

RESOLUTION NO. 12-10

RESOLUTION OF THE CALIFORNIA INFRASTRUCTURE AND ECONOMIC DEVELOPMENT BANK APPROVING INFRASTRUCTURE STATE REVOLVING FUND PROGRAM FINANCING NOT TO EXCEED \$7,500,000 FOR PHELAN PIÑON HILLS COMMUNITY SERVICES DISTRICT

WHEREAS, the Phelan Piñon Hills Community Services District ("Applicant") has submitted an application ("Application") requesting \$7,500,000 Infrastructure State Revolving Fund ("ISRF") Program financing for the Water Resources Acquisition Project (the "Project"); and

WHEREAS, the Project meets all eligibility requirements contained in Government Code Section 63000 *et seq.* ("Act") and the Criteria, Priorities and Guidelines ("Criteria") for the ISRF Program; and

WHEREAS, the proposed financing will be on parity with the Enterprise Fund Installment Sale Agreement (CIEDB 02-033), dated December 17, 2002, between the County of San Bernardino on behalf of County Service Area 70, Improvement Zone L and the I-Bank (the "2002 Agreement") which was assumed by the Applicant on August 18, 2008; and

WHEREAS, Section 2.07(c) of the 2002 Agreement requires that the Applicant to submit a report from an Independent Accountant or Independent Consultant documenting that certain debt coverage requirements are met when establishing new parity debt; and

WHEREAS, staff of the I-Bank had access to the data required to determine that the requirements Section 2.07(c) of the 2002 Agreement were satisfied without the need for a report from an Independent Accountant or Independent Consultant; and

WHEREAS, pursuant to Federal tax law, any funds made to the Applicant by the I-Bank for the purpose of financing costs associated with the Project on a long-term basis using proceeds of tax-exempt bonds previously issued by the I-Bank may reimburse the Applicant for certain expenditures paid by the Applicant in connection with the Project (the "Reimbursable Expenditures") prior to the execution of any financing agreement between the I-Bank and the Applicant.

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

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

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

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

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

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

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

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

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

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

Section 2. The Board hereby approves the lending of ISRF Program funds to the Applicant in an amount not to exceed \$7,500,000, subject to the execution of a financing agreement between the I-Bank and the Applicant pursuant to the terms and conditions specified in Attachment A to this resolution, and provided that the reimbursable costs are consistent with this resolution.

Section 3. The Board hereby approves a waiver of the requirements contained in Section 2.07(c) of the 2002 Agreement.

Section 4. The Chair, the Executive Director, or the Executive Director's assignees, each acting alone, is authorized to execute all documents, certificates and other written agreements reasonably necessary to effectuate the financing of the Project authorized by this resolution.

Section 5. This resolution and the Board's approval do not constitute an unconditional commitment to finance the Project, but instead sets forth conditions that shall be met prior to the execution of any financing agreement between the I-Bank and the Applicant, and the terms and conditions that shall be contained in any such agreement. The financing agreement shall also include those conditions and agreements on the part of the Applicant that, in the best judgment of the Chair or the Executive Director, as the party signing such agreements on behalf of the I-Bank, are necessary or reasonable to adequately protect the interests of the I-Bank. Attachment A sets forth minimum terms and conditions to the execution of any such agreement and does not contain conditions of sufficient specificity to constitute a commitment to finance.

Section 6. The Board hereby declares its reasonable official intent to use proceeds of tax-exempt bonds to reimburse the Applicant for the Reimbursable Expenditures as authorized by this resolution.

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

PASSED, APPROVED, AND ADOPTED at a meeting of the Board of Directors of the California Infrastructure and Economic Development Bank on November 13, 2012 by the following vote:

AYES: REYES, LUJANO, JIMENEZ, ARMSTRONG, RICE

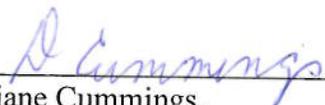
NOES: NONE

ABSENT: NONE

ABSTAIN: NONE

By:  _____
Joel Tokimitsu, Assignee of Executive Director

ATTEST

By:  _____
Diane Cummings,
Secretary of the Board of Directors

ATTACHMENT A

Approval of Resolution No. 12-10 authorizing financing for the Borrower's name is conditioned on the following minimum terms and conditions:

