

RESOLUTION NO. 22-06

RESOLUTION OF THE CALIFORNIA INFRASTRUCTURE AND ECONOMIC DEVELOPMENT BANK BOARD OF DIRECTORS PROVIDING FINAL APPROVAL OF AN INFRASTRUCTURE STATE REVOLVING FUND PROGRAM FINANCING IN AN AMOUNT NOT TO EXCEED \$7,500,000 FOR THE CITY OF LAGUNA BEACH

WHEREAS, the California Infrastructure and Economic Development Bank (“IBank”) was established and is existing pursuant to the Bergeson-Peace Infrastructure and Economic Development Bank Act (California Government Code Section 63000 and following) (the “IBank Act”), for the purpose of, among other things, providing financial assistance to eligible projects; and

WHEREAS, the City of Laguna Beach (the “Borrower”), a municipal corporation in the State of California, is seeking financing under the Infrastructure State Revolving Fund Program (the “ISRF Program”) in the amount of \$7,500,000 (the “ISRF Financing”) for financing eligible project costs of the Six Wastewater Systems Project, as more fully described in Attachment A hereto (the “Project”); and

WHEREAS, the South Orange County Wastewater Authority (“SOCWA”), a joint powers authority, owns and operates the Coastal Treatment Plant (“CTP”) and is responsible for administering certain portions of the Project; and

WHEREAS, the Borrower is a member of SOCWA and conveys its sewage to SOCWA’s CTP for treatment and disposal; and

WHEREAS, the Borrower, along with certain other SOCWA member agencies, is responsible for funding the costs of certain portions of the Project consisting of the upgrades to the SOCWA CTP and upgrades to the Lift Station No.2 Intertie (collectively, the “SOCWA Elements”), and the Borrower intends to use the certain proceeds of the ISRF Financing to fund its proportional share of the Project costs for the SOCWA Elements and Borrower will use the remaining proceeds to undertake the other Project elements directly (collectively, the “Borrower Elements”); and

WHEREAS, the Borrower and the Project meet all applicable eligibility requirements for infrastructure projects mandated by the IBank Act and by the “Criteria, Priorities, and Guidelines for the Selection of Projects for Financing under the Infrastructure State Revolving Fund (ISRF) Program,” dated February 23, 2016 (the “Criteria”); except that:

- (i) Section II.A.4 of the Criteria requires that recipients of ISRF Program financings above \$2,000,000 pre-qualify contractors for the financed project using the model pre-qualification questionnaire (the “Model Questionnaire”) approved by the Department of Industrial Relations (the “Model Questionnaire Criteria”). The Borrower will be the party to award the Project construction contract(s) for the Borrower Elements and it intends

to use its internally-required contractor pre-qualification questionnaire, which substantially meets the intent of the Model Questionnaire and the Criteria;

- (ii) Section II.A of the Criteria provides that recipients of ISRF Program financings demonstrate the ability to complete construction of the financed project within two years of IBank's financing approval (the "Two-Year Completion Criteria"). Due to the scope of the Project, the Borrower will require up to 36 months from construction commencement to complete construction of the Project; and

WHEREAS, pursuant to the Criteria, the IBank Board of Directors (the "Board") holds the authority to waive Criteria requirements as necessary to accommodate complex or unusual transactions and, in order to accommodate IBank's financing of the Project, intends to waive compliance with:

- (i) the Model Questionnaire Criteria;
- (ii) the Two-Year Completion Criteria; and

WHEREAS, pursuant to the provisions of the Internal Revenue Code of 1986, as amended, and those U.S. Treasury Regulations implementing such provisions (collectively, "Federal Tax Law"), any funds incurred or expended by the Borrower for the purpose of financing costs associated with the Project on a long-term basis using proceeds of tax-exempt bonds or other tax exempt obligations may be reimbursed from the proceeds of the ISRF Financing (as defined below) provided that the applicable requirements of Federal Tax Law are met (the "Reimbursable Expenditures").

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

Section 1. The above recitals are true and correct.

Section 2. Pursuant to this resolution (this "Resolution"), the Board authorizes and approves providing financing under the ISRF Program in a principal amount not to exceed \$7,500,000 to the Borrower for the costs of the Project (as defined above, the "ISRF Financing"), subject to the execution of a financing agreement between IBank and the Borrower and associated financing documentation (collectively, the "Financing Agreement"). Such Financing Agreement shall reflect the Board-approved financing terms and conditions as set forth in Attachment B hereto.

Section 3. All actions heretofore taken by the officers and employees of IBank with respect to the consideration and approval of the ISRF Financing are hereby approved, confirmed and ratified. IBank's Executive Director, Chief Deputy Executive Director, or either of their assignees, each acting alone, is hereby authorized and directed, jointly and severally, to perform their duties, provide funding, take actions and execute and deliver the Financing Agreement and any and all other financing documents and instruments they may deem necessary or desirable in order to (i) effect the financing of the Project, (ii) facilitate the transactions contemplated by the ISRF Financing, and (iii) otherwise effectuate the purposes of this Resolution.

Section 4. This Resolution shall not be construed as an unconditional commitment to finance the Project, but rather IBank's approval pursuant to this Resolution is conditioned upon entry by IBank and the Borrower into the Financing Agreement, in form and substance satisfactory to IBank, no later than June 30, 2022. Such satisfaction is conclusively evidenced by IBank's execution and delivery of the same.

