

## RESOLUTION NO. 16-08

### 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 \$16,161,000 FOR THE CITY OF DEL MAR

**WHEREAS**, the California Infrastructure and Economic Development Bank (“IBank”) established and 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 Del Mar (the “Borrower”) is seeking financing under the Infrastructure State Revolving Fund Program (the “ISRF Program”) requesting \$16,161,000 for financing eligible project costs of the Del Mar City Hall and Town Hall Construction 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 ISRF Program, dated February 23, 2016 (the “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 \$16,161,000 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 loan 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 (the "Executive Director") or the Executive Director's 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 which 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) to 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 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, within 180 days from the date of its adoption. Such satisfaction is conclusively evidenced by IBank's execution and delivery of 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 Financing Agreement will be structured as a financing lease transaction. The subject property of the financing lease initially will be the Powerhouse Community Center. Subsequent to the completion of the Project, the Project may be substituted for the Powerhouse Community Center as the subject property for the financing lease; provided that IBank receives the following as conditions to such substitution:

- (i) an appraisal or other independent method of valuation acceptable to IBank demonstrating that the valuation of the Project reflects sufficient value with a Value-to-Lease of at least 106%,
- (ii) a CLTA or ALTA title insurance policy, acceptable to IBank for the Project,
- (iii) certification from the City that no default or event of default has occurred and is continuing under the financing agreements and there is no litigation or dispute filed or pending with respect to the Project, and
- (iv) an opinion of counsel to IBank that the substitution of the Project for the Powerhouse as the Leased Asset will not jeopardize the tax exempt status of IBank's outstanding ISRF Bonds,

and the proposed substitution of the Project for the Powerhouse Community Center as the Leased Asset is in compliance with the terms of the Financing Agreement.

**Section 7.** The Executive Director is hereby authorized to take all necessary actions to effect such substitution, including execution of documents and instruments, upon satisfaction of the conditions precedent to such substitution set forth in this Resolution and the Financing Agreement.

**Section 8.** 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 26, 2016, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

By: \_\_\_\_\_  
Teveia R. Barnes, Executive Director

ATTEST

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

## ATTACHMENT A

### **Description of the Project**

The Project consists of the following components:

- Site preparation by demolition of three existing buildings, removal of two modular units, and grading of parcel;
- Construction of a 8,867 square foot City Hall building with 95-space partially below grade parking garage,
- Construction of a 3,153 square foot Town Hall with an attached 952 square foot convertible indoor/outdoor space breezeway,
- Construction of additional open-air parking, and
- Construction of a public plaza complete with landscaping.
- 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. **Application/Borrower:** City of Del Mar
2. **Project:** Del Mar City Hall and Town Hall Construction Project
3. **Amount of Financing:** \$16,161,000
4. **Maturity:** Not to exceed 30 years
5. **Repayment/Security:** The General Fund with a leasehold interest on the City's Powerhouse Community Center (Leased Asset). The Town Hall and City Hall may be substituted as the Leased Asset for this loan once the Project is completed; provided that IBank receives the following as conditions to such substitution:
  - (i) an appraisal or other independent method of valuation acceptable to IBank demonstrating that the valuation of the Project reflects sufficient value with a Value-to-Lease of at least 106%,
  - (ii) a CLTA or ALTA title insurance policy, acceptable to IBank for the Project,
  - (iii) certification from the City that no default or event of default has occurred and is continuing under the financing agreements and there is no litigation or dispute filed or pending with respect to the Project, and
  - (iv) an opinion of counsel to IBank that the substitution of the Project for the Powerhouse as the Leased Asset will not jeopardize the tax exempt status of IBank's outstanding ISRF Bonds,and the proposed substitution of the Project for the Powerhouse Community Center as the Leased Asset is in compliance with the terms of the financing agreements.
6. **Interest Rate:** 3.24%
7. **Fees:** Origination fee of 1.00% of the Financing amount (\$161,610) and an annual fee of 0.30% of the outstanding principal balance.
8. **Not an Unconditional Commitment:** The IBank's resolution shall not be construed as unconditional commitment to finance the Project, but rather IBank's approval pursuant to the resolution 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 180 days from the date of its adoption. Thus, the City and IBank must enter into the financing agreement no later than 180 days from such date. Once the approval has expired, there can be no assurances that IBank will be able to provide the financing or consider extending the approval period.
10. **Financing Agreement Covenants:** Aside from usual and customary terms and conditions for this type of financing, Staff recommends IBank's financing agreement includes without limitation, the following additional conditions and covenants:
  - a. Leased Asset must not be the subject of any litigation or material controversy.
  - b. City to enter a fixed-price construction contract. The contractor must obtain payment and performance bonds, builder's risk insurance, and liability and worker's compensation insurance.

- c. City to procure CLTA or ALTA title insurance policy.
- d. City to procure and maintain rental interruption insurance for a period of at least six months beyond the time needed to reconstruct the Leased Asset.
- e. City to budget and appropriate funds sufficient to make annual lease payments.
- f. City to covenant against future encumbrances against the Leased Assets.
- g. City to provide to IBank within 240 days of the end of each 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.