

**SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY
OF THE CITY OF FRESNO**

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**Oversight Board to the
Successor Agency to the Redevelopment Agency
of the City of Fresno**

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AGENCY BRIEFING REPORT

Date: January 17, 2018
To: Oversight Board Members
From: Debbie Barletta
Through: Marlene Murphey
Subject: Agenda Item IV. - Line 25 – California Infrastructure Bank Loan (formerly Roeding Line 3, pg 11)

Pursuant to that certain Tax Allocation Loan Agreement (“Loan Agreement”) between the Redevelopment Agency of the City of Fresno and the California Infrastructure and Economic Development Bank (“CIEDB”) dated August 19, 2003 and executed and approved by the Agency Board on February 10, 2004, CIEDB issued tax exempt bonds secured by a pledge of its rights under the Loan Agreement and then loaded those proceeds to the Agency. The Agency pays principal annually and interest semi-annually commencing on August 1, 2004 and terminating on August 1, 2033.

The loan proceeds were used to fund public infrastructure improvements to widen Marks Avenue to a four lane arterial between Belmont and Whitesbridge including landscaped median islands, curb, gutter, paving, street trees and lights.

TAX ALLOCATION LOAN AGREEMENT

by and between the

REDEVELOPMENT AGENCY OF THE CITY OF FRESNO

and the

CALIFORNIA INFRASTRUCTURE AND ECONOMIC DEVELOPMENT BANK

Dated as of August 19, 2003

Agreement No. CIEDB 03-048

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TAX ALLOCATION LOAN AGREEMENT

THIS TAX ALLOCATION LOAN AGREEMENT, is made and entered into as of August 19, 2003, by and between the REDEVELOPMENT AGENCY OF THE CITY OF FRESNO, a public body, corporate and politic duly organized and existing under the laws of the State of California (the "Borrower") and the CALIFORNIA INFRASTRUCTURE AND ECONOMIC DEVELOPMENT BANK (the "CIEDB"), duly organized and validly existing pursuant to the Bergeson-Peace Infrastructure and Economic Development Bank Act, constituting Division 1 of Title 6.7 of the California Government Code (commencing at section 63000 thereof) as now in effect and as it may from time to time hereafter be amended (the "Act").

WITNESSETH:

WHEREAS, the Borrower adopted a resolution authorizing a Loan from the CIEDB to finance or construct a Project, as defined herein, and the Borrower has found and determined that there will be significant public benefits accruing from such borrowing; and

WHEREAS, the CIEDB has authority under the Act to issue tax-exempt Bonds and pledge its rights under this Agreement to secure such Bonds, and Borrower acknowledges that the issuance of such Bonds impacts its rights and obligations as described herein, and Borrower hereby agrees to adhere to the requirements contained in this Loan Agreement necessary in order to maintain the tax-exempt status of the Bonds; and

WHEREAS, all acts and proceedings required by law necessary to make this Loan Agreement, when executed by the Borrower and the CIEDB, the valid, legal and binding obligation of the Borrower and the CIEDB, and to constitute this Loan Agreement a legal, valid, and binding agreement for the uses and purposes herein set forth in accordance with its terms, have been done and taken, and the execution of this Loan Agreement has been in all respects duly authorized;

NOW, THEREFORE, in consideration of the premises and the mutual agreements herein contained, the parties hereto do hereby agree as follows:

ARTICLE I

DEFINITIONS

SECTION 1.01. Definitions. Unless the context clearly otherwise requires, the capitalized terms in this Loan Agreement shall have the respective meanings set forth below.

"Act" means the Bergeson-Peace Infrastructure and Economic Development Bank Act, constituting Division 1 of Title 6.7 of the California Government Code (commencing at section 63000 thereof) as now in effect and as it may from time to time hereafter be amended.

"Additional Payments" means the payments made pursuant to Section 2.03(f) herein.

“Borrower” means the Redevelopment Agency of the City of Fresno.

“Bond Date” means the date when the Loan and this Loan Agreement are pledged as security for Bonds under an Indenture and which will not occur prior to March 1, 2004.

“Bonds” means any bonds issued by the CIEDB, the repayment of which is secured, in whole or in part, by this Loan Agreement.

“Business Day” means any day, Monday through Friday, which is not a legal holiday of the State, the trustee or the Borrower.

“Certificate of the Borrower” means a request or certificate, in writing, signed by a duly authorized representative of the Borrower.

“CIEDB” means the California Infrastructure and Economic Development Bank.

“CIEDB Annual Fee” means the fee payable to CIEDB pursuant to Section 2.03(f)(1).

“City” means the City of Fresno.

“Code” means the Internal Revenue Code of 1986, as amended, or any successor statute thereto, and any regulations promulgated thereunder.

