

**CALIFORNIA INDUSTRIAL DEVELOPMENT FINANCING ADVISORY COMMISSION
INDUSTRIAL DEVELOPMENT BONDS**

Meeting Date: May 26, 2010

Request for Approval of Initial and Final Resolution and Tax-Exempt Bond Allocation

Prepared by: *Deanna Hamelin*

Issuer:	California Municipal Finance Authority (CMFA)	Amount Requested:	\$3,000,000 TE
Borrower and User:	Paleteria La Michoacana, Inc. and/or a related entity	Application No.:	10-003
Location:	City of Modesto (Stanislaus County)	Allocation Resolution No.:	10-02-003

Borrower/User/Background: Paleteria La Michoacana, Inc. (Borrower, PLM or the Company) ~~is a California S-Corporation and~~ was incorporated in California on January 28, 2002. PLM owns and operates a manufacturing facility and warehouse in the City of Modesto and also has a warehouse in the City of Gardena. The Company is owned solely by Ignacio Gutierrez and produces ice cream and other frozen desserts. Its major customers include Food Maxx, Food 4 Less, Sav Max, Superior Supermarkets, and Northgate Markets, as well as a variety of other small, independent grocers.

Project Information: Bond proceeds will be used to finance the purchase of new freezer equipment, which will allow the company to improve its production process and double the number of truckloads of its product ~~it deliver~~~~sed~~ each day. The new freezer equipment also will eliminate the need for outside storage of the finished products ~~and raw materials~~, which will result in cost savings for the Company. The equipment will be installed in a stand-alone manner at the rear of the existing manufacturing facility. ~~That will allow the equipment to and therefore it can~~ be moved to a different location in the future if necessary.

The following is an estimate of the application of the tax-exempt bond proceeds for the Project:

Acquisition and Installation	
Of New Equipment	\$2,900,000
Bond Issuance Expenses..	\$ 100,000
Total:	<u>\$3,000,000</u>

Anticipated Timeline: The installation of the freezer equipment began in January 2010 and is should be completed anticipated to be completed by June-July 2010.

Statutory Criteria: 1) Public Benefits, 2) Relocation, and 3) Bond Issue Qualification: Staff awarded points based on its evaluation of the Project under CDLAC guidelines. Not all statutory criteria are part of the CDLAC point scheme.

PUBLIC BENEFITS: Consistent with CDLAC guidelines, staff awarded the Project a total of 25 verifiable points. While none of the 25 points is awarded for job creation or retention, the

Company represents that it will hire 21 direct, full-time employees within two years of Project completion.

RELOCATION OF COMPANY OPERATIONS (No point evaluation required):

The Company will remain at its current location in the City of Modesto in Stanislaus County.

QUALIFICATION OF BOND ISSUANCE (No point evaluation required): Based on the proposed finance structure and the application and other materials submitted to CIDFAC, staff believes the bonds issued for the Project will: (a) be adequately secured; (b) be fair, just and equitable to a purchaser of the bonds; and (c) not defraud the bond purchaser. Staff’s final determination of qualification of the bonds will be subject to its review of the bond documents.

Status of Permit/Other Required Approvals:

- On January 15, 2010, CMFA executed a Resolution of Official Intent to Issue Bonds in an amount not to exceed \$3,000,000 in tax-exempt IDBs for the Project.
- A TEFRA hearing was held by the City of Modesto on March 23, 2010 for the issuance of the bonds in an amount not to exceed \$3,000,000.
- The Project is an equipment-only purchase, and therefore ~~it~~ does not require additional, discretionary permits.

Financing Details: CMFA will issue a tax-exempt bond on a private placement basis. GE Government Finance, Inc. (GEGF), which is a qualified institutional buyer (QIB) as defined by the U.S. Securities and Exchange Commission (SEC) Rule 144A, will purchase the bond. GE will provide taxable progress fundings for the equipment, and the bond proceeds will be used to refinance the progress fundings. The bonds will:

- Be secured by the new freezer equipment; and
- Have a 108-month maturity and a fixed interest rate based on the swap rate published by the Federal Reserve Board ~~and 108-month maturity~~.

