Agenda Item 2.

MINUTES

California Industrial Development Financing Advisory Commission
915 Capitol Mall, Room 587
Sacramento, California
April 26, 2011

1. CALL TO ORDER & ROLL CALL

Bettina Redway, Acting Chairwoman, called the California Industrial Development Financing Advisory Commission (CIDFAC) meeting to order at 11:09 a.m.

Members Present: Bettina Redway for Bill Lockyer, State Treasurer
Cindy Aronberg for John Chiang, State Controller
Pedro Reyes for Ana J. Matosantos, Director, Department of Finance
Preston DuFauchard, California Corporations Commissioner, Department of Corporations
Stanton Hazelroth for Traci Stevens, Acting Secretary, Business, Transportation and Housing Agency

Staff Present: Eileen Marxen, Executive Director

Quorum: Ms. Redway declared a quorum was present.

2. APPROVAL OF JANUARY 25, 2011 MEETING MINUTES

Ms. Redway asked if there were any questions or comments concerning the January 25, 2011 meeting minutes. There were none.

Ms. Redway asked if there was a motion to approve the minutes.

Mr. Reyes abstained from voting.

Ms. Aronberg moved approval; upon a second, the minutes were approved.

3. EXECUTIVE DIRECTOR'S REPORT

Ms. Marxen reported that Contessa Foods, an Industrial Development Bond (IDB) transaction from 2007, filed for bankruptcy earlier this year. She noted that the transaction was a private placement with GE Capital. She reported further that CIDFAC has continued to get notices from the bankruptcy court on matters as they proceed, although CIDFAC is not a party to the bankruptcy, and that CIDFAC staff are continuing to monitor the status of the company. She stated that in her most recent contact with GE Capital, she was advised that some unsecured creditors have engaged an investment banker who is trying to find buyers for the business or for the company's assets.

Ms. Marxen continued her report by stating that both in November 2010 and January 2011, the Board approved the issuance of IDBs and $4 million in IDB allocation for Centinela Foods. She said that the company did not use their 2010 allocation by December 31, 2010, and therefore relinquished its performance deposit to the California Debt Limit Allocation Committee (CDLAC). She said that, although the company came back to CIDFAC in January 2011 to request approval of the issuance of IDBs for the same project and of $4 million in IDB allocation, the company again was unable to close before the expiration of the allocation. She said that the $4 million in allocation will return to CIDFAC, and that CDLAC will be working with Centinela Foods regarding the 2011 performance deposit.

In regards to the pipeline, Ms. Marxen reported that in January and February she contacted issuers about possible IDB transactions for 2011. She said that issuers provided her with lists of possible transactions totaling between $89 million to $100 million, which would result in an active year for IDB issuance if these projects came to fruition. She noted that, as a comparison, in 2008 CIDFAC approved over $118 million in IDBs. She stated that it appears that these initial estimates may have been overly optimistic, and that IDB issuance this year likely has been inhibited by higher credit standards by banks, the effects of the recession on business' bottom lines and expansion plans, and competition by the Small Business Administration's (SBA) loan programs (i.e., companies may be opting for SBA loans as opposed to borrowing through the municipal market).

Lastly, Ms. Marxen stated that although the American Recovery and Reinvestment Act (ARRA) and the provisions of ARRA that affected bond programs, including the IDB program, expired on December 31, 2010, there are efforts by the Council for Development Finance Agencies (CDFA) to get some of those provisions reinstated. She stated that, although Representative Levin has introduced a bill, HR992, which would reinstate many of the bond-related provisions of ARRA, at this time Congress is primarily engaged in budget-related legislation.

Ms. Redway asked if there were any questions or comments from the Board or the public.

Mr. Dufauchard asked if Contessa is a liquidation Chapter 9 or a reorganization Chapter 11 bankruptcy proceeding.

Ms. Marxen responded that she believed it is a chapter 11, but that she would confirm this after the meeting.

4. BUSINESS ITEMS

A. RESOLUTION AUTHORIZING THE EXECUTIVE DIRECTOR TO EXECUTE CONTRACTS AND INTERAGENCY AGREEMENTS

1) Presented by: Eileen Marxen, Executive Director

Ms. Marxen requested approval of a refunding of up to $4,170,000 in outstanding bonds from a 2002 IDB issue. She said that the original issuer was City of Riverside, but for the refunding bond the issuer is California Enterprise Development Authority (CEDA), and that the transaction is for Trademark Plastics, Inc., a manufacturer of plastic moldings for medical and other products in the city of Riverside. She stated that the Company wants to refund the prior bonds because they want the stability of long-term, fixed-rate financing, which will allow the company to focus on its core business rather than changing market conditions affecting the variable rate weekly reset financing that is in place. She noted that the refunding bonds will be privately placed with California Bank and Trust. She also noted that, in keeping with CIDFAC's statutory requirements for refunding, CIDFAC staff does not do a complete project evaluation under the CDLAC point system for refunding transactions. Rather, she said, CIDFAC staff determines the extent to which the project achieved the public benefits that the company committed to when CIDFAC approved the original bond issue.