“Debt Service” means, for any Fiscal Year, the sum of interest and principal due and payable under this Loan Agreement during such Fiscal Year, the CIEDB Annual Fee for such Fiscal Year and any Parity Debt Service during such Fiscal Year.

“Effective Date” means August 19, 2003, the date on which this Loan Agreement becomes effective and binding on the Borrower and the CIEDB.

“Event of Default” means any of the events described in Section 7.01.

“Fiscal Year” means any twelve (12) month period extending from July 1 in one calendar year to June 30 of the succeeding calendar year, both dates inclusive.

“Facility Lease” means the Facility Lease, dated as of August 19, 2003, between the City and the CIEDB, as originally executed and delivered, and as it may be amended and supplemented from time to time in accordance with its terms.

“Housing Fund” means the Borrower’s Low- and Moderate-Income Housing Fund established and maintained for the purpose of increasing the supply of low- and moderate-income housing pursuant to the Law.

“Indenture” means any indenture providing for the issuance of Bonds.

"Independent Accountant" means any certified public accountant or firm of certified public accountants duly licensed or registered or entitled to practice and practicing as such under the laws of the State, appointed by the Borrower who, or each of whom:

- (a) is in fact independent and not under the control of the Borrower or the CIEDB;
- (b) does not have any substantial interest, direct or indirect, in the Borrower, the CIEDB or the Project; and
- (c) is not connected with the Borrower or the CIEDB as an officer or employee of the Borrower or the CIEDB, but who may be regularly retained to make reports to the Borrower or the CIEDB.

"Independent Consultant" means a consultant or firm of such consultants generally recognized to be well qualified in the field of consulting relating to tax allocation bond financing by State redevelopment agencies, appointed and paid by the Borrower, and who, or each of whom:

- (a) is in fact independent and not under the control of the Borrower;
- (b) does not have any substantial interest, direct or indirect, in the Borrower or the CIEDB; and
- (c) is not connected with the Borrower or the CIEDB as a member, officer or employee of the Borrower, but who may be regularly retained to make annual or other reports to the Borrower or the CIEDB.

"Interest Payment Date" means August 1 and February 1 of every year in which the Loan is outstanding.

"Law" means the Community Redevelopment Law of the State of California (being Part I of Division 24 of the Health and Safety Code of the State of California, as amended), and all laws amendatory thereof or supplemental thereto.

"Loan" means the loan in the amount of two million, one hundred eighteen thousand dollars (\$2,118,000) made by the CIEDB to the Borrower and evidenced by this Loan Agreement and the Replacement Tax Allocation Loan.

"Loan Agreement" means this Tax Allocation Loan Agreement, between the CIEDB and the Borrower, under which the Loan is made, as originally entered into or as amended pursuant to the provisions hereof.

"Loan Funds" mean the amount of two million, one hundred eighteen thousand dollars (\$2,118,000) authorized by the CIEDB to the Borrower pursuant to this Loan Agreement to finance and/or construct the Project and as specified in Section 2.05.

“Maximum Annual Debt Service” means as of the date of calculation, the greatest total Debt Service payable in any Fiscal Year during which this Loan Agreement is in effect.

“Parity Debt” means any loan, bond, note, advance, installment sale agreement, or other indebtedness or capital lease of the Borrower payable from and secured by a lien on the Tax Revenues on a parity with the Loan, issued or incurred pursuant to and in accordance with the provisions of Section 2.07.

“Parity Debt Instrument” means any loan, bond, note, advance, installment sale agreement, or other indebtedness or capital lease of the Borrower payable from and secured by a lien on Tax Revenues which is on parity with this Loan Agreement and issued or incurred pursuant to and in accordance with the provisions of Section 2.07 and Section 6.01.

“Parity Debt Service” means for any Fiscal Year:

(a) the sum of: (1) the interest due and payable during such Fiscal Year under and all outstanding Parity Debt, assuming that principal thereof is paid as scheduled and that any mandatory sinking fund payments on any Parity Debt are made as scheduled; (2) that portion of the principal amount due on all outstanding Parity Debt maturing during such Fiscal Year; (3) that portion of the principal amount of all such outstanding Parity Debt required to be redeemed or paid (together with the redemption premiums, if any, thereof) during such Fiscal Year; and (4) any fees similar to the CIEDB Annual Fee payable during such Fiscal Year with respect to outstanding Parity Debt on a parity with such Parity Debt.

(b) Parity Debt Service shall not include: (1) interest on Parity Debt which is to be paid from amounts constituting capitalized interest or (2) interest on or principal of Parity Debt payable from the proceeds of any Parity Debt required to remain unexpended and to be held in escrow pursuant to the terms of a Parity Debt instrument, provided that each escrow complies with the terms of Section 2.07(h)(4).

