

## **RESOLUTION NO. 19-10**

### **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 \$15,000,000 FOR THE CITY OF ESCONDIDO**

**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 Escondido (the “Borrower”) is seeking financing under the Infrastructure State Revolving Fund Program (the “ISRF Program”) in the amount of \$15,000,000 for financing eligible project costs of its Lindley Reservoir Tank Replacement Project, as more fully described in Attachment A hereto (the “Project”); and

**WHEREAS**, the Borrower and 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) 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 a financing under the ISRF Program in a principal amount not to exceed \$15,000,000 to the Borrower for the costs of the Project (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, IBank’s Chief Deputy Executive Director, or either of their designees, 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 24, 2019. 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 April 24, 2019, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

By: \_\_\_\_\_  
Nancee Robles,  
Acting Executive Director

ATTEST

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

## ATTACHMENT A

### Description of the Project

Generally, the Project consists of demolishing and removing the existing 2.0 million gallon above-ground steel Lindley Reservoir Potable Water Tank and replacement with two 1.5 MG partially buried concrete potable water tanks, and includes all necessary equipping, installation, design, engineering, construction, construction contingency, demolition, removal, resurfacing, restoration, landscaping, permitting, construction management, project administration, and general project development activities. More specifically, Project elements include:

- Demolition and removal of the existing 2.0 MG, above ground, steel Lindley Reservoir Water Tank (and demolition/removal or abandonment in-place of appurtenant facilities such as valves and pipelines);
- Construction of two, 1.5 MG, partially buried concrete water tanks (and installation of related valves, pipelines, and other appurtenances);
- Construction of a separate, partially buried, valve vault structure and associated structures (retaining walls) and facilities (valves, pipelines, and related appurtenant assemblies);
- Construction of two asphalt-concrete access road spurs extending to the new tanks and valve vault;
- Installation of a subsurface potable water pipeline;
- Construction of a detention basin to provide flow regulation and water quality treatment for site storm water drainage;
- Backfilling and grading the existing tank site and landscaping the existing and new tank sites; and
- Other components necessary or desirable in connection with an infrastructure project of this type and that are consistent with the applicable requirements of the IBank Act and the Criteria.

## ATTACHMENT B

### Financing Terms

1. **Applicant/Borrower:** The City of Escondido
2. **Project:** Lindley Reservoir Tank Replacement Project
3. **Amount of Financing:** \$15,000,000
4. **Maturity:** Thirty (30) years
5. **Repayment/Security:** The ISRF Financing would be secured by a lien on net revenues and all legally available amounts in the Borrower's enterprise fund.
6. **Interest Rate:** 3.00%
7. **Fees:** The Borrower to pay an origination fee of 1.00%, \$150,000, included in the ISRF Financing amount, 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 Borrower into a Financing Agreement, in form and substance satisfactory to IBank.
9. **Limited Time:** The Board's approval expires June 24, 2019. Thus, the Borrower and IBank must enter into the Financing Agreement no later than June 24, 2019. Once the approval has expired, there can be no assurances that IBank will be able to provide the Financing 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 Borrower 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 ISRF Financing.
  - b. The Borrower 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 Annual Debt Service ("ADS") taking into consideration the ADS 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 ADS on all outstanding debt, payable from the Borrower's enterprise fund, including the proposed subordinate debt.
  - e. The Borrower will covenant against reducing rates below levels used for all debt service payable from the Borrower's enterprise 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 Borrower 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 Borrower to covenant to notify IBank immediately upon the filing of any legal challenge to its rates or charges.

- g. The Borrower to comply with the requirements of the Criteria and all applicable laws, regulations, and permitting requirements associated with public works projects.
- h. The Borrower to provide to IBank annually within 180 days of the end of each of the Borrower'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. The Borrower to provide evidence reasonably satisfactory to IBank that all parity debt conditions precedent set forth in the financing agreements for its 2007 Certificates of Participation and its 2012 Bonds have been satisfied.