

## **CALIFORNIA INFRASTRUCTURE AND ECONOMIC DEVELOPMENT BANK (I-BANK)**

### **POST BOND ISSUANCE REQUEST STAFF REPORT**

#### **REQUEST**

Claremont University Consortium (Borrower) has requested that the California Infrastructure and Economic Development Bank (I-Bank) execute a written request from the I-Bank (Written Request) instructing Union Bank of California, N.A. (Trustee) to take certain actions in order to redeem in full and defease the outstanding California Infrastructure and Economic Development Bank Revenue Bonds, Series 2003 (Claremont University Consortium Project) (Bonds) in the amount of \$8,805,000 on October 1, 2012 (see Attachment 2).

#### **BACKGROUND**

On April 2, 2003, the I-Bank approved Resolution 03-11 authorizing the issuance of tax-exempt bonds in an aggregate amount not to exceed \$10,220,000. The Borrower is a nonprofit public benefit corporation which is the central coordinating institution for The Claremont Colleges, consisting of Claremont Graduate University, Claremont McKenna College, Harvey Mudd College, The Keck Graduate Institute of Applied Life Sciences, Pitzer College, Pomona College and Scripps College each of which is a separate nonprofit public benefit corporation.

The proceeds of the Bonds were used to finance the acquisition, construction, expansion, replacement, renovation, improvement and/or equipping of certain educational facilities of the Consortium.

According to the Trustee for the Bonds, as of June 30, 2012, the outstanding principal balance of the Bonds was \$8,805,000. The balance of outstanding Bonds is expected to be redeemed on October 1, 2012.

#### **NEED FOR ACTION**

The Borrower has elected to refinance its existing obligations associated with the Bonds, by asking another issuer, rather than the I-Bank, to issue refunding bonds to replace the existing Bonds which are to be redeemed. Yet, as the issuer of the existing Bonds, I-Bank action is needed in order to facilitate the redemption of the Bonds.

Under Article IV, entitled Redemption of Bonds, of the Indenture dated as of April 1, 2003, between I-Bank and the Trustee (Indenture), the Borrower is authorized to direct the Trustee as to which bonds are to be redeemed. Bonds maturing on and after October 1, 2013 are subject to redemption prior to maturity on any date on or after October 1, 2012.

I-Bank is in receipt of the Borrower's Request for Amendment or Other Post-Bond Issuance Actions (Attachment 1) requesting that the I-Bank execute the Written Request to the Trustee to take certain actions in order to facilitate the redemption of the Bonds as a first step of the Borrower's refinancing (Borrower's Request).

## **ADDITIONAL ASSURANCES**

The fact that the Borrower has elected to have the refunding bonds issued by another issuer is uncommon. Typically, the same issuer that issued the original Bonds (in this case the I-Bank) would be involved in the refinancing and would ultimately issue the new refunding bonds.

Because of the unusual situation described above, the I-Bank's General Counsel sought, and received, additional assurances from both the Borrower and bond counsel for the Bonds (Bond Counsel) with respect to the Written Consent. Consequently, Bond Counsel agreed to deliver an opinion that the actions taken by the I-Bank pursuant to the Written Request do not conflict with the Indenture. Further, the Borrower has agreed to ensure that its indemnification of the I-Bank also covers the I-Bank's actions with respect to the Written Request.

## **BOARD DELEGATION AUTHORIZATION**

I-Bank Board Resolution 11-24 delegates to the Executive Director, in connection with any proposed redemption of bonds or prepayment of the obligations of others to the I-Bank (Redemption), the authority to take all actions and execute and deliver all I-Bank documents necessary or convenient to accomplishing such Redemption. The I-Bank's General Counsel has determined that acting on the Borrower's Request by executing the Written Request meets the requirements of I-Bank Board Resolution 11-24.

## **STAFF RECOMMENDATION**

Staff recommends that the Written Request be executed by the Executive Director.