“Pass-Through Payments” means all payments required to be paid in each Fiscal Year to any Taxing Agencies pursuant to the Law, but only to the extent that such payments are not subordinated to the payment of Debt Service.

“Project” means the public development facility to be financed by the Loan, authorized by Government Code section 63010(q) and the Act and described in Exhibit D.

“Project Area” means the Roeding Business Park Redevelopment Project Area of the Borrower created pursuant to the Redevelopment Plan.

“Redevelopment Plan” means the redevelopment plan for the Project Area, adopted on August 15, 1996 pursuant to Ordinance No. 96-53 and amended by the City Council of the City of Fresno on December 17, 2002 pursuant to Ordinance No. 2002-69 and as the same may be amended from time to time by the Borrower.

"Replacement Tax Allocation Loan Agreement" means the additional borrowing, if, as and when completed, by the Borrower pursuant to Section 2.14, made by the CIEDB to the Borrower and evidenced by this Loan Agreement, as amended, to evidence the additional borrowing.

"Report" means a document in writing signed by an Independent Consultant or an Independent Accountant, and including:

(a) a statement that the person or firm making or giving such Report has read the pertinent provisions of this Loan Agreement to which such Report relates;

(b) a brief statement as to the nature and scope of the examination or investigation upon which the Report is based; and

(c) a statement that, in the opinion of such person or firm, sufficient examination or investigation was made as is necessary to enable said consultant to express an informed opinion with respect to the subject matter referred to in the Report.

"Special Fund" means the Redevelopment Agency of the City of Fresno Roeding Business Park Redevelopment Project Area special fund established and maintained by the Borrower pursuant to the Law into which the Borrower deposits all Tax Revenues as provided in Article III and in which the CIEDB has a security interest pursuant to the terms of this Loan Agreement.

"State" means the State of California.

"Subordinate Debt" means any loan, bond, note, advance, installment sale agreement, or other indebtedness or capital lease of the Borrower payable from and secured by a lien on the Tax Revenues which are subordinate to the Loan and to Parity Debt, if any.

"Subordinate Debt Instrument" means any loan, bond, note, advance, installment sale agreement, or other indebtedness or capital lease of the Borrower payable from and secured by a lien on Tax Revenues which is on subordinate to this Loan Agreement and issued or incurred pursuant to and in accordance with the provisions of Section 2.08 and Section 6.01.

"Subordinate Debt Service" means for any Fiscal Year the sum of interest and principal due and payable under the Subordinate Debt Instruments during such Fiscal Year.

"Tax Certificate" means the tax certificate in the form set forth in Exhibit G executed and delivered by the Borrower as of the Effective Date setting forth certain conditions, covenants, expectations and elections of the Borrower with respect to the Loan in accordance with the Code.

"Tax Revenue" means, for each Fiscal Year during the term hereof, the taxes eligible for allocation to the Borrower with respect to the Project Area pursuant to the Law exclusive of:

(a) amounts, if any, not exceeding that percentage of certain such taxes which may be required by law to be set aside for certain housing purposes {twenty percent (20%) at the Effective Date hereof},

(b) amounts, if any, received pursuant to Chapter 1.5 of Part 1 of Division 4 of Title 2 (commencing with section 16110) of the Government Code,

(c) Pass-Through Payments, and

(d) the County of Fresno's administrative fee for tax collection services together with all payments, reimbursements and subventions, if any, specifically attributable to ad valorem taxes lost by reason of tax exemptions and tax rate limitations.

"Taxing Agencies" means all local government agencies entitled to a portion of the property taxes levied in the Project Area.

SECTION 1.02. Rules of Construction. Except where the context otherwise requires, words imparting the singular number shall include the plural number and vice versa, and pronouns inferring the masculine gender shall include the feminine gender and vice versa. All references herein to particular articles or sections are references to articles or sections of this Loan Agreement. The headings and Table of Contents herein are solely for convenience of reference and shall not constitute a part of this Loan Agreement, nor shall they affect its meanings, construction or effect.

ARTICLE II

LOAN TERMS; PARITY DEBT; DISBURSEMENT; ADDITIONAL PAYMENTS

SECTION 2.01. Authorization. The CIEDB, pursuant to its resolution previously adopted, hereby agrees to lend to the Borrower and the Borrower, pursuant to resolution previously adopted in form substantially similar to Exhibit A1, hereby agrees to borrow from the CIEDB the principal amount of two million, one hundred eighteen thousand dollars (\$2,118,000) under and subject to the terms of this Loan Agreement. This Loan Agreement constitutes a continuing agreement between the Borrower and the CIEDB to secure the full and final repayment of the Loan, subject to the covenants, agreements, provisions and conditions herein contained.

SECTION 2.02. Terms of Loan; Interest Rates; Bond Date.

