

Memorandum

To: CHAIR AND COMMISSIONERS

CTC Meeting: January 22-23, 2003

Reference No.: 4.6

Action Item

From: ROBERT L. GARCIA
Chief Financial Officer

Prepared by: Mark Hariri
Chief
Division of Innovative Finance

Ref: **ADOPTION OF THE TRANSPORTATION FINANCE BANK REVOLVING LOAN PROGRAM, GUIDELINES, and LOAN APPLICATION AND AGREEMENT PACKAGE RESOLUTION G-03-**

RECOMMENDATION

The Department of Transportation (Department) recommends that the California Transportation Commission (Commission) adopt the Transportation Finance Bank (TFB) Revolving Loan Program, Guidelines and Loan Application and Agreement package enclosed herein.

DISCUSSION

The TFB Revolving Loan Program, Guidelines and Loan Application and Agreement package are being presented for adoption at the January 22-23, 2003, Commission meeting. The TFB Revolving Loan Program would provide public entities and public/private partnerships with a financing alternative for accelerating the delivery of their transportation projects. At the October 2002, Regional Transportation Planning Agencies (RTPA) meeting, it was suggested that an initial deadline and a list of selection criteria be established for the program. Also, at an earlier RTPA meeting, it was suggested that rural counties would be the most likely candidates for this type of program. The Department has developed a selection criteria and incorporated an initial deadline in the program guidelines for accepting loan applications for a period of 60 days beginning on the date of Commission approval and adoption of the TFB Revolving Loan Program, Guidelines, and Loan Application and Agreement Package and will continue to make the program available to all interested entities but will follow RTPA's suggestion and provide additional focus to the rural counties. Given the current state of the economy, the Department felt it was prudent to establish a minimum interest rate for the TFB loan program. Additionally, as the implementation of the program advances, it may be necessary to amend and revise the guidelines to administer the TFB Revolving Loan Program.

BACKGROUND

The TFB Revolving Loan Program is being established as a State Infrastructure Bank, authorized under the National Highway System Designation Act of 1995 and the California Government Code Section 64000 added by Chapter 664 of the Statutes of 1998 (SB 567, Schiff) and revised by Chapter 805 of the statutes of 2002 (AB 2996, Oropeza). The program offers flexible, short-term loans with below-market interest rates to public entities and public/private partnerships for the purpose of accelerating the delivery of transportation projects in California.

Under the TFB Revolving Loan Program, the Department is responsible for accepting and evaluating applications; making loan recommendations to the Commission; and acting as the contact source for information on the program. The Commission makes decisions regarding loan approvals and provides program oversight.

The Department may develop and maintain additional internal administrative procedures necessary to carry out the legislative intent of this program, and the Commission may revise the guidelines and loan documents, including the application, as deemed necessary.

Attachment(s)

CALIFORNIA TRANSPORTATION COMMISSION

**Transportation Finance Bank Revolving Loan Program, Guidelines, and
Loan Application and Agreement Package**

Resolution No. G-03-____

- 1.1 WHEREAS, the State Infrastructure Bank (SIB) pilot program was enacted by Congress under Section 350 of the National Highway System Designation Act of 1995, and
- 1.2 WHEREAS, California was selected as one of ten states to participate in the pilot program, and
- 1.3 WHEREAS, Section 64000 of the Government Code was added by Chapter 664 of the Statutes of 1998 (SB 567, Schiff), hereinafter referred to as “the act” which created the Transportation Finance Bank (TFB), and
- 1.4 WHEREAS, Section 64000 of the Government Code was amended by Chapter 805 of the statutes of 2002 (AB 2996, Oropeza), to allow the Department of Transportation (Department) to act as “lender” in operating and administering the TFB, and
- 1.5 WHEREAS, by enactment of the act, the legislature directed the California Transportation Commission (Commission) and Department to accomplish the tasks necessary to put these funds to work on needed transportation projects as soon as possible, and
- 1.6 WHEREAS, by enactment of the act, the legislature declared that it is in the best interest of the state to develop innovative methods for funding and accelerating transportation projects, and
- 1.7 WHEREAS, the SIB program offers loans and other types of credit assistance with flexible terms and below-market interest rates for the purpose of accelerating the delivery of transportation projects, and