## **ATTACHMENTS**

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|--------------|--|
| Attachment 1 | Borrower's Request for Amendment or Other Post-Bond Issuance Actions |
| Attachment 2 | Written Request of the Infrastructure Bank                           |

Prepared by: Elizabeth Hess 8-1-12  
Elizabeth Hess, Public Finance Officer Date

Reviewed by: Joel Tokimitsu 8/1/12  
Joel Tokimitsu, Bond Programs Manager Date  
Comments:

Reviewed by: Marilyn Munoz 8/1/12  
Marilyn Munoz, General Counsel Date  
Comments:  
 The amendment request falls within the authority delegated to the Executive Director. I-Bank Board consideration and approval is not required.  
 The amendment request does not fall within the delegated authority of the I-Bank Executive Director, and Board consideration and approval of the request is required.

Reviewed by: Roma Cristia-Plant 8/2/12  
Roma Cristia-Plant, Assistant Executive Director Date  
Comments:

Approved by: Stanton Hazelroth 8-2-12  
Stanton Hazelroth, Executive Director Date  
Comments:

**Attachment 1 – Borrower's Request for Amendment or Other Post-Bond  
Issuance Actions**



## REQUEST FOR AMENDMENT OR OTHER POST-BOND ISSUANCE ACTIONS

In order to consider post-issuance modifications, substitutions, redemptions or other actions related to I-Bank bond financings (a "Request"), I-Bank staff must have complete information regarding the nature of the request. Upon receipt of the information listed below, I-Bank Bond Unit staff will provide a single point of contact and prepare a list of issues, further questions or additional information needed so that the applicant can address them in an organized fashion.

The I-Bank Bond Unit staffer assigned to the Request will also contact the I-Bank Legal Unit for a determination as to whether the Request falls within the scope of authority delegated from the I-Bank Board to the Executive Director and his assignees (the "Delegation"). Please note that I-Bank staff reserves the right to elect to present any Request to the I-Bank Board for its approval regardless of the Delegation authority. Upon receipt of a Delegation determination from the I-Bank Legal Unit, the Bond Unit staffer will advise the applicant of the determination and the next steps in the process.

***The Request for Amendment or Other Post-Bond Issuance Actions may be submitted via email.***

1. Date of Request: July 27, 2012
2. Name/Title, Date, of Bond Issue: California Infrastructure and Economic Development Bank Revenue Bonds (Claremont University Consortium) Series 2003 (the "Series 2003 Bonds"). The Series 2003 Bonds were issued April 23, 2003.
3. Description of why amendment(s), substitution(s) or other action(s) is/are needed/requested: (e.g., Issues relating to addition of credit support; substituting LOC provider, lender requirement to update financial covenants)

The action requested is to pay, redeem and defease all of the Series 2003 Bonds and to satisfy and discharge the Indenture and any related documents.

4. Proposed Timeline. The Written Request of the Infrastructure Bank will be dated August 2, 2012 and must be returned to Bond Counsel by August 1, 2012. The redemption date is October 1, 2012. Notices, certificates and related documents will be mailed by the Trustee to holders of the Series 2003 Bonds on August 2, 2012.
5. Identify the section numbers and the names of the original transaction documents that govern or relate to the Request. Please provide copies (preferably in an electronic format) of such documents.

Indenture of Trust, dated as of April 1, 2003 (the "Indenture") between the California Infrastructure and Economic Development Bank and Union Bank, National Association (formerly Union Bank of California, N.A.).

Articles IV (Redemption) and X (Defeasance) of the Indenture.

6. Identify any bond documents to be amended (please provide draft documents to implement the Request as soon as possible). None.

\_\_\_\_\_ Indenture

\_\_\_\_\_ Loan Agreement

\_\_\_\_\_ Other: \_\_\_\_\_

7. Will this result in a reissuance for federal tax law purposes? If so, please provide a draft TEFRA notice, and, if required, a draft amendment to the Tax Agreement or No-Arbitrage Certificate (or similar tax document).

No.

8. Is Bond Counsel willing to provide an opinion to the effect that the Request is in accordance with the related transaction documents? If no, please explain.