(a) The Loan to be paid by the Borrower to the CIEDB hereunder is the sum of the principal amount of the Borrower's obligation hereunder plus the interest from the date funds are disbursed, subject to prepayment as provided in Section 2.04. Interest shall accrue on disbursed amounts prior to the Bond Date and on the entire principal balance, whether or not disbursed, from the Bond Date forward. Borrower shall receive a credit against interest owed based upon the actual interest earned by the CIEDB at a rate of up to three and fifty-three hundredths percent (3.53%) per annum (net of rebatable arbitrage) on the undisbursed Loan Funds.

(b) For purposes of this Loan Agreement:

(1) The principal amount of the Loan to be paid by the Borrower to the CIEDB hereunder is two million, one hundred eighteen thousand dollars (\$2,118,000).

(2) The term of this Agreement is thirty (30) years from the Effective Date.

(3) The interest rate is three and fifty-three hundredths percent (3.53%) per annum.

(c) Payments of principal and interest shall be as set forth in an amortization schedule, an estimate of which is set forth in Exhibit E hereto. The interest only period shall be in effect through July 31, 2005. Borrower shall pay interest only payments on August 1, 2004 and February 1, 2005. The first principal payment shall be due August 1, 2005; an interest payment shall also be due on August 1, 2005.

(1) Prior to the Bond Date, interest only payments will be based upon the amount of Loan Funds disbursed.

(2) Commencing on the Bond Date, interest only payments will be based upon the total principal component of the Loan, including the amounts not disbursed.

(d) Commencing on the day following the end of the interest only period, the principal component of the Loan shall be fully amortized over the remaining term of this Loan Agreement. If any portion of the principal of the Loan is prepaid in part pursuant to Section 2.04 hereof, the schedule of the principal payments shall be modified to reflect such partial prepayment.

(e) The obligation of the Borrower to pay the Loan by paying the principal and interest payments is, subject to Section 4.07, absolute and unconditional, and until such time as the Loan shall have been paid in full (or provision for the payment thereof shall have been made as provided in Section 8.05), the Borrower shall not discontinue or suspend any interest or principal payments required to be paid by it under this Loan Agreement when due, whether or not the Project or any part thereof is operating or operable, or its use is suspended, interfered with, reduced, curtailed or terminated in whole or in part, and such payments shall not be subject

to reduction whether by offset or otherwise and shall not be conditional upon the performance or nonperformance by any party to any agreement for any cause whatsoever.

SECTION 2.03. Disbursement; Additional Payments.

(a) Loan Funds shall be disbursed solely upon receipt by the CIEDB of invoices documenting, to the satisfaction of the CIEDB, that the Borrower has incurred costs that constitute both reasonable and necessary components of the Project and which are consistent with the cost categories, amounts and requirements described in Exhibit D hereto; provided, however, that no disbursements shall be approved until and unless the Borrower has complied with the conditions precedent to disbursement set forth in Exhibit C hereto, and, no invoice shall be dated prior to the Effective Date.

(b) The total cumulative amount of such disbursements shall not exceed the total amount of the Loan made hereunder.

(c) Borrower must both: 1) begin Project construction no later than twelve (12) months after August 19, 2003; and 2) submit invoices to the CIEDB for the entire Loan amount within thirty-five (35) months after the Effective Date. If the Borrower fails to meet either of these conditions, the CIEDB may unencumber any and all undisbursed Loan amounts and the unencumbered amounts shall henceforth not be available to the Borrower. If the Borrower fails to meet the thirty-five (35) month requirement, the CIEDB may elect to hold any or all undisbursed funds and apply such funds to the outstanding principal balance of the Loan amount or, if after the Bond Date, the optional redemption of Bonds in accordance with the Indenture (in which event the principal amount of the Loan amount shall be reduced by the principal amount of Bonds so redeemed).

(d) The total cumulative amount of such disbursements shall not exceed the total amount of the Loan made hereunder. Notwithstanding any contrary provisions of this Loan Agreement or any related documents, under no circumstances will the CIEDB be obligated to make disbursements in excess of the lesser of (i) actual Project costs incurred in connection with the completion of the Project or (ii) two million, one hundred eighteen thousand dollars (\$2,118,000).

(e) Interest shall be calculated on the basis of a 360-day year of twelve 30-day months. Any installment of principal or interest that is not paid when due shall continue to accrue interest at the lesser of twelve percent (12%) per annum or the maximum rate permitted by law from and including the Interest Payment Date with respect to which such principal or interest is payable to but not including the date of actual payment.