The bonds will be issued in accordance with CIDFAC’s private placement policy, which has the following requirements:

- The bond purchaser must be a sophisticated investor as defined under SEC Rule 144A.
- The sophisticated investor must sign a “traveling” sophisticated investor letter, which will outline the requirements and restrictions for any subsequent sales or trades of the bonds, and which will follow the bonds in the event the ~~y-bonds~~ are re-sold or traded at a later date.
- The security for the private placement debt must be collateral provided by the Borrower.
- The bonds will be issued in minimum denominations of \$250,000.

CIDFAC Fees:

In accordance with CIDFAC regulations¹, the Borrower has paid or will pay CIDFAC an application fee of \$1,250 and a closing fee of up to \$7,500.

Financing team:

¹California Code of Regulations Title 10, Chapter 8, Article 3, §6070

Issuer: CMFA

Bond Counsel: Law Office of Ronald Lee

Private Placement Purchaser: G.E. Government Finance, Inc.

Escrow Agent: Marshall & Ilsley

Legal Questionnaire: Staff reviewed the Borrower/User responses to the questions contained in the Legal Status portion of the Application. The responses did not disclose information that raises questions concerning the financial viability or legal integrity of the Company.

Recommendation: Staff recommends approval of Initial and Final Resolution No. 10-003 for an amount equal to \$3,000,000 in tax-exempt bonds and Allocation Resolution No. 10-02-003 for an amount equal to \$3,000,000 in tax-exempt IDB allocation for the Issuer for the Paleteria La Michoacana, Inc. Project. Staff's recommendation is subject to staff analysis and approval of final bond documents, and receipt of bond counsel's opinion as set forth in Initial and Final Resolution No.10-003.

**PALETERIA LA MICHOACANA,
INC.**

Bond Amount: \$3,000,000 TE

City of Modesto (Stanislaus County)

Application No. 10-003

May 26, 2010

STAFF SUMMARY – CIDFAC

Prepared by: *Deanna Hamelin*

ISSUE:

On behalf of Paleteria La Michoacana, Inc. (the Borrower, PLM, or the Company), the California Municipal Finance Authority (CMFA or the Issuer) requests approval of the Initial and Final Resolution No. 10-003 for an amount equal to \$3,000,000 in tax-exempt bonds and Allocation Resolution No. 10-02-003 for an amount equal to \$3,000,000 in tax-exempt IDB allocation. Bond proceeds will be used to acquire and install new freezer equipment at the Company's existing production facility in Modesto.

BORROWER/USER/BACKGROUND:

Paleteria La Michoacana, Inc. (Borrower, PLM or the Company) ~~is a California S Corporation and~~ was incorporated in California on January 28, 2002. PLM owns and operates a manufacturing facility and warehouse in the City of Modesto and also has a warehouse in the City of Gardena. The Company is owned solely by Ignacio Gutierrez and produces ice cream and other frozen desserts. Its major customers include Food Maxx, Food 4 Less, Sav Max, Superior Supermarkets, and Northgate Markets, as well as a variety of other small, independent grocers.

Legal Questionnaire. Staff reviewed the Borrower's/User's responses to the questions contained in the Legal Status portion of the Application. The Company did not disclose any information that raises questions concerning the financial viability or legal integrity of the Company.

Prior Actions and Financings. None.

PROJECT INFORMATION:

Bond proceeds will be used to finance the purchase of new freezer equipment, which will allow the company to improve its production process and double the number of truckloads of its product ~~it~~ delivered each day. The new freezer equipment also will eliminate the need for outside storage of the finished products ~~and raw materials~~, which will result in cost savings for the Company. The equipment will be installed in a stand-alone manner at the rear of the existing manufacturing facility. ~~That will allow the equipment to and therefore it can~~ be moved to a different location in the future if necessary.

The following is an estimate of the application of the tax-exempt bond proceeds for the Project:

Acquisition and Installation	
Of New Equipment	\$2,900,000
Bond Issuance Expenses..	\$ 100,000
Total:	<u>\$3,000,000</u>

Anticipated Timeline. The installation of the freezer equipment began in January 2010 and should be completed is anticipated to be completed by July 2010. ~~The Company has purchased the freezer and anticipates installation will be completed by June 2010.~~

Status Of Permit/Other Required Approvals:

- On January 15, 2010, CMFA executed a Resolution of Official Intent to Issue Bonds in an amount not to exceed \$3,000,000 in tax-exempt IDBs for the Project.
- A TEFRA hearing was held by the City of Modesto on March 23, 2010 for the issuance of the bonds in an amount not to exceed \$3,000,000.
- The Project is an equipment-only purchase, and therefore ~~it~~ does not require additional, discretionary permits.