Section 5. For purposes of assisting the Borrower in seeking reimbursement for any Reimbursable Expenditures pursuant to Federal Tax Law, the Board hereby declares its reasonable official intent to use proceeds of tax-exempt bonds to reimburse the Borrower for any such Reimbursable Expenditures. This declaration is made solely for purposes of establishing compliance with applicable requirements of Federal Tax Law. This declaration does not bind IBank to provide the ISRF Financing or to reimburse the Borrower any of its Project expenditures.

Section 6. The Board finds that waiver of the Model Questionnaire Criteria and the Two-Year Completion Criteria (collectively, the "Waived Criteria"), is necessary and appropriate to accommodate the ISRF Financing and hereby waives compliance with the Waived Criteria.

Section 7. This Resolution shall take effect immediately upon its adoption.

PASSED, APPROVED, AND ADOPTED at a meeting of the Board of Directors of the California Infrastructure and Economic Development Bank on March 23, 2022, by the following vote:

AYES: Myers, Fowler, Miller, Quant, Steinorth


NOES:

ABSENT:

ABSTAIN:

By: scott wu
Digitally signed by scott
wu
Date: 2022.03.23
14:37:56 -07'00'
Scott Wu,
Executive Director

ATTEST

By: 
Stefan R. Spich,
Secretary of the Board of Directors

ATTACHMENT A

Description of the Project

Generally, the Project involves constructing upgrades and improvements to the City's wastewater collection and treatment system and the CTP and includes, but is not limited to, all necessary construction, construction contingency, equipping, machinery installation, engineering, architecture, design, permitting, environmental review, project administration, construction management, demolition, and general project development activities. More specifically, the Project includes the following component improvements:

- Siphon Inspection Project,
- Anita Street Lift Station Reconstruction-the project will reconstruct/rehabilitate a sewer lift station located at the beach access stairs to the Anita Street Beach,
- Pipeline Rehabilitation (Zone 5) rehabilitate existing sanitary sewer mains using trenchless Cured-In-Place pipe (CIPP) methods,
- Force main Inspection Project- inspection of 23 force mains,
- Projects to upgrade the South Orange County Wastewater Authority Coastal Treatment Plant SOCWA CTP, and
- Lift Station No.2 Intertie Project.
- Other components necessary or desirable in connection with an infrastructure project of this type that are consistent with the applicable requirements of the IBank Act and the Criteria.

ATTACHMENT B

Financing Terms

1. **Applicant/Borrower:** The City of Laguna Beach
2. **Project:** Six Wastewater Systems Project
3. **Amount of Financing:** \$7,500,000
4. **Maturity:** Thirty (30) years
5. **Repayment/Security:** The ISRF Program Financing would be secured by a senior lien on the City's sewer system revenues ("Net Revenues") and all legally available amounts in the City's Sewer Service Fund ("Fund") on parity with IBank's existing liens of the three Installment Sales Agreements Numbers CIEDB-B04-052, ISRF 18-123, and ISRF 19-133.
6. **Interest Rate:** 2.20%
7. **Fees:** The City to pay an origination fee of 1.00%, \$75,000, and an annual fee of 0.30% of the outstanding principal balance.
8. **Not an Unconditional Commitment:** IBank's Resolution shall not be construed as an unconditional commitment to finance the Project, but rather IBank's approval pursuant to the Resolution is conditioned upon entry by IBank and the City into a Financing Agreement, in form and substance satisfactory to IBank.
9. **Limited Time:** If approved by the Board, the Board's approval expires on June 30, 2022. Thus, the Borrower and IBank must execute a financing agreement no later than June 30, 2022. Once the approval has expired, there can be no assurances that IBank will be able to grant the loan to the Borrower or consider extending the approval period.
10. **ISRF Program Financing Agreement Covenants and Conditions:** The Financing Agreement shall include, among other things, the following covenants:
 - a. The City will be required to maintain rates and charges in an amount sufficient to ensure that Net Revenues produce a minimum 1.20 times aggregate annual debt service ratio for obligations on parity with the Financing.
 - b. The City has no senior liens and the City will be prohibited from issuing future debt senior to the Financing.
 - c. Parity debt will be allowed if Net Revenues amount to at least 1.20 times the Maximum Annual Debt Service (MADS) taking into consideration the MADS payable in any Fiscal Year on all existing debt and the proposed parity debt.
 - d. Subordinate debt will be allowed if Net Revenues are at least 1.00 times the sum of the MADS on all outstanding debt, payable from the Fund, including the proposed Subordinate Debt.
 - e. The City will covenant against reducing rates below levels used for all debt service payable from the Fund, and to take actions to increase rates or fund a rate stabilization fund if the debt service coverage ratios fall below required levels.
 - f. Upon implementing rates and charges, the City to covenant to ensure that its rate structure conforms to the requirements of Proposition 218 and those of the statutes implementing it and the cases interpreting it. Further, the City to covenant to notify IBank immediately upon the filing of any legal challenge to its rates or charges.

- g. The City to comply with the requirements of the Criteria, except to the extent of any Criteria waivers, and all applicable laws, regulations, and permitting requirements associated with public works projects.
- h. The City to provide to IBank annually within 180 days of the end of each of the City's fiscal year a copy of its audited financial statements together with an annual certificate demonstrating compliance with the foregoing covenants, as well as other information as IBank may request from time to time.
- i. No disbursements will be allowed until the City provides evidence reasonably satisfactory to IBank that all project funding sources, other than IBank's financing, are secured to pay for the entire project.