(f) The Borrower shall pay Additional Payments to the CIEDB as follows:

(1) A payment of the CIEDB Annual Fee due on August 1 of each year during the term of this Agreement in an amount equal to three tenths of one percent (.3%) of the outstanding principal component of the remaining Loan payments as of each July 1 as set forth in Exhibit E; and

(2) Amounts in each year as shall be required by the CIEDB for the payment of extraordinary expenses of the CIEDB in connection with an Event of Default, the enforcement of this Loan Agreement or any amendments thereto requested by the Borrower, including all expenses, fees of accountants, trustees, attorneys, litigation costs, insurance premiums, extraordinary employee costs and all other extraordinary costs of the CIEDB. Extraordinary expenses and extraordinary costs are those expenses and costs related to this Loan Agreement in excess of ordinary and customary expenses that are covered by the CIEDB Annual Fee pursuant to Section 2.03(f)(1). Such Additional Payments shall be billed by the CIEDB from time to time, together with a statement certifying that the amount so billed has been paid by, or will be paid by, the CIEDB for one or more of the items above described, or that such amount is then payable by the CIEDB for such items; and

(3) Borrower shall deposit the CIEDB Annual Fee with the CIEDB not later than August 1 of each year and Borrower shall pay to the CIEDB the amount billed pursuant to Section 2.03(f)(2) within thirty (30) days after mailing of the bill by the CIEDB. Any amounts not promptly paid shall accrue interest at the lesser of twelve percent (12%) per annum or the maximum rate permitted by law.

(g) A one-time Loan origination fee in an amount equal to eighteen thousand three dollars (\$18,003) shall be due and payable by the Borrower upon initial disbursement of, and payable from, Loan Funds.

(h) Upon receipt of a written request for disbursement, the CIEDB will disburse Loan Funds to the Borrower, no more than once a month and only after specific compliance with Exhibit C conditions precedent and only after the Borrower presents evidence that a Project cost has been incurred. All requests for payment shall be accompanied by information and documentation as may be required by the CIEDB to determine the amount of Loan Funds to be disbursed. In addition, all requests for payment shall be accompanied by a certification by the Borrower that the (i) Loan Funds requested are for eligible Project costs, as defined in the Act, CIEDB guidelines and this Agreement, (ii) incurred in the amounts and for the purposes represented, (iii) that the work or materials for which payment has been requested are satisfactory, and (iv) no Event of Default has occurred and is continuing. The CIEDB will provide the Borrower with a description of the documentation required for payment. Further, not more than ninety percent (90%) of each invoice payable from Loan Funds designated for construction shall be disbursed until the CIEDB receives a recorded notice of completion for the Project or other evidence of completion satisfactory to the CIEDB and the Borrower has met all conditions precedent to final disbursement set out in Exhibit C; provided however, if the Borrower demonstrates to the satisfaction of the CIEDB that the Borrower is obliged by law to make payments to certain construction contractors of one hundred percent (100%) of invoiced amounts or to establish a retention fund for final payment for certain contractors, the CIEDB shall disburse Loan Funds in the amount required by law.

SECTION 2.04. Prepayment and Reduction in Loan Funds.

(a) Optional Prepayment. Prior to the Bond Date, the principal amount of the Loan shall be subject to optional prepayment in whole or in part at any time, without premium, together with accrued interest thereon and any Additional Payments payable to the CIEDB. On or after the Bond Date, optional repayment of the principal amount of the Loan shall be permitted if at all only as set forth in the Indenture and may include a prepayment premium. Within fifteen (15) days after the Bond Date, CIEDB will furnish a copy of the Indenture to the Borrower. Notwithstanding the above, the Borrower will be authorized to prepay all or a portion of the principal amount of the Loan without premium or penalty ten (10) years from the issuance date of the Bonds to which this Loan Agreement is pledged.

(b) Notice of Prepayment. Prior to the Bond Date, the Borrower shall be required to give the CIEDB written notice of its intention to prepay the Loan at least fifteen (15) days prior to the date of the requested prepayment, and shall transfer to the CIEDB all amounts required for such prepayment no later than the date fixed for such prepayment, which in no case shall be after the Bond Date. On or following the Bond Date, notice and transfer of optional prepayments shall be as set forth in the Indenture.

(c) Notice of Bond Date; Prepayment after Notice of Bond Date. At least thirty (30) days prior to the expected Bond Date, the CIEDB shall send notice to the Borrower providing the Borrower with the option of amortizing the Loan as of the Bond Date, on Loan terms described in Section 2.02, or pre-paying or reducing the Loan pursuant to Section 2.04(a) or Section 2.04(d). The Borrower shall notify the CIEDB no less than fifteen (15) days prior to the expected Bond Date if it intends to prepay the Loan or reduce the principal amount of the Loan through the unencumbrance of Loan amounts as described in Section 2.04(c), otherwise the terms for payment of the Loan will be as described in Section 2.02.

