

**CALIFORNIA INDUSTRIAL DEVELOPMENT FINANCING ADVISORY COMMISSION
RECOVERY ZONE FACILITY BONDS (RZFBs)**

Meeting Date: May 26, 2010

Request for Approval of Initial and Final Resolution for RZFBs

Prepared by: *Deanna Hamelin*

Issuer:	City of Anaheim Industrial Development Authority (IDA)	Amount of RZFB:	County of Orange - \$10,200,000
		Allocation:	City of Anaheim - \$9,800,000 Total RZFB Allocation - \$20,000,000
Borrower and User:	Northgate Gonzalez, LLC and/or a related entity	Application No.:	10-004
Location:	City of Anaheim (Orange County)		

Background Information for RZFBs: RZFBs are a new type of tax-exempt, private activity bond created by the American Recovery and Reinvestment Act of 2009 (ARRA). Under ARRA, the U.S. Treasury provided a total of \$15 billion in RZFB allocation to qualified cities and counties nationwide based on a formula that compared changes in unemployment rates between 2007 and 2008. Cities and counties in California were awarded over \$1.2 billion in RZFB allocation. Pursuant to ARRA:

- ✓ RZFBs are intended to provide low-cost, tax-exempt capital to trades or businesses in areas suffering from economic distress. RZFBs can be issued to finance a much broader array of projects than IDBs can finance, and they are not subject to many of the restrictions that IDBs must meet under federal tax law (e.g., maximum bond amount of \$10 million).
- ✓ Eligible projects are capital expenditures on depreciable property (i.e., equipment and buildings but not land) for any commercial or trade activity conducted by a qualified private, for-profit company. Generally, any capital asset (except land) used in any trade or business in the recovery zone qualifies for RZFB financing except rental property, golf courses, country clubs, massage parlors, hot tub facilities, suntan facilities, racetracks or other gambling facilities, or stores that principally sell alcoholic beverages for offsite consumption.
- ✓ The company must be the original user of the depreciable property financed by RZFBs.
- ✓ RZFB-financed property must be constructed, reconstructed, renovated or acquired after the project area has been designated as a recovery zone by the appropriate local agency. To be designated as a recovery zone, an area must suffer from significant poverty, unemployment, home foreclosure rates, or general economic dislocation.
- ✓ RZFBs must be issued by a governmental issuer no later than December 31, 2010, the expiration date of the RZFB allocation.

As noted above, the federal government directly awarded RZFB allocation to cities and counties. After the IRS issued guidance with respect to RZFBs in June 2009, there were many discussions between the State Treasurer’s Office legal staff, IRS officials and several bond counsels concerning the State’s role with respect to the issuance of RZFBs. It was determined that ARRA provides the state with a limited role with respect to the issuance of RZFBs. Given that, and

given the need to ensure that the California and local economies get the advantage of the full \$1.2 billion in RZFB allocation within the short time-frame allotted, CIDFAC staff determined that the Commission would provide an avenue for issuance by Industrial Development Authorities (IDAs), but would not conduct the level-of review and oversight it does for IDBs and Empowerment Zone Bonds.

Note that RZFBs do not have to be issued by IDAs. Some cities and counties which received allocation may issue these bonds under other legal authority and, if they do so, then CIDFAC will not be involved in reviewing or approving the issuance of the RZFBs. Only those bonds issued by IDAs require CIDFAC approval.

Therefore, CIDFAC staff worked with the Legislature to amend its statute so that local IDAs can act as the governmental issuer of these bonds. Through the passage of an urgency bill last fall, the amendments to the CIDFAC statute went into effect on November 11, 2009¹. The amendments require the Commission to find that any proposed RZFBs meet the general criteria under ARRA (see bullet points above). However, Commission staff will not be part of the finance team which reviews bond documents prior to RZFB issuance. The Commission will receive its standard application fee for RZFB applications but will not receive its standard issuance fees upon the sale of the bonds.

Borrower/User/Background: Northgate Gonzalez, LLC (Northgate or the Borrower or the Company) owns and operates 29 Northgate Gonzalez Markets throughout Orange, Los Angeles, and San Diego Counties. Four new stores are scheduled to be opened in 2010. Since 1980, the Company has functioned under various legal entities and formed Northgate in 2006. Northgate grocery stores offer their customers a wide range of Hispanic goods, specialty meats, fresh-baked goods, fresh-made tortillas, and various prepared foods.

Project Information: In 2009, Northgate entered into a build-to-suit lease contract with Birtcher Anaheim Magnolia, LLC (Birtcher Anaheim) to construct a new 369,989 square foot Corporate Headquarters and Distribution/Warehouse Center at 1201 N. Magnolia Avenue in the City of Anaheim. The new facility will include 160,000 sq ft of dry grocery area, 106,000 sq ft of refrigerated area, 48,453 sq ft of corporate offices, 9,010 sq ft for a designated training area, 2,557 sq ft for a machine room, 48 dock bays, 76 truck and trailer stalls, and 419 parking spaces. The new facility will be LEED certified and have the capacity to serve up to 90 Northgate stores. The Company estimates that the Project will create 250 to 300 new jobs.