- 1.8 WHEREAS, on June 4, 1996, the Commission adopted Resolution G-96-15, which established the Memorandum of Agreement between the Department, Commission, and California Infrastructure and Economic Development Bank (CIEDB) formally known as California Economic Development Financing Authority, and
- 1.9 WHEREAS, on October 16, 1996, the Commission adopted Resolution G-96-25, which implemented the TFB and provides for the following: 1) requests the Department to include a reservation for the TFB in the 1998 STIP Fund Estimate; 2) requests the Department, Commission Staff, and regional agencies to prepare by January 1997, draft guidelines defining the criteria for screening projects that may be submitted to the TFB; and 3) requests that the Department, Commission Staff, and CIEDB, with assistance of a qualified financial advisor, develop a standard Credit Enhancement Agreement for the TFB by January 1997, and
- 1.10 WHEREAS, on August 13, 1997, the Commission passed Resolution G-97-10, which adopted the TFB guidelines and appendices under which the Department in cooperation with the Commission, and the CIEDB would offer credit enhancements to advance eligible transportation projects in accordance with the executed MOA, and
- 1.11 WHEREAS, at the February and December 2002 Commission meeting, the Department presented the TFB Revolving Loan Program, Guidelines and Loan Application and Agreement package to implement and expedite the loan program established under the act.
- 2.1 NOW THEREFORE BE IT RESOLVED, that the Commission adopts the TFB Revolving Loan Program and Loan Application and Agreement package which includes guidelines and procedures associated with the program, and
- 2.2 BE IT FURTHER RESOLVED, that the Department will present all complete loan applications to the Commission for their consideration during the loan approval process, at such time as applications are received.

**TRANSPORTATION FINANCE BANK
LOAN APPLICATION AND AGREEMENT PACKAGE**

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TFB Loan Application and Agreement

**CALIFORNIA TRANSPORTATION COMMISSION
CALIFORNIA DEPARTMENT OF TRANSPORTATION
LOAN APPLICATION AND AGREEMENT
FOR THE
TRANSPORTATION FINANCE BANK (TFB)
REVOLVING LOAN PROGRAM**

SECTION I - APPLICANT INFORMATION

Applicant:

Mailing Address:

Street Address (or P.O. Box)

City

State

Zip Code

Authorized Representative:

Title:

Telephone Number:

Email Address:

Check the appropriate statement below:

- [] The applicant is the regional agency for the county's State Transportation Improvement Program (STIP) submittal.
[] The applicant is filing jointly with the regional agency for the county's STIP submittal. (Complete Section II for regional agency.)

(Attach the Resolution/Agreement approved by the governing body of the regional agency and, if different, the Resolution/Agreement approved by the Applicant's governing body, that authorizes entering into a loan agreement with the State for the purposes and terms stated in this Loan Application and Agreement.)

SECTION II - CO-APPLICANT INFORMATION

Co-Applicant Name:

Mailing Address:

Street Address (or P.O. Box)

City

State

Zip Code

Authorized Representative:

Title:

Telephone Number:

Email Address:

The proposed project must::

- be included in a Federal State Transportation Improvement Program (FSTIP) before the loan can be approved;
- be financially feasible; and
- comply with all Federal-aid eligibility requirements, including Title 23, Title 49, National Environmental Policy Act, Americans with Disabilities Act, and Davis-Bacon Act requirements.

Please refer to the Transportation Finance Bank Revolving Loan Program Guidelines for additional requirements for TFB loan eligibility.

Attachments:

See Page 8 for a checklist of attachments that must be included with this application.

Note:

Additional detail may be attached to the Loan Application and Agreement document as necessary to enable the California Transportation Commission (Commission) and the California Department of Transportation (Department) to fully evaluate the loan request.

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Date and time received (STAMP):

Application Status:

Finance Manager (Loan Programs) Signature:

Date:

~~SECTION III - TFB LOAN REQUEST~~

TFB Loan Application and Agreement

Total Amount Requested: \$ _____ **Term of Loan:** _____ Years _____ Months
(Rounded to nearest thousand)

Project Type: Rail Mass Transportation Highway (on-system) Local Street or Road

Other (Describe): _____

FSTIP Project ID Number: _____

Date FSTIP Adopted or Amended: _____

County Where Project is Located: _____

Most Recent Regional Share Funding Allocation: \$ _____

Project Title: _____

Project Location: _____

Type of Work: _____

Project Description: _____

Describe the Project Benefit/Public Need (i.e., congestion reduction, access, traffic flow, air quality, economic, safety, etc.): _____

Project Phase(s) for which Funding is Requested: Major Investment Study Engineering/Design
 Environmental/Clearance Right of Way Acquisition Plans, Specifications, and Estimates
 Construction Other (Describe): _____

Current Project Status: Check all that apply and give percentage completed and estimated date of completion.