STATUTORY CRITERIA: 1) Public Benefits, 2) Relocation and 3) Bond Issue Qualification. Staff awarded points based on its evaluation of the Project under CDLAC guidelines. Not all statutory criteria are part of the CDLAC point scheme.

- 1) **PUBLIC BENEFITS:** Staff assigned a total of 25 verifiable points to the Project as detailed below:

Community Economic Need (15 points):

Unemployment Rate of the Project Area (0 points): No points were awarded for the unemployment rate of the Project area. To earn points in this category, the unemployment rate in the Project area must be at least 125% of the 2009 statewide rate. The unemployment rate for this Project area is 121.9% of the 2009 statewide rate.

Poverty Rate of Project Area (5 points): In accordance with CDLAC procedures, the most recent data from the U.S. Bureau of the Census, which in this case is Census 2000 data, is used to determine if the Project qualifies for points in this category. To earn points in this category, the poverty rate in the Project area must be at least 110% of the Census 2000 data. The poverty rate for this Project area is 19.94%, which is 188% of the Census 2000 statewide rate of 10.6%.

Special Designation Area (5 points): The Project is located in the Stanislaus Enterprise Zone.

Median Family Income (5 points): In accordance with CDLAC procedures, the most recent data from the U.S. Bureau of the Census, which in this case is from Census 2000, is used to determine if the Project qualifies for points in this category. To earn points in this category, the median family income must be 80% or less of the Census 2000 statewide average. The Project is located in Stanislaus County, census tract 21, where the average median family income is \$24,167. Given that the median family income for the State of California is \$53,025, the median family income for the Project area is 45.6% of the statewide average.

Employment Benefits (Job Creation and Retention = 0 points) ~~CIDFAC staff determined that this~~ According to CDLAC guidelines, the Project did not qualify for points under ~~CDLAC's the~~ job creation or job retention categories. Nevertheless, the Company represents that it currently employs 112 direct, full-time workers in California and anticipates hiring an additional 21 direct, full-time workers within two years of Project completion.

Welfare-to-Work Plan (0 points): The Borrower/User did not provide any information demonstrating the Company's participation in a Welfare-to-Work program.

Health Care Benefits (5 points): The Company provided documentation that it contributes to the medical insurance for 18 of its ~~185-112~~ employees. The contribution translates into an average of \$395 per month toward the health care benefits for each employee. The uncovered employees opted out of the Company's health care plan for personal reasons. The Company indicated that it will offer health care benefits to all new employees.

Average Hourly Wage (0 points): In accordance with CDLAC procedures, the most recent data from the Bureau of Labor Statistics, which in this case is May 2008, is used to determine if the Project qualifies for points in this category. To qualify for points in this category, the average hourly wage must be 105% or more of the general manufacturing wage of the Metropolitan Statistical Area (MSA) of the Project area. The Company's average hourly wage is \$12.13, while the MSA for the City of Modesto area had an average manufacturing wage of \$14.20 in 2008. The Project does not qualify for points in this category because the Company's average hourly wage is only 85.4% of the average manufacturing wage for the Modesto area.

Land Use/Energy Efficiency/Public Transit Corridor (5 points):

Land Use (0 points): This Project does not involve the reuse of vacant land or abandoned buildings.

Energy Efficiency (0 points): The Borrower/User did not provide information regarding the Project's energy efficiency.

Public Transit Corridor (5 points): The Company provided verification that the Project site is located within a public transit corridor. Three Modesto Area

Express (MAX) bus routes (25, 38, and 39) have stops within ¼-mile of the Project location.

Leveraging (0 points): This financing does not involve leveraging of the tax-exempt bond proceeds.

- 2) **RELOCATION OF COMPANY OPERATIONS (No point evaluation required):** The Company will remain at its current location in the City of Modesto in Stanislaus County.
- 3) **QUALIFICATION OF BOND ISSUANCE (No point evaluation required):** Based on the proposed financial structure, the application and other materials submitted to CIDFAC, staff believes the bonds issued in connection with the Project: (a) will be adequately secured; (b) will be fair, just, and equitable to a purchaser of the bonds; and (c) will not defraud the bond purchaser. Staff’s final determination of qualification of the bonds will be subject to staff’s review of the bond documents.