(d) Reduction in Loan Funds. If (i) prior to the Bond Date, the Borrower requests a reduction in the amount of the Loan, or (ii) the CIEDB unencumbers Loan Funds as provided in Section 2.03(c), such amounts shall be deducted from the Loan, shall no longer constitute Loan Funds and shall no longer be available to the Borrower; provided, that no such request pursuant to subsection (i) of this subsection shall be approved unless the costs of completing the Project have been adequately provided for in the sole discretion of the CIEDB. Following any reduction in Loan Funds, the CIEDB shall provide the Borrower with an updated amortization schedule using the new Loan amount with an amended maturity date. The CIEDB shall amend this Loan Agreement to reflect the lower amount. Any reduction in Loan Funds shall not effect the obligation of the Borrower to complete the Project.

SECTION 2.05. Encumbrance of Loan Funds. The CIEDB hereby encumbers the amount of two million, one hundred eighteen thousand dollars (\$2,118,000) as Loan Funds.

SECTION 2.06. Reserved.

SECTION 2.07. Parity Debt. The Borrower may after the Effective Date issue or incur Parity Debt in such principal amount as shall be determined by the Borrower subject to the requirements for additional obligations as set forth in all Parity Debt Instruments

and the following specific conditions, which are hereby made conditions precedent to the issuance and delivery of such Parity Debt issued under this section, provided that to the extent that a Parity Debt Instrument conflicts with any of the requirements set forth in this Section 2.07, the more restrictive provision shall prevail:

(a) No Event of Default hereunder, under any Parity Debt Instrument, Subordinate Debt Instrument or under any other instrument secured by Tax Revenues shall have occurred and be continuing, and the Borrower shall otherwise be in compliance with all covenants set forth in this Loan Agreement.

(b) Tax Revenues, as calculated in subsection (h) of this Section 2.07, received or estimated to be received by the Borrower in the then current Fiscal Year (i) calculated using a tax rate of one percent (1%), (ii) based upon the most recent taxable valuation of property in the Project Area as evidenced in a written document from an appropriate official of the county in which the Project is located and (iii) exclusive of payments, reimbursements and subventions, if any, specifically attributable to ad valorem taxes lost by reason of tax exemptions and tax rate limitations, shall be at least equal to one hundred ten percent (110%) of Maximum Annual Debt Service, including within such Maximum Annual Debt Service, the amount of maximum annual debt service on Parity Debt then proposed to be issued or incurred.

(c) As of the date of the incurrence of the Parity Debt, based on the then current finalized assessment rolls, the Parity Debt complies with the following conditions, all of which shall be verified in a written report of an Independent Consultant: (i) the five (5) largest taxpayers within the Project Area (i.e., those with the greatest ad valorem property tax payments with respect to property located within the Project Area) do not have aggregate assessed valuations (secured and unsecured) that exceed fifty percent (50%) of the total assessed valuation for the entire Project Area; (ii) no single property owner's assessed valuation (secured and unsecured) within the Project Area exceeds fifteen percent (15%) of the total assessed valuation for the entire Project Area; and (iii) total unsecured personal property valuation within the Project Area must be less than thirty percent (30%) of the total assessed valuation for the entire Project Area.

(d) The aggregate amount of the principal of and interest on any Parity Debt and Subordinate Debt coming due and payable following the issuance of such Parity Debt shall not exceed the maximum amount of Tax Revenues permitted under the Redevelopment Plan to be allocated to the Borrower following the issuance of such Parity Debt.

(e) The Parity Debt Instrument providing for the issuance of such Parity Debt shall provide that interest thereon shall be payable on August 1 and February 1 and principal thereof shall be payable on August 1 in any year in which principal is payable.

(f) The Parity Debt Instrument providing for the issuance of such Parity Debt may provide for the establishment of separate funds and accounts.

(g) Within thirty (30) days of the issuance of such Parity Debt, the Borrower shall deliver to the CIEDB a Certificate of the Borrower certifying the conditions precedent to the

issuance of such Parity Debt set forth in subsections (a), (b), (c) and (d) above have been satisfied.

(h) For the purpose of the calculations pursuant to this subsection (b) and the preparation of the Certificate of the Borrower required by this subsection (f), the following shall apply:

(1) The Tax Revenues referred to above shall be deemed to be increased by any additional assessed valuation of taxable property as to which construction has been completed, as of the date of, and as may be shown by, a Report of an Independent Consultant.

(2) The Tax Revenues shall not include any amounts resulting from a property tax rate in the Project Area in excess of one percent (1%) unless the Borrower files with the CIEDB a Report of an Independent Consultant showing that any such excess tax rate will be in effect throughout the term of this Loan.

(3) The Tax Revenues shall not include any amounts from property tax assessments that are being appealed unless the Borrower provides the CIEDB with a report of an Independent Consultant showing that the appeal is unlikely to prevail.