- | | | |
|--|---------|-------------|
| <input type="checkbox"/> Major Investment Study | _____ % | Date: _____ |
| <input type="checkbox"/> Engineering / Design | _____ % | Date: _____ |
| <input type="checkbox"/> Environmental Clearance | _____ % | Date: _____ |
| <input type="checkbox"/> Right of Way Acquisition | _____ % | Date: _____ |
| <input type="checkbox"/> Plans, Specifications and Estimates | _____ % | Date: _____ |
| <input type="checkbox"/> Construction | _____ % | Date: _____ |
| <input type="checkbox"/> Other | _____ % | Date: _____ |
| Describe "Other": _____ | | |

SECTION III - TFB LOAN REQUEST, CONTINUED

TFB Loan Application and Agreement

Responsible Parties: Identify the party or parties that are charged with the planning, development, financing, start-up, construction, and ongoing operations and maintenance of the project, and the party or parties that will exercise ownership control in all stages of the project. (Attach additional sheets as necessary.)

SECTION IV - FINANCIAL INFORMATION

The financial plan for the project may be presented in the applicant’s own format; however, it must contain the following minimum information:

- **Provide an estimate of total project costs:** (Estimated project costs should be provided at a sufficient level of detail to enable the State to validate reasonableness of the costs, i.e., site work, structures, engineering fees, developer fees, costs of financing, etc.)
- **Summary of the sources and uses of funds:** (For sources of funds, specify any enforceable financing commitments and the current status of all other funding. For uses of funds, identify the phase of the project, i.e., design/engineering, construction, etc.)
- **Source and Timing of Repayment:** (Describe in detail the revenue stream to repay the principal and interest on the loan. The loan must be repaid in cash and may include but are not limited to local sales taxes, fuel taxes, measure money, motor vehicle fees, and developer fees.)
- **Drawdown schedule:** (Provide a schedule for projected disbursement of loan proceeds based on the estimated cash flow needs of the project.)
- **Assumptions/Plan Preparation:** (Provide detail relative to the assumptions made in developing the financing plan for the project, including the estimated rate of interest and the name(s) of the person(s) to be contacted with respect to the plan.)

In addition to the above detail, the applicant must also submit copies of the current budget, consolidated audited financial statements for the three most recent years, the most recent consolidated year-to-date interim financial statements, independent audit reports, and potential legal claims and/or liabilities pending that may impact the applicant’s ability to repay a loan.

Applicant’s Proposed Repayment Schedule:

The TFB offers flexible terms for the repayment of the loan, within the following parameters: The maximum loan term is six (6) years. Repayment must begin no later than one year from the date of project completion, and final payment must be received by the Department within six years from the date of Commission loan approval.

Specify the requested loan term below:

Amount of Loan: \$ _____ Term: _____ Years _____ Months

Define the proposed payment structure below (i.e., equal payments of principal and interest quarterly, equal payments of principal and interest annually, or etc.) and attach a proposed repayment schedule:

Will Electronic Funds Transfer be used for repayment? [] Yes [] No

TFB Loan Application and Agreement

SECTION V – APPLICANT SIGNATURE

The authorized person for the Applicant must read, agree and sign the statements below in order for this to be considered an official application.

As the Applicant, or as an authorized representative of the Applicant, I hereby submit this Loan Application and certify and warrant that the information and financial data contained herein are true and correct to the best of my knowledge. I understand that additional information may be requested and I authorize the California Department of Transportation to independently verify any information contained in this Loan Application. I also understand that the acceptance and consideration of this Loan Application does not constitute a commitment of funds by the Commission. Attached to this application is:

Check applicable box(es):

[] the Approving Resolution approved by the governing body of the regional agency.

[] the Approving Resolution approved by the Applicant’s governing body.

The attached resolution(s) authorize(s) this application for the stated purposes and proposed terms, and authorize(s) the undersigned to perform all acts in accordance with the Loan Application and Agreement.