FINANCING DETAILS:

CMFA will issue a tax-exempt bond on a private placement basis. GE Government Finance, Inc. (GEGF), which is a qualified institutional buyer (QIB) as defined by the U.S. Securities and Exchange Commission (SEC) Rule 144A, will purchase the bond. GE will provide taxable progress fundings for the equipment and the bond proceeds will be used to refinance the progress fundings. The bonds will:

- Be secured by the new freezer equipment; and
- Have a 108-month maturity and a fixed interest rate based on the swap rate published by the Federal Reserve Board ~~and 108 month maturity.~~

The bonds will be issued in accordance with CIDFAC’s private placement policy, which has the following requirements:

- The bond purchaser must be a sophisticated investor as defined under SEC Rule 144A.
- The sophisticated investor must sign a “traveling” sophisticated investor letter, which will outline the requirements and restrictions and which will follow the bonds in the event the bonds are re-sold or traded at a later date.
- The security for the private placement debt must be collateral provided by the Borrower.
- The bonds will be issued in minimum denominations of \$250,000.

CIDFAC FEES:

In accordance with CIDFAC regulations, the Borrower has paid or will pay CIDFAC an application fee of \$1,250 and a closing fee of up to \$7,500.²

FINANCING TEAM:

Issuer: CMFA
Bond Counsel: Law Offices of Ronald E. Lee
Private Placement Purchaser: G.E. Government Finance, Inc.

² California Code of Regulations Title 10, Chapter 8, Article 3, §6070

Escrow Agent: Marshall & Ilsley

RECOMMENDATION:

Staff recommends approval of Initial and Final Resolution No. 10-003 for an amount equal to \$3,000,000 in tax-exempt bonds and Allocation Resolution No. 10-02-003 for an amount equal to \$3,000,000 in tax-exempt IDB allocation for the Issuer for the Paleteria La Michoacana, Inc. Project. Staff's recommendation is subject to staff analysis and approval of final bond documents, and receipt of bond counsel's opinion as set forth in Initial and Final Resolution No.10-003.

INITIAL AND FINAL RESOLUTION
OF THE
CALIFORNIA INDUSTRIAL DEVELOPMENT FINANCING
ADVISORY COMMISSION (CIDFAC)
INDUSTRIAL DEVELOPMENT BONDS
IR/FR #: 10-003

WHEREAS, the California Municipal Finance Authority (the “Applicant”) has transmitted the application of Paeteria La Michoacana, Inc. (the “Project Sponsor”) for the issuance of \$3,000,000 in tax-exempt bonds under the provisions of the California Industrial Development Financing Act, and has transmitted said application to the California Industrial Development Financing Advisory Commission (the “Commission”) and the information necessary to permit review of said application by the Commission, and has informed the Commission that it has adopted a resolution declaring its intention to issue such bonds and that the City of Modesto has held a public hearing regarding the issuance of the bonds and has approved the issuance of the bonds by the Applicant; and

WHEREAS, the Commission has reviewed the application and the materials submitted with the application.

NOW, THEREFORE, the Commission resolves as follows;

Section 1. The Commission, based on its review of the application and the information submitted therewith, does determine that:

(a) the public benefits described in the application likely will substantially exceed any public detriment from the issuance of the bonds in the total principal amount of \$3,000,000; and

(b) use of the Project described in the application and the operation of the facility described in the application are reasonably necessary to prevent the relocation of substantial

operations of the Project Sponsor from an area within the State of California to an area outside of the State of California.

Section 2. The Commission conditionally finds that the proposed issuance of the bonds qualifies under the provisions of Article 5 of Title 10 of the Government Code, and further finds that:

(a) the bonds will be adequately secured and the funds available to the Applicant will be sufficient to pay the principal of and interest on the bonds to be issued; and

(b) based on its review of the preliminary material submitted to it and as provided for under Government Code Section 91571, the proposed issuance will be fair, just and equitable to a purchaser of the bonds, and that the bonds proposed to be issued and the methods to be used by the Authority in issuing them will not be such as will work a fraud upon the purchaser thereof.