(4) For purposes of calculating Maximum Annual Debt Service, Parity Debt shall not include any debt with respect to which the following conditions are met:

(A) The proceeds of such Parity Debt shall be held by a corporate trustee in a separate fund (the "temporary redemption fund") and deposited or invested in federal securities as defined in Section 8.05 or in an investment agreement with a financial institution or insurance company, whose unsecured debt obligations are rated in at least the second-highest rating category by at least one nationally recognized securities rating agency, at a rate of interest which, together with amounts made available by the Borrower from Parity Debt proceeds or otherwise, is at least sufficient to pay debt service on the Parity Debt the proceeds of which are to be deposited in the temporary redemption fund.

(B) Moneys may be transferred from the temporary redemption fund only if Tax Revenues for the then current Fiscal Year will be at least equal to one hundred ten percent (110%) of Maximum Annual Debt Service, (excluding from such calculation the principal amount of Parity Debt which is equal to moneys on deposit in said temporary redemption fund after each such transfer).

(C) Parity Debt shall be redeemed from moneys remaining on deposit in the temporary redemption fund at the expiration of a specified escrow period in such manner as may be determined by the Borrower.

(D) If any Parity Debt is capital appreciation bonds, then the accreted value payment shall be deemed a principal payment and interest that is compounded and paid as accreted value shall be deemed due on the scheduled redemption or payment date of such capital appreciation bond.

(E) If any Parity Debt bears interest payable pursuant to a variable interest rate formula, the interest rate on such Parity Debt for periods when the actual interest rate cannot yet be determined shall be assumed to be the maximum interest rate under the Parity Debt.

SECTION 2.08. Subordinate Debt. The Borrower may after the Effective Date issue or incur Subordinate Debt in such principal amount as shall be determined by the Borrower subject to the following specific conditions, which are hereby made conditions precedent to the issuance and delivery of such Subordinate Debt issued under this section:

(a) No Event of Default hereunder, under any Parity Debt Instrument, Subordinate Debt Instrument or under any other instrument secured by Tax Revenues shall have occurred and be continuing, and the Borrower shall otherwise be in compliance with all covenants set forth in this Loan Agreement.

(b) Tax Revenues, as calculated in subsection (g) of this Section 2.08, received or estimated to be received by the Borrower in the then current Fiscal Year (i) calculated using a tax rate of one percent (1%), (ii) based upon the most recent taxable valuation of property in the Project Area as evidenced in a written document from an appropriate official of the county in which the Project is located and (iii) exclusive of payments, reimbursements and subventions, if any, specifically attributable to ad valorem taxes lost by reason of tax exemptions and tax rate limitations, shall be at least equal to one hundred percent (100%) of the greatest total debt service payable in any Fiscal Year during which this Loan Agreement is in effect for Parity Debt, existing Subordinate Debt and Subordinate Debt then proposed to be issued or incurred.

(c) The aggregate amount of principal of and interest on any Parity Debt and Subordinate Debt coming due and payable following the issuance of such Subordinate Debt shall not exceed the maximum amount of Tax Revenues permitted under the Redevelopment Plan to be allocated to the Borrower following the issuance of such Subordinate Debt.

(d) The Subordinate Debt Instrument providing for the issuance of such Subordinate Debt shall provide that interest thereon shall be payable on August 1 and February 1 and principal thereof shall be payable on August 1 in any year in which principal is payable.

(e) The Subordinate Debt Instrument providing for the issuance of such Subordinate Debt may provide for the establishment of separate funds and accounts.

(f) Within thirty (30) days of the issuance of such Subordinate Debt, the Borrower shall deliver to the CIEDB a Certificate of the Borrower certifying the conditions precedent to the issuance of such Subordinate Debt set forth in subsections (a), (b), (c) and (d) above have been satisfied.

(g) For the purpose of the calculations pursuant to this subsection (b) and the preparation of the Certificate of the Borrower required by this subsection (f), the following shall apply:

(1) The Tax Revenues referred to above shall be deemed to be increased by any additional assessed valuation of taxable property as to which construction has been completed, as of the date of, and as may be shown by, a Report of an Independent Consultant.

(2) The Tax Revenues shall not include any amounts resulting from a property tax rate in the Project Area in excess of one percent (1%) unless the Borrower files with the CIEDB a Report of an Independent Consultant showing that any such excess tax rate will be in effect throughout the term of this Loan.

(3) The Tax Revenues shall not include any amounts from property tax assessments that are being appealed unless the Borrower provides the CIEDB with a report of an Independent Consultant showing that the appeal is unlikely to prevail.