Authorized Applicant Signature: _____ Date: _____

Print Name: _____ Title: _____ Date: _____

SECTION VI – BORROWER’S CERTIFICATION AND AUTHORIZATION

Borrower’s Certification and Authorization

Certification

_____ (Borrower) is applying for a loan in the amount of \$_____
[Applicant’s (local agency’s) name]

to be approved by the California Transportation Commission (Lender) from unallocated funds under the Transportation Finance Bank (TFB) Revolving Loan Program.

I, _____, as the Authorized Representative of Borrower, certify to the following:

1. The project is included in a Federal State Transportation Improvement Program; and
2. The project complies with all Federal-aid eligibility requirements, including Title 23, Title 49, the National Environmental Policy Act, Americans with Disabilities Act, and Davis-Bacon Act requirements.

Authorization

Borrower, who is the Project Administering Agency/Authority, possesses the legal authority to enter into this Loan Application and Agreement and construct the proposed project; and by official action (e.g., the attached resolution) the regional agency’s governing body authorizes the activity, including all understandings and assurances contained therein. The undersigned Authorized Representative is empowered to execute, and to act in connection with, this Loan Application and Agreement, and to provide such additional information as may be required.

Project Administering Agency/Authority/Borrower will give the California Department of Transportation’s representatives access to, and the right to, audit, examine and copy all records, books, papers, or documents related to the project. All accounting records and other supporting papers of the Borrower related to the project shall be maintained for a minimum of three years from the date of final payment of the loan under the standard provisions of this agreement, or three years from the date of project completion, whichever is longer. Such records shall also be held open to inspection and audit by representatives of the State of California and the Federal Government, as a project expense chargeable to the loan. Copies, thereof, will be furnished by Borrower upon receipt of any request made by the State, the Federal government, or their agents.

Project Administering Agency/Authority/Borrower will comply with the provisions of all applicable federal, state, and/or local laws, rules and/or regulations, including the requirements included in the Transportation Finance Bank Revolving Loan Program Guidelines and this Loan Application and Agreement. Additionally, the Project Administering Agency/Authority/Borrower will comply with all contract provisions governing the project.

I, _____, as authorized representative of Borrower, warrant and certify that the information contained in this Borrower’s Certification and Authorization, including all required or supplemental attachments, is accurate and that the information provided is correct, and that I am empowered to agree to the assurances and warranties contained herein.

Authorized Representative:

Signed: _____

Date: _____

Printed (Name and Title):

TFB Loan Application and Agreement

SECTION VII - LOAN TERMS AND AGREEMENT

Borrower understands and agrees to the following:

(1) Obligation:

The principal amount under this loan agreement is the loan amount approved by the Commission and agreed to by the Borrower, in an amount not greater than the amount requested in Sections III and IV but not less than \$300 thousand nor more than \$1 million, and increased as necessary by audit costs incurred by the Commission.

(2) Interest Rate and Loan Application Fee:

The interest rate will be set on the date of loan approval by the Commission at 1% below the three-month Treasury Bill Average Auction Rate but the rate shall not be less than 1%. The interest charges on the loan begin to accrue on the date of initial loan disbursement, are compounded quarterly, and applied against the outstanding amount owed, including accrued interest. A loan application fee, set at 1/2 of 1% of the total amount requested, is payable upon submittal of an application. If a loan amount is approved at an amount higher or lower than the amount requested, the difference will be refunded to the applicant if the fee is overpaid, or it will be built into the loan amount or paid separately at loan closing if the fee is underpaid.

(3) Term (Length) of Loan:

The maximum loan term is six (6) years. Repayment of all principal and interest must begin no later than one year from the date of project completion and final payment must be received by the Department within six years from the date of Commission loan approval. The final repayment date shall be in substantial agreement with the term requested by the applicant in Section IV.

(4) Dedicated Revenue Stream(s) and Repayment Schedule:

Revenue stream(s) dedicated to repayment of the loan and the repayment schedule are as stated in Section IV. All payments of principal plus interest or penalties shall be deposited under the Transportation Finance Bank Revolving Loan Program to the Local Transportation Loan Account in the State Highway Account. The Department of Transportation shall notify the Borrower at least 25 days in advance of the date a payment is due with the amount of principal and/or interest that is due and payable.

(5) Prepayment:

Partial or full prepayment of the outstanding loan and/or interest may be made in advance of the repayment schedule stated in Section IV without penalty.