Northgate currently utilizes two warehouse/distribution facilities, [both of which are located in the City of Anaheim](#), plus a third-party distributor in order to meet the needs of its 29 stores in Southern California. [The Company will discontinue the use of these two facilities and will move into the new facility upon its completion.](#) The Project will allow Northgate to serve its stores more efficiently and reduce its distribution costs. The Project also provides the Company with room to grow over time to meet the needs of a greater number of stores.

¹ The urgency bill was AB 1009 (V.M. Perez), and it amended the Industrial Development Act (Government Code § 91500-91574). Note that this bill included other amendments to the CIDFAC statute to accommodate changes in to IDBs made by ARRA (e.g., expanded definition of “manufacturing facility” to include facilities that produce intangible as well as tangible property).

Agenda Item – 4.B.1.

The total costs to complete this Project are estimated to be \$67,600,000. Approximately \$47,000,000 of this amount paid by Birtcher Anaheim consists of costs associated with the purchase of the land and construction of the building. Northgate is responsible for the costs of the equipment and improvements of the facility (such as refrigeration, racks, electrical, HVAC, ~~etc~~IT and telecom equipment, furniture, fixtures, and other improvements, referred to as “Specialized Improvements”) that will be inserted into the building shell.

RZFB proceeds will be used to finance the acquisition of the equipment and Specialized Improvements for the new facility, ~~which include new refrigeration equipment, warehouse racking, HVAC, IT and telecom equipment, furniture, fixtures, and other improvements.~~

Anticipated Timeline: The Project began in October 2009 and completion is scheduled for November 2010. Northgate began ordering equipment in February 2010, which it anticipates will be delivered throughout 2010 and into early 2011.

Status Of Permit/Other Required Approvals:

- On December 8, 2009, the City of Anaheim executed a Resolution to Designate the Anaheim Recovery Zone pursuant to ARRA. The Anaheim Recovery Zone encompasses all Redevelopment Project Areas within the City as well as all areas within the City with a General Plan designation of Commercial, Mixed Use, Industrial, and Office. In its Resolution No. 2009-172, the City cites the fact the area designated as the Anaheim Recovery Zone is already designated as an Empowerment Zone and Renewal Community and/or is in an area having significant poverty, unemployment, rate of home foreclosures, and general distress. The Project is located within the Anaheim Recovery Zone.
- On March 23, 2010, the City of Anaheim IDA executed a Resolution of Official Intent to Issue Bonds in an amount not to exceed \$20,000,000 in RZFBs for the Project.
- On January 12, 2010, the County of Orange designated the entire county as a recovery zone. In Resolution number 10-003, the county cites the fact that the unemployment rate reached a high of 9.6%, from 2007 to 2009 home foreclosures increased dramatically, and from October 2008 to October 2009 over 13,000 employees were impacted in mass layoffs.
- The County of Orange received \$44,598,000 in RZFB allocation. On March 30, 2010, the County of Orange transferred \$10,200,000 of the total amount of RZFB allocation received to the City of Anaheim for the Northgate Gonzalez, Inc. Project.
- The City of Anaheim received \$9,859,000 million in RZFB allocation. On ~~XXXX~~May 18, 2010, the City approved the transfer of \$9,800,000 in RZFB allocation for the Northgate Gonzalez Markets Corporate Headquarters and Distribution Center Project.
- ~~The County of Orange received \$44,598,000 in RZFB allocation. On January 12~~March 30, 2010, the County of Orange transferred \$10,200,000 of the total amount of RZFB allocation received to the City of Anaheim for the Northgate Gonzalez, Inc. Project.
- ~~On March 23, 2010 the City of Anaheim IDA executed a Resolution of Official Intent to Issue Bonds in an amount not to exceed \$20,000,000 in RZFBs for the Project.~~
- A TEFRA hearing was held by the City of Anaheim on May 18, 2010 for the issuance of the bonds in an amount not to exceed \$20,000,000.

Financing Details: The City of Anaheim IDA will issue the bonds, which will be privately-placed with GE Government Finance. The bonds will have a fixed interest rate and will have a maturity of eight years.

Financing Team:

Issuer: City of Anaheim IDA
Bond Counsel: Stradling, Yocca, Carlson & Rauth
Private Placement Purchaser: GE Government Finance
Financial Advisor: CSG Advisors, Inc.

Recommendation: Staff recommends approval of Initial and Final Resolution No. 10-004 for an amount equal to \$20,000,000 in Recovery Zone Facility Bonds for the Issuer for the Northgate Gonzalez Markets Corporate Headquarters and Distribution/Warehouse Center Project.