(4) For purposes of calculating the greatest total debt service payable in any Fiscal Year during which this Loan Agreement is in effect for Parity Debt, existing Subordinate Debt and Subordinate Debt then proposed to be issued or incurred, Subordinate Debt shall not include any debt with respect to which the following conditions are met:

(A) The proceeds of such Subordinate Debt shall be held by a corporate trustee in a separate fund (the "temporary redemption fund") and deposited or invested in federal securities as defined in Section 8.05 or in an investment agreement with a financial institution or insurance company, whose unsecured debt obligations are rated in at least the second-highest rating category by at least one nationally recognized securities rating agency, at a rate of interest which, together with amounts made available by the Borrower from Subordinate Debt proceeds or otherwise, is at least sufficient to pay debt service on the Subordinate Debt the proceeds of which are to be deposited in the temporary redemption fund.

(B) Moneys may be transferred from the temporary redemption fund only if Tax Revenues for the then current Fiscal Year will be at least equal to one hundred percent (100%) of the greatest total debt service payable in any Fiscal Year during which this Loan Agreement is in effect for Parity Debt, existing Subordinate Debt and Subordinate Debt then proposed to be issued or incurred, (excluding from such calculation the principal amount of Subordinate Debt which is equal to moneys on deposit in said temporary redemption fund after each such transfer).

(C) Subordinate Debt shall be redeemed from moneys remaining on deposit in the temporary redemption fund at the expiration of a specified escrow period in such manner as may be determined by the Borrower.

(D) If any Subordinate Debt is capital appreciation bonds, then the accreted value payment shall be deemed a principal payment and interest that is compounded and paid as accreted value shall be deemed due on the scheduled redemption or payment date of such capital appreciation bond.

(E) If any Subordinate Debt bears interest payable pursuant to a variable interest rate formula, the interest rate on such Subordinate Debt for periods when the actual interest rate cannot yet be determined shall be assumed to be the maximum interest rate under the Subordinate Debt.

SECTION 2.09. Borrower's Payment of Project Costs. The Borrower agrees to pay any and all costs connected with the Project, including, without limitation, any and all Project costs (as defined in the Act) exceeding the CIEDB approved amount, and the Borrower shall not be relieved of its obligation even if the CIEDB reduces the Loan Funds pursuant to any provision hereunder.

SECTION 2.10. Validity of Loan Agreement. The validity of this Loan Agreement shall not be dependent upon the completion of the Project or upon the performance by any person of his or her obligation with respect to the Project.

SECTION 2.11. Project Description. The Project shall be known as Roeding Infrastructure Improvements - Phase III. The Project is more particularly described in Exhibit D hereto.

SECTION 2.12. Reasonable Cost of Eligible Project. The reasonable cost of the eligible Project is estimated to be six million, four hundred seventy-nine thousand, one hundred dollars (\$6,479,100), of which a portion valued at two million, one hundred eighteen thousand dollars (\$2,118,000) shall be paid with the Loan, and the remainder shall be paid as set forth in Exhibit D hereto.

SECTION 2.13. Withholding of Loan Funds.

(a) The CIEDB may withhold all or any portion of the Loan Funds prior to the Bond Date in the event that:

(1) The Borrower has substantially violated any of the terms, provisions, conditions or commitments of this Loan Agreement, or if an Event of Default has occurred; or

(2) The Borrower is unable to demonstrate, to the satisfaction of the CIEDB, the ability to complete the Project or to maintain adequate progress toward completion thereof.

(b) In the event that Loan Funds are withheld from the Borrower, the CIEDB shall notify the Borrower of the reasons and advise the Borrower that the Borrower has thirty (30) days in which to remedy the failure or violation.

(c) If Loan Funds are withheld pursuant to this section, the Borrower hereby acknowledges and agrees that the CIEDB shall have the right to disencumber undisbursed funds under this Loan Agreement.

SECTION 2.14. Replacement Tax Allocation Loan Agreement. The Borrower and the CIEDB, at CIEDB's sole discretion, may increase the principal amount of the Loan to

that amount, necessary to fully satisfy all of the rental and other amounts due and payable from the City under the Facility Lease, and such an increase shall constitute a Replacement Tax Allocation Loan Agreement, subject to the following below listed specific conditions which are hereby made conditions precedent to the increase of the Loan pursuant to this Section 2.14:

(a) no event of default under the Facility Lease (or an event that, with notice or the passage of time, would constitute such an event of default) shall have occurred and be continuing, and the City shall otherwise be in compliance with all covenants set forth in the Facility Lease;

(b) the Project is fully constructed and the Project Amount (as that term is used in the Facility Lease) is fully disbursed and/or unencumbered;

(c) the conditions specified in Section 2.07 hereof with respect to the Borrower incurring Parity Debt shall be fully satisfied, treating the Replacement Tax Allocation Loan Agreement as Parity Debt for purposes of determining whether such conditions are satisfied;

(d) at least sixty (60) days prior to the effective date of the Replacement Tax Allocation Loan Agreement, the Borrower shall deliver