Section 3. The Commission determines that it is appropriate to the proposed transaction that the qualification of the proposed issuance be subject to the following conditions:

(a) the Bond Counsel Opinion, when ready for execution, shall be submitted to Commission staff;

(b) the final legal documents, when ready for execution, shall be submitted to Commission staff for its review. Submitted documents shall include:

- (i) Escrow Agreement
- (ii) Loan Agreement,
- (iv) Tax Certificate and Agreement, and;
- (v) Other documents which, in the opinion of Commission staff, are necessary to the review of the transaction;

(c) the Commission staff shall determine that the final documents associated with the transaction have been developed in form and content substantially similar to the representations in the application on which are based the findings under Section 2. above;

(d) the bonds, when issued, are within the maximum limitation of bonds authorized in the California Industrial Development Financing Act (Section 91573(a) of California Government Code);

(e) the Commission shall receive all applicable fees prior to the issuance of the bonds, unless the bond documents indicate that such fees are to be paid from the proceeds of the bonds; and

(f) the Project Sponsor agrees to comply with Section 91533(l) of the Government Code relating to the payment of prevailing wages.

Section 4. This Resolution shall cease to be effective if the above-described bonds have not been issued within six months after the date of adoption of this Resolution.

Section 5. In compliance with the provision of the California Industrial Development Financing Act (Section 91754 California Government Code), the qualification of the proposed bond issue by this resolution is permissive only, and does not constitute a recommendation or endorsement of the bonds so qualified by the Commission.

**THE CALIFORNIA INDUSTRIAL DEVELOPMENT
FINANCING ADVISORY COMMISSION
RESOLUTION NO. 10-02-003
RESOLUTION TRANSFERRING A PORTION OF THE 2010 STATE CEILING
FOR QUALIFIED PRIVATE ACTIVITY BONDS FOR A
SMALL-ISSUE INDUSTRIAL DEVELOPMENT PROJECT**

WHEREAS, the California Debt Limit Allocation Committee (“CDLAC”) awarded allocation to the California Industrial Development Advisory Commission (the “Commission”) for the purpose of awarding a portion of the allocation to local and State issuers; and

WHEREAS, the Commission has the authority to transfer a portion of its allocation to local and State issuers; and

WHEREAS, the Commission has received an application (“Application”) from the California Municipal Finance Authority (“Applicant”) requesting a transfer to the Applicant of a portion of the 2010 State Ceiling on Qualified Private Activity Bonds (the “State Ceiling”) under Section 146 of the Internal Revenue Code of 1986, as amended, for use by the Applicant to issue bonds or other obligations (“Bonds”) for a project as specifically described in Exhibit A (“Project”) (capitalized terms used herein and not otherwise defined shall have the meanings ascribed thereto in the Procedures of the CDLAC Implementing the Allocation of the State Ceiling on Qualified Private Activity Bonds (“CDLAC’s Procedures”)); and

WHEREAS, the Project Sponsor (as defined in Exhibit A) has represented certain facts and information concerning the Project in the Application, which the Applicant has confirmed; and

WHEREAS, in evaluating the Project and potential allocation of a portion of the State Ceiling to the Applicant for the benefit of the Project, the Commission has relied upon the

written facts and information provided in the Application and otherwise by the Project Sponsor and the Applicant; and

WHEREAS, it is appropriate for the Commission to approve a transfer of a portion of the State Ceiling (“Allocation”) in order to benefit the Project described in the Application.

NOW, THEREFORE, the California Industrial Development Financing Advisory Commission resolves as follows:

Section 1. An amount of the State Ceiling equal to \$3,000,000 shall be deemed to be transferred by the Commission to the Applicant. Such Allocation may be used only by the Applicant and only for the issuance of Bonds for the Project, as specifically described in Exhibit A. All of the terms and conditions of Exhibit A are incorporated as though fully set forth herein (this resolution, together with Exhibit A, hereinafter referred to as the “Resolution”).

Section 2. The terms and conditions of this Resolution shall be incorporated in appropriate documents relating to the Bonds, and the Project Sponsor, the Applicant and their respective successors and assigns will be bound by such terms and conditions.