She stated that, in the case of the Trademark Plastics project, the Company did not create the number of jobs it had anticipated in 2002, but they did create more jobs and currently have more employees than they did in 2002. She reported that the company claims that the loss of a major client in 2006, an increase in automation of the manufacturing process, and the effects of the recent recession have inhibited the company's ability to create and retain jobs. However, she noted that the company did utilize the Riverside welfare- to-work program as it committed to do in 2002, and it also hired employees from within the state enterprise zone. She also noted that the company continues to contribute to a portion of employee's health benefits, which it committed to doing in 2002.

Ms. Marxen recommended approval of refunding resolution 11-002 for the refunding of an aggregate of up to $4,170,000 in tax-exempt bonds for the Trademark Plastics, Inc. project.

Ms. Redway asked if there were any questions or comments from the Board or the public.

Ms. Aronberg noted the fact that the company did not create all the jobs it claimed it would in 2002. She stated that she spoke with Sean Spear, Executive Director of CDLAC, about possible enforcement mechanisms in cases where points are awarded to projects for certain public benefits that ultimately do not materialize. She said the goal of such an enforcement mechanism would be to ensure that companies provide the public benefits that they commit to in their applications for allocation. Ms Aronberg said she does not know what such a mechanism would be but that she wants to promote a discussion on this issue.

Mr. Dufauchard said that actually meeting the representations is particularly important if it gets to the point where there is a competitive round for allocation for projects.

Ms. Marxen responded that currently the job creation public benefit is a best-efforts representation made by the company at the time of the bond issue. She said that one consideration is that, under federal tax law, the companies have three years to spend the bond proceeds and the best-efforts pledge is to create a certain number of jobs within two years after project completion. Therefore, she said, there is up to a five-year period within which the job creation goals can be met. Ms. Marxen stated that CIDFAC staff will work with CDLAC to see if there is a mechanism to ensure that, when pledges are made, companies are making their best efforts to meet them.

Mr. Hazelroth added that a great frustration is the ability to project into the future how many jobs are going to be created. He said that even the best projection reports, some of which cost up to $40,000, are really just based on circumstances as they are and then projecting forward into the future. He said that a number of factors can have an impact on whether the exact number of jobs are created down the road. He said that economic conditions may change. Mr. Hazelroth suggested that if an applicant, or the study it uses, are far off from achieving its estimations multiple times, that this may justify a clamp down. But, he said, using a mechanism that would reach back to an existing loan would not be a good thing.

Ms. Marxen responded that CIDFAC would want to be careful not to take any action that would affect an outstanding bond issue. She said that any such mechanism should not affect the marketability of any outstanding bond issue, as they are often variable rate, weekly resets that trade frequently. She suggested that any such mechanism may be designed to affect the borrower's ability to obtain IDB allocation in the future, as opposed to affecting what already has been allocated. Ms. Marxen noted that CIDFAC recently expanded the point system to offer recognition to companies who are doing green manufacturing and contributing to retirement benefits for their employees, among other things, and a lot of the categories require that the companies actually submit proof with their applications that their projects provide these public benefits.

With respect to the Trademark Plastics transaction, Mr. Dufauchard asked whether the company is going from a long-term bond to a shorter term bond and what the affect will be on debt service payments (i.e. if will they go up or down).

Mona Dmitrenko, Executive Director, California Enterprise Development Authority(Issuer), and Sam Balisy, Kutak Rock LLP (Bond Counsel), introduced themselves to the Commission.

Mr. Balisy responded to Mr. Dufauchard's question by stating that the bond will mature in 25 years and has a fixed-rate, which will reset after 10 years.

Mr. Dufauchard then asked if the certainty the company is seeking is for the 10 years period.

Mr. Balisy responded affirmatively, and added that the company was also coming from a bank that was taken over by the FDIC and sold, and the company did not like the new level of service.

Mr. Dufauchard then asked for confirmation that the term of the bond will remain the same and that, in this low interest environment, the debt service payments will be affected immaterially.

Mr. Balisy said that is accurate. He said that currently the variable rates are a little bit lower and the fixed rate is a little bit higher but, over the course of ten years, the company is hoping the fixed tax-exempt rate will provide them with overall lower debt service payments.

Mr. Dufauchard asked if the beneficiaries of the family trust have received disclosure of the transaction.

Mr. Balisy stated that they have received disclosure. He added that the real estate was in a family trust and one of the trustees passed away, so Carolyn Carty is now the sole trustee. He said that Trademark Plastics is the operating company.

Ms. Redway asked if there were any further questions or comments from the Board or the public. There were none.

Ms. Redway asked if there was a motion to approve the staff recommendation.

Ms. Aronberg moved approval; upon a second, the motion passed unanimously.

5. PUBLIC COMMENT

Ms. Redway asked if there were any comments from the public. There were none.

Ms. Redway then thanked Ms. Aronberg for serving on the Commission and stated that this was her last CIDFAC meeting.

Ms. Aronberg acknowledged that this was her last meeting, and thanked staff and fellow Commission members for their hard work and assistance over the last several years.

6. ADJOURNMENT

There being no further business, public comments or concerns, the meeting adjourned at 11:33 a.m.

Respectfully submitted,

Eileen Marxen
Executive Director