INITIAL AND FINAL RESOLUTION
OF THE
CALIFORNIA INDUSTRIAL DEVELOPMENT FINANCING
ADVISORY COMMISSION (CIDFAC)
APPROVING THE ISSUANCE OF RECOVERY ZONE FACILITY BONDS (RZFBs)
Resolution #: 10-004

WHEREAS, Section 1400 of the American Recovery and Reinvestment Act of 2009 (“ARRA”) added Section 1400U-1 through 1400U-3 to the Internal Revenue Code of 1986 (the “Code”), authorizing counties and large municipalities to issue recovery zone economic development bonds and recovery zone facility bonds as defined in the Act; and

WHEREAS, pursuant to Section 1400U-1 of the Code, the City of Anaheim adopted a resolution designating certain areas of the City of Anaheim as the Anaheim Recovery Zone; and

WHEREAS, pursuant to Section 1400U-1 of the Code, the County of Orange adopted a resolution designating the entire county as a recovery zone; and

WHEREAS, the City of Anaheim Industrial Development Authority (the “Applicant”) has transmitted an application (the “Application”) for the benefit of Northgate Gonzalez, LLC (the “Project Sponsor”) in connection with the issuance of not to exceed \$20,000,000 aggregate principal amount of Recovery Zone Facility Bonds (the “RZFBs” or the “bonds”) to finance acquisition and installation of equipment and specialized facility improvements (collectively, the “Project”) identified in Attachment A hereto;

WHEREAS, pursuant to ARRA and Internal Revenue Service 2009-50 (the “Notice”), the City of Anaheim received an allocation of recovery zone facility bond volume cap of \$9,850,000; and

WHEREAS, pursuant to ARRA and the Notice, the County of Orange received an allocation of recovery zone facility bond volume cap of \$44,598,000; and

WHEREAS, pursuant to ARRA and the Notice, the City of Anaheim has allocated \$9,800,000 of the City of Anaheim Allocation to the Project; and

WHEREAS, pursuant to ARRA and the Notice, the County of Orange has allocated \$10,200,000 of the Orange County Allocation to the Project; and

WHEREAS, the bonds are to be issued pursuant to the provisions of the California Industrial Development Financing Act (the “Act”) and the Applicant and the Project Sponsor

Agenda Item – 4.B.1.

have requested the California Industrial Development Financing Advisory Commission (the “Commission”) to review the Application pursuant to the provisions of the Act; and

WHEREAS, there has been filed with the Commission evidence of the designation of the City of Anaheim Recovery Zone and County of Orange Recovery Zone, that the Project is located within the City of Anaheim Recovery Zone and the County of Orange Recovery Zone, and that the Project received allocation in the amount of \$20,000,000 from City of Anaheim and County of Orange; and

WHEREAS the issuance of the bonds shall be subject to the provisions of the Act applicable to the issuance of RZFB; and

Whereas, the issuance of the bonds shall be subject to Section 91533(l) of the Act relating to the payment of prevailing wages; 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 representations made by the Applicant and the Project Sponsor, hereby finds and determines that the proposed issuance of the bonds qualifies under the provisions of Article 5 of Title 10 of the Government Code, and further finds and determines that:

- (a) the bonds will be adequately secured and the funds available to the Applicant(s) will be sufficient to pay the principal of and interest on the bonds to be issued;
- (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 Applicant in issuing them will not be such as will work a fraud upon the purchaser thereof; and
- (c) the Applicant has approved the issuance of bonds pursuant to a resolution in compliance with ARRA and the Project meets the criteria established by ARRA.

Section 2. This Resolution shall cease to be effective if the above-described bonds have not been issued on or before October 31, 2010 ~~after the date of adoption of this Resolution~~ and in all cases before the sunset date of December 31, 2010.

Section 3. In compliance with the provisions of the Act, the qualification of the proposed bond issue by this Resolution does not constitute a recommendation or endorsement of the bonds so qualified by the Commission.

ATTACHMENT A

**RZFB RESOLUTION NO: 10-004
(A RECOVERY ZONE FACILITY BOND PROJECT)**

- 1. Applicant: City of Anaheim IDA
- 2. Application No.: 10-004
- 3. Project Sponsor: Northgate Gonzalez, LLC. and/or a related entity
- 4. Project User: Northgate Gonzalez, LLC. and/or a related entity
- 5. Project Name: Northgate Gonzalez Markets Corporate Headquarters and Distribution/Warehouse Center Project
- 6. Project Description: Acquisition and Installation of Equipment and Specialized Facility Improvements
- 7. Address: 1201 N. Magnolia Avenue
 Location: Anaheim, CA 92801
 County: Orange County
- 8. Amount of Allocation: City of Anaheim - \$9,800,000
 County of Orange - \$10,200,000
Total Allocation - \$20,000,000