

**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*

<b>Issuer:</b>	County of San Bernardino Industrial Development Authority (IDA)	<b>Amount of RZFB Allocation:</b>	\$3,150,000
<b>Borrower and User:</b>	Wakanama Investors and/or a related entity	<b>Application No.:</b>	10-005
<b>Location:</b>	City of Redlands (San Bernardino 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, 2009<sup>1</sup>. 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:** Wakanama Investors (Wakanama or the Borrower) is a general partnership owned equally by Wayne Cunningham and Kathleen Cunningham. The partnership was formed September 23, 1999. Wakanama is a warehousing and logistics company. Owners of Wakanama Investors are affiliates of Traditional Baking, Inc. through common ownership. Kathleen Cunningham owns Traditional Baking, Inc. (56%) along with her father, William Voortman (24%), and brother, John Voortman (20%). Traditional Baking Inc. is will be Wakanama's first customer at its new facility (see below). The Borrower will be seeking other customers for its warehousing and logistics services.

**Project Information:** RZFB proceeds will be used to acquire an existing, vacant 104,072 square foot building located in the City of Redlands in San Bernardino County. The construction of the building was completed in January 2008, and it has remained unsold and vacant until now. The purchase of the building will allow the Borrower's affiliate and other potential customers additional space and more efficient production of its bakery products by providing a means for off site storage and packaging. ~~In addition, off site storage and packaging at the Project site will provide a greater manufacturing capacity at the Borrower's other facility in the City of Bloomington, which also is in San Bernardino County.~~ The building will be improved with equipment to serve its intended use, but will be done with private funds from the Borrower.

**Anticipated Timeline:** The purchase of the building closed on May 20, 2010 with interim financing provided by U.S. Bank and the Borrower. It is anticipated that the bond will close the first part of June 2010.

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<sup>1</sup> 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).

**Status Of Permit/Other Required Approvals:**

- The County of San Bernardino received an allocation of \$69,139,000 in RZFBs from the U.S Treasury pursuant to ARRA. On October 27, 2009, the County of San Bernardino executed a Resolution to Designate a Recovery Zone, which includes the area where the Project is located, and Authorize Bond Issuance on October 27, 2009. The County received an allocation of \$69,139,000 in RZFBs from the U.S Treasury pursuant to ARRA. In its Recovery Zone Resolution 2009-278, the County cites the fact that it has an unemployment rate exceeding 13%, is rated sixth in the rate of foreclosures in the State of California, has 14.6% of its population living below the poverty line in the last twelve months, and is generally economically distressed by these factors as well as the long term impact to the local economy due to the closure of two military bases (formerly Norton and George Air Force bases).
- On April 13, 2010 the County of San Bernardino IDA executed a Resolution of Official Intent to Issue Bonds in an amount not to exceed \$3,150,000 in RZFBs for the Project.
- A TEFRA hearing was held by the County of San Bernardino on May 25, 2010 for the issuance of bonds in an amount not to exceed \$3,150,000 for the Project.

**Financing Details:** The County of San Bernardino IDA will issue the bonds on a Private Placement basis to U.S. Bank. The bonds will have a maturity of 5 years and will carry a variable interest rate with a weekly reset based on the One-Month LIBOR Reset Monthly index plus 2.50% multiplied by U.S. Bank’s then-current tax exempt factor.

**Financing Team:**

**Issuer:** San Bernardino County Industrial Development Authority  
**Bond Counsel:** Stradling Yocca Carlson & Rauth  
**Private Placement Purchaser:** U.S. Bank  
**Financial Advisor:** CSG Advisors, Inc.

**Recommendation:** Staff recommends approval of Initial and Final Resolution No. 10-005 for an amount equal to \$3,150,000 in Recovery Zone Facility Bonds for the Issuer for the ~~Traditional Baking Expansion~~ Wakanama Investors- Project.

INITIAL AND FINAL RESOLUTION  
OF THE  
CALIFORNIA INDUSTRIAL DEVELOPMENT FINANCING  
ADVISORY COMMISSION (CIDFAC)  
APPROVING THE ISSUANCE OF RECOVERY ZONE FACILITY BONDS (RZFBs)  
Resolution #: 10-005

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 adopted a resolution designating the County of San Bernardino as a recovery zone (the “Applicant City or County Recovery Zone”); and

WHEREAS, the County of San Bernardino Industrial Development Authority (the “Applicant”) has transmitted an application (the “Application”) for the benefit of Wakanama Investors (the “Project Sponsor”) in connection with the issuance of not to exceed \$3,150,000 aggregate principal amount of Recovery Zone Facility Bonds (the “RZFBs” or the “bonds”) to finance the acquisition of an existing building (collectively, the “Project”) identified in Attachment A hereto;

WHEREAS, pursuant to ARRA and Internal Revenue Service 2009-50 (the “Notice”), the County of San Bernardino received an allocation of recovery zone facility bond volume cap of \$69,139,000 (the “Applicant City or County Allocation”); and

WHEREAS, pursuant to ARRA and the Notice, the County of San Bernardino has allocated \$3,150,000 of the County of San Bernardino 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 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 County of San Bernardino Recovery Zone that the Project is located within the City of Redlands in County of San Bernardino Recovery Zone, and that the Project received allocation in the amount of \$3,150,000 from County of San Bernardino; 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 within 90 days 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: 10-005  
(A RECOVERY ZONE FACILITY BOND PROJECT)

- 1. Applicant: County of San Bernardino IDA
- 2. Application No.: 10-005
- 3. Project Sponsor: Wakanama Investors and/or a related entity
- 4. Project User: Wakanama Investors and/or a related entity
- 5. Project Name: ~~Traditional Baking Expansion~~ Wakanama Investors Project
- 6. Project Description: Acquisition of an existing building
- 7. Address: 2470 West Lugonia, Building 5  
 Location: Redlands, CA 92374  
 County: San Bernardino County
- 8. Amount of Allocation: \$3,150,000