1. **Applicant/Borrower:** Phelan Piñon Hills Community Service District (District).
2. **Project:** Water Resources Acquisition Project.
3. **Amount of Financing:** Not to exceed \$7,500,000.
4. **Maturity:** Not to exceed 30 years.
5. **Funding Availability:** ISRF Program financing commitment is subject to the availability of funds from either, or a combination of, proceeds of a revenue bond or I-Bank equity funds. The Borrower shall execute the ISRF Program financing agreement within 210 days of I-Bank Board approval date, or the commitment of funds may be cancelled by the I-Bank.
6. **Repayment/Security:** Senior pledge on net system water revenues of the Water Enterprise Fund on parity with the Installment Sale Agreement (CIEDB 02-033) between the District and the I-Bank.
7. **Interest Rate:** 67% of Thompson's Municipal Market Data Index for an "A" rated tax-exempt security with a weighted average life similar to the I-Bank financing based on the rates on November 1, 2012.
8. **Fees:** Financing origination fee of 0.85% of the I-Bank financing and an annual fee of 0.30% of the outstanding principal balance.
9. **Type of Financing Agreement:** Installment Sale Agreement.
10. **Financing Agreement Covenants:** The Installment Sale Agreement shall include, among other things, the following covenants:
 - a. Pledged Water System revenues to, among other things, include assessments for stand-by charges.
 - b. Rates and charges shall be maintained sufficient to ensure 1.10 times aggregate annual debt service ratio for all parity obligations.
 - c. Water System net revenues may not be pledged on a senior basis. Water System net revenues may be pledged on a parity basis with the ISRF Program financing for future financings if net revenues (adjusted for adopted rate increases and system expansion) will provide an aggregate senior and parity future debt service coverage of 1.10 times maximum annual debt service on all outstanding senior and parity debt, inclusive of the proposed financing.
 - d. Borrower shall be authorized to prepay all or a portion of the outstanding principal balance according to the following: 102% of the outstanding principal balance if the prepayment date is on or after ten years, but less than eleven years, from the effective date of the Agreement, or 100% of the outstanding principal amount of the I-Bank bonds to which the Borrower's loan is pledged to repay and scheduled to be called for redemption as a result of the prepayment plus accrued interest on the bonds to be redeemed as of the date scheduled for redemption (Redemption Amount), whichever is greater; 101% of the outstanding principal balance if the prepayment date is on or after eleven years, but less than twelve years, from the effective date of the Agreement or the Redemption Amount, whichever is greater; or without premium if the prepayment date is twelve years or more from the effective date of the Agreement or the Redemption Amount, whichever is greater. The Borrower may on any date provide for a legal defeasance of the principal amount outstanding and any additional payment then due.
 - e. An agreement to indemnify I-Bank and its directors, officers and employees from any liability arising from the Installment Sale Agreement or from construction or operation of the Project.
11. **Conditions Precedent to Agreement Execution:**

- a. Adopted Borrower resolution authorizing the execution and delivery of the Installment Sale Agreement and approving certain other matters in connection therewith.
 - b. Receipt of an opinion of legal counsel to the Borrower that the Borrower has the legal authority to enter into the Installment Sale Agreement, that there is no litigation currently pending or threatened that would in any way affect pledged revenues, that the Installment Sale Agreement is a legal, binding and enforceable agreement of the Borrower, and that the Borrower is not in default of any agreement or obligation secured by the revenues of the water system.
 - c. Executed Tax Certificate.
 - d. A fully executed copy of the Purchase Agreement in substantially the same form as that which was submitted to the I-Bank Board.
 - e. A fully executed Water Rights Transfer document that has been approved by the Mojave Water Agency.
 - f. Evidence that the District has funded a water rate stabilization fund in the amount of \$200,000.
 - g. A waiver of Section 2.07(c) of the Enterprise Fund Installment Sale Agreement CIEDB 02-033 by the I-Bank Board requiring the District to submit a report from an Independent Accountant or Independent Consultant in connection with obtaining parity debt.
12. **Conditions Precedent to Initial and Final Disbursement:** The following are some of the conditions, which will be required precedent to disbursement of I-Bank funds:
- a. Execution of an Installment Sale Agreement consistent with the terms contained herein.
 - b. Evidence satisfactory to the I-Bank of clear title on all the properties being acquired.
 - c. Certification that the Borrower has obtained all licenses and permits, and approvals from any governmental agency or authority having jurisdiction over the Borrower in connection with the Project.
 - d. Project costs for the portion of the Project being financed with I-Bank funds are consistent with the Sources and Uses listed in this staff report.
13. **Financial and Other Reporting Requirements:**
- a. Annual Borrower audited financial statements, due to the I-Bank within 210 days of fiscal year end.
 - b. Other information as the I-Bank may request from time to time.