No. The documents do not require Bond Counsel to provide the I-Bank an opinion to the effect that the request is in accordance with the transaction documents. However, pursuant to Section 10.01 of the Indenture, Bond Counsel will provide the I-Bank and the trustee under the Indenture with an opinion of Bond Counsel, stating that all conditions precedent to the satisfaction and discharge of the Indenture were complied with.

9. If the bonds associated with the Request were issued as tax-exempt bonds, is Bond Counsel willing to provide an opinion to the effect that the Request will not adversely affect the tax-exempt status of the bonds? If no, please explain.

No. The documents do not require Bond Counsel to provide the I-Bank an opinion to the effect that the payment, redemption and defeasance will not adversely affect the tax-exempt status of the Series 2003 Bonds.

10. If the Request involves the substitution of a credit facility or a liquidity facility, will the applicant be able to provide written evidence, from the rating agencies specified in the transaction documents, to the effect that the Request will not result in a rating lower than the rating required by the transaction documents? If no, please explain.

Not applicable.

11. Distribution list with contact information:

Bond Counsel: Squire Sanders (US) LLP, Robyn Helmlinger, Partner, (415) 954-0223, email [robyn.helmlinger@squiresanders.com](mailto:robyn.helmlinger@squiresanders.com)

Borrower: Claremont University Consortium, Ken Pifer, Vice President and Treasurer, (909) 607-0809, email [ken\\_pifer@cuc.claremont.edu](mailto:ken_pifer@cuc.claremont.edu)

Borrower's Counsel: Rossi Russell, (310) 470-3255, email [ra.russell@att.net](mailto:ra.russell@att.net)

Financial Advisor:

Other:

Questions? Please contact Tara Dunn by email ([Tara.Dunn@ibank.ca.gov](mailto:Tara.Dunn@ibank.ca.gov)) or call (916) 322-2571.

**CALIFORNIA INFRASTRUCTURE AND ECONOMIC DEVELOPMENT BANK  
REVENUE BONDS  
(CLAREMONT UNIVERSITY CONSORTIUM)  
SERIES 2003**

**WRITTEN REQUEST OF THE INFRASTRUCTURE BANK**

To: Union Bank, National Association, as trustee and escrow trustee

The undersigned hereby states and certifies to and instructs Union Bank, National Association (formerly known as Union Bank of California, N.A.), as trustee (the “Trustee”) under the Indenture of Trust, dated as of April 1, 2003 (the “2003 Indenture”), between the California Infrastructure and Economic Development Bank (the “Infrastructure Bank”) and the Trustee, previously executed in connection with issuance of the Infrastructure Bank’s captioned bonds (the “Bonds”), that:

(a) The undersigned is a duly appointed Authorized Infrastructure Bank Representative pursuant to Section 1.01 of the 2003 Indenture with authority to instruct the Trustee held with respect to the payment, defeasance and redemption of Bonds; and

(b) You are hereby authorized and irrevocably instructed, as Trustee under the 2003 Indenture, to (i) apply monies and securities held in trust pursuant to and in accordance with the Escrow Agreement, dated as of August 1, 2012, between you, in your capacity as escrow trustee, and Claremont University Consortium, (ii) execute and deliver all instruments as may be necessary to evidence the discharge and satisfaction of the Indenture, including the giving of notice of redemption as required thereby, and (iii) cancel such Bonds upon payment of the Bonds or upon earlier redemption of the Bonds in accordance with Article IV of the Indenture.

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IN WITNESS WHEREOF, the undersigned have hereto set their hands as of this 2nd day of August, 2012.

**CALIFORNIA INFRASTRUCTURE  
AND ECONOMIC DEVELOPMENT  
BANK**

By: \_\_\_\_\_  
Executive Director

**ACCEPTED:**

**UNION BANK, NATIONAL  
ASSOCIATION, as Trustee**

By: \_\_\_\_\_  
Authorized Officer

[Signature Page to Written Request of the Infrastructure Bank Regarding Claremont University Consortium Series 2003]