a written notification of intent to allocate those funds, or whatever lesser time the chairperson of the joint committee may determine.

(b) In order to receive an allocation of funds under this section, the Bureau of State Audits shall submit a request with a detailed cost estimate to the Chairperson of the Joint Legislative Budget Committee and the Director of Finance. If the chairperson of the joint committee provides a written notification to the director that the requested allocation, or a lesser amount, is needed to carry out expenses of the Bureau of State Audits as set forth in the detailed cost estimate, the director shall make an allocation of funds as identified in the written notification.

SEC. 69. (a) For the purpose of this section, the following words and terms shall have the following meanings:

(1) “Bank” means the California Infrastructure and Economic Development Bank.

(2) “IID” means the Imperial Irrigation District.

(3) “IID Infrastructure Guarantee Trust Account” means the account within the California Infrastructure Guarantee Trust Fund established by this section.

(4) “Infrastructure Bank IID Guaranteed Project Bonds” means obligations of IID issued in a principal amount providing net project proceeds of up to one hundred fifty million dollars (\$150,000,000) in 2003 dollars as adjusted to their present value by the construction cost index, comprising the net of costs of issuance and the funding of a reserve account in the maximum amount provided by federal law with respect to tax exempt obligations, the net project proceeds of which are for the purpose of completing Transfer Agreement Project Improvements.

(5) “SDCWA” means the San Diego County Water Authority.

(6) “Shortfall” means, to the extent the number is negative, revenues received by IID pursuant to the transfer agreement, less the operation and maintenance costs, administrative costs, other noncapital costs related to the Transfer Agreement Project Improvements, and debt service on the Infrastructure Bank IID Guaranteed Project Bonds, not to exceed the amount due as debt service on the Infrastructure Bank IID Guaranteed Project Bonds on any payment date for those bonds and subject to offset as set forth in this section.

(7) “Transfer agreement” means that Agreement for Transfer of Conserved Water by and between IID and SDCWA dated April 29, 1998, as amended as of October 10, 2003.

(8) “Transfer Agreement Project Improvements” means projects or programs undertaken by IID for the purposes of the development of “conserved water” as that term is used in, and for the purposes of, the Quantification Settlement Agreement that was executed on October 10, 2003, that are financed with proceeds of the Infrastructure Bank IID Guaranteed Project Bonds.

(9) “Triggering event” means any of the following:

(A) Termination of the transfer agreement on or before October 3, 2048, for reasons other than set forth in subparagraph (B) or (C).

(B) A default under the transfer agreement by SDCWA resulting in a reduction in revenues payable to IID, provided that IID has assigned to the bank that portion of its payment rights under the transfer agreement sufficient for the bank to be made whole in the event recovery is obtained from the SDCWA.

(C) A court or administrative body order or other action that results in a reduction or elimination of revenues under the transfer agreement.

(b) The amount in the California Infrastructure Guarantee Trust Fund or any account in that fund on January 1, 2010, that is held for the benefit of the IID pursuant to Resolution No. 03-18, adopted by the California Infrastructure and Economic Development Bank on June 27, 2003, shall be deposited in a guarantee reserve account within the fund, which is hereby established as the IID Infrastructure Guarantee Trust Account. This amount shall also constitute the “reserve account requirement” for the account for the purposes of Section 63064 of the Government Code.

(c) The Infrastructure Bank IID Guaranteed Project Bonds shall be guaranteed by the bank, and the IID Infrastructure Guarantee Trust Account shall constitute the guarantee reserve account for the Infrastructure Bank IID Guaranteed Project Bonds as provided in Section 63063 of the Government Code. Moneys in the IID Infrastructure Guarantee Trust Account, including any amounts appropriated to this account, shall be paid for the benefit of the holders of the Infrastructure Bank IID Guaranteed Project Bonds in the amount of the shortfall upon the occurrence of all of the following: (1) a triggering event; (2) the exhaustion of the bond reserve account funded in the maximum amount provided by federal law with respect to tax exempt obligations by the Infrastructure Bank IID Guaranteed Project Bonds; and (3) funding by IID of debt service payments for 12 consecutive months. Moneys shall be transferred from the IID Infrastructure Guarantee Trust Account by the bank to the trustee for the Infrastructure Bond IID Guaranteed Project Bonds in an amount not to exceed the shortfall for the purpose of making principal or interest payments on the Infrastructure Bank IID Guaranteed Project Bonds.

(d) If a triggering event occurs and IID enters into a water transfer agreement with one or more parties, or a subsequent water transfer agreement with SDCWA, for all or any portion of the water that otherwise would have been transferred to SDCWA pursuant to the transfer agreement, IID shall apply the net revenues received under the water transfer agreement or agreements as an offset against the shortfall.

(e) The Infrastructure Bank IID Guaranteed Project Bonds shall have maturities not to exceed 30 years from the date of issuance of each series of these obligations and bear a fixed rate of interest. The Infrastructure Bank IID Guaranteed Project Bonds shall be structured with level debt service unless the board of directors of the bank approves non-level debt service. The date or dates of issuance shall be as determined by IID.

(f) The guarantee by the bank of the Infrastructure Bank IID Guaranteed Project Bonds and any payment thereunder shall be without any rights of recourse, subrogation, reimbursement, contribution, or indemnity against IID, provided that IID shall reimburse any guarantee payments received in any IID fiscal year to the extent that transfer revenues in that fiscal year received under the transfer agreement, or under any subsequent water transfer agreements described in subdivision (d) exceed the amount required for IID to pay the operation and maintenance costs, administrative costs, and other noncapital costs related to the Transfer Agreement Project Improvements plus debt service on the Infrastructure Bank IID Guaranteed Project Bonds.

(g) The obligation of the bank and of the state to pay any guarantee benefit for the Infrastructure Bank IID Guaranteed Project Bonds shall be a limited obligation of the bank payable solely from amounts deposited in the IID Infrastructure Guarantee Trust Account pursuant to this section, or subsequently appropriated for deposit in the IID Infrastructure Guarantee Trust Account pursuant to subdivision (d) of Section 63064 of the Government Code. Upon the occurrence of a triggering event and satisfaction of the conditions precedent for funding described in subdivision (c), the executive director of the bank shall take the action as provided in Section 63064 of the Government Code. The guarantee of the Infrastructure Bank IID Guaranteed Project Bonds under this section shall not directly or indirectly or contingently obligate the state or any of its political subdivisions to levy or to pledge any form of taxation whatever for them or to make any appropriation for their payment. The contract of guarantee to be entered into by the bank shall contain on its face a statement to the following effect: "Neither the faith and credit nor the taxing power of the State of California is pledged to the payment of the principal of, or interest on, this contract of guarantee."

(h) The bank shall enter into a guarantee agreement with IID that is consistent with the terms of this section, as approved by the board of directors of the bank. Article 3 (commencing with Section 63040), Article 4 (commencing with Section 63042), and Article 5 (commencing with Section 63043) of Chapter 2 of Division 1 of Title 6.7 of the Government Code shall not apply to the guarantee by the bank of the Infrastructure Bank IID Guaranteed Project Bonds.

(i) Pursuant to Section 63066 of the Government Code, the bank may charge and collect an insurance guarantee premium upon the issuance of the guarantee of the Infrastructure Bank IID Guaranteed Project Bonds, not to exceed 1 percent of the principal amount thereof from the proceeds of the bonds, in an amount established by the board of directors of the bank.