(6) Cause to Rescind:

Should the Borrower fail to comply with all applicable federal, state, and/or local laws, rules and/or regulations, including the requirements of the Transportation Finance Bank Revolving Loan Program Guidelines and this Loan Application and Agreement, the Department of Transportation shall rescind the loan, and a penalty charge will be assessed on the outstanding principal and interest balance on the loan equivalent to the Prime Rate + 5% (the rate is determined and fixed at the time of declaration) retroactive to the date the loan was approved.

(7) Loan Default:

The regional agency for that county's submission to the STIP, shall submit a STIP amendment to receive a STIP allocation to ensure the repayment of the loan funds. The regional agency may be required to reprioritize projects on the current STIP to ensure repayment in an expeditious manner. The transfer shall be made within the time frame as specified in the STIP allocation. However, interest will continue to accrue on any loan that is in default, up to the date the county share reduction is actually made, and the principal, accrued interest, and penalties are paid. An amount equivalent to the remaining loan balance plus all accrued interest and penalties shall be deducted from the STIP county share of the affected county or counties pursuant to Sections 14524 and 14525 and transferred from the State Highway Account to the TFB. In addition, the defaulting regional agency shall be ineligible to participate in the TFB Revolving Loan Program for a period of five years from the date of final repayment.

ACCEPTANCE OF LOAN TERMS:

_____ accepts the principal amount of the loan for \$ _____
(Borrower)
with the terms stated herein.

_____ Dated _____
Authorized Signature

This Collateral Loan status is concurred with by the County of _____ as the regional agency.

Approving Resolution Number: _____

TFB Loan Application and Agreement

Dated _____

(Authorized Signature)

TFB Loan Application and Agreement

FOR DEPARTMENT USE ONLY

CALIFORNIA DEPARTMENT OF TRANSPORTATION RECOMMENDATION

This application is recommended for approval subject to the following conditions:

Augment **Reduce the Requested Loan Amount by \$** _____ **(if applicable)**

Approve Loan in the Amount of \$ _____ **, with a term of** _____
with an interest rate of _____ **%.**

Reason for Change in Requested Loan Amount/Other Conditions of Loan: _____

Signature of Finance Manager (Loan Programs)

Date

Typed or Printed Name: _____

CALIFORNIA TRANSPORTATION COMMISSION ACTION

The California Transportation Commission:

approves this loan request in the amount of \$ _____ **, for a term of**

with an interest rate of _____ **%, under Resolution Number:** _____
Dated: _____.

or

rejects this loan request for the following reason(s): _____

_____.

TFB Loan Application and Agreement

APPLICATION SUBMITTAL/PROGRAM CONTACT

Four original copies of the TFB Loan Application and Agreement, and all applicable attachments, should be mailed to:

California Department of Transportation
Division of Innovative Finance
Transportation Finance Bank Revolving Loan Program
1120 N Street, MS-6
Sacramento, CA 95814
Attention: Finance Manager (Loan Programs)

Questions related to the TFB Program can be directed to the Finance Manager (Loan Programs) at the following numbers:

Phone: (916) 324-7624
FAX: (916) 324-7708

ATTACHMENTS CHECKLIST

- Approving Resolution of the Applicant agency's governing body that authorizes entering into a loan agreement with the State for the purposes and terms stated in the application, and names an Authorized Representative to perform all acts necessary to the Loan Application and Agreement.
 - If different than the Applicant, the Approving Resolution of the governing body for the agency that is the regional agency for the county's STIP submittal that authorizes the joint filing of the application and acknowledges the obligation of future county share allocations in the case of default on the loan. The resolution may also name an Authorized Representative to perform all acts necessary to the Loan Application and Agreement.
 - Project site map.
 - Right of way certification, if applicable.
 - Major milestone detail. (Include the current project schedule reflected in the adopted Regional Transportation Plan, and the accelerated schedule if the loan is approved.)
 - A financial plan that demonstrates full funding of all phases of the project (per Section IV of the TFB Revolving Loan Program Guidelines). At a minimum, the plan and supporting documentation must contain the following:
 - Estimate of Total Project Costs;
 - Summary of Sources and Uses of Funds;
 - Source and Timing of Repayment (Schedule);
 - Drawdown Schedule, if applicable;
 - Assumptions/Plan Preparation;
 - Current Budget;
 - Consolidated Audited Financial Statements for the Three Most Recent Years;
 - Most Recent Consolidated Year-To-Date Interim Financial Statements;
 - Independent Audit Reports; and
 - Potential Legal Claims and/or Liabilities Pending that may impact the Applicant's repayment ability.
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