Section 3. Any modification to the Project made prior to the issuance of the Bonds must be reported to the Executive Director and, if the Executive Director determines such modification to be material in light of the Commission’s Procedures, such modification shall require reconsideration by the Commission before the Allocation may be used for the Project. Once the Bonds are issued, the terms and conditions set forth in this Resolution shall be enforceable by the Commission through an action for specific performance or any other available remedy, provided however, that the Commission agrees not to take such action or enforce any such remedy that would be materially adverse to the interests of the Bondholders. The Commission may, as circumstances warrant, consent to changes in the terms and conditions set forth in this Resolution in the event the Commission is advised of changes in the Project.

Section 4. Prior to the issuance of the Bonds, any material changes in the structure of the credit enhancement and not previously approved by the Commission shall require approval of the Commission Chair or the Executive Director.

Section 5. The Applicant is not authorized to use the Allocation transferred hereby to make a carryforward election with respect to the Project. The Applicant is not authorized to transfer the Allocation to any governmental unit in the State other than this Commission.

Section 6. The Allocation transferred herein shall automatically revert to this Commission unless the Applicant has issued Bonds for the Project by the close of business within 90 days of the award of Allocation. In the case of extreme hardship, the Executive Director may extend this date by up to five (5) business days.

Section 7. Within twenty-four (24) hours of using the Allocation to issue the Bonds, the Applicant shall notify the Commission’s staff and CDLAC’s staff in writing (which may be by electronic or facsimile communication) that the Allocation has been used. Each notification to the Commission and to CDLAC shall identify the Applicant, the project or program, the date the Allocation was used, and the amount of the Allocation used.

Section 8. Within fifteen (15) calendar days of the issuance of the Bonds, the Applicant or its counsel shall formally transmit to CDLAC information regarding the issuance of the Bonds by submitting, in a form prescribed by and made available by CDLAC a completed Report of Action Taken.

Section 9. Any differences between the amount of Bonds issued and the amount of the Allocation granted in Section 1 of this Resolution shall automatically revert to the Commission. If at any time prior to the expiration date set forth in Section 6 of this Resolution the Applicant determines that part or all of the Allocation will not be used to issue Bonds by that date,

the Applicant shall take prompt action by resolution of its governing board or by action of its authorized officer to return such unused Allocation to the Commission.

Section 10. The staff of the Commission is authorized and directed to transmit a copy of this Resolution to the Applicant together with a request that the Applicant retain, for the term of the Bonds, a copy of this Resolution in the Applicant’s official records. The Commission staff is further directed to retain a copy of this Resolution in the files of the Commission (or any successor thereto) for the same period of time.

Section 11. The Applicant and the Project Sponsor shall comply with all of the terms and conditions contained in this Resolution and ensure that these terms and conditions are included in the documents related to the Bonds. Further, the Applicant and the Project Sponsor expressly agree that the terms and conditions of this Resolution may be enforced by the Commission through an action for specific performance or any other available remedy, provided however, that the Commission expressly agrees not to take such action or enforce any such remedy that would be materially adverse to the interests of the Bondholders. In addition, the Applicant and the Project Sponsor shall ensure that the Bond documents, as appropriate, expressly provide that the Commission is a third party beneficiary of the terms and conditions set forth in this Resolution.

Section 12. The Project Sponsor or its successor-in-interest shall provide certifications of compliance with the terms and conditions set forth in this Resolution when reasonably requested by the Commission.

Section 13. This Resolution shall take effect upon its adoption.

EXHIBIT A

**RESOLUTION NO: 10-02-003
(A SMALL-ISSUE INDUSTRIAL DEVELOPMENT PROJECT)**

1. Applicant: CMFA
2. Application No.: 10-003
3. Project Sponsor: Paleteria La Michoacana, Inc. and/or a related entity
4. Project User: Paleteria La Michoacana, Inc. and/or a related entity
5. Project Name: Paleteria La Michoacana, Inc. Project
6. Project Description: Purchase of new freezer equipment for the manufacturing of ice cream and other frozen desserts
7. Address: 2068 Lapham Drive
Location: Modesto, CA 95354
County: Stanislaus County
8. Amount of Allocation: \$3,000,000
9. The Project Sponsor has represented that it reasonably expects the Borrower/User will use its best efforts to create of 21 additional, direct full-time positions within two years of the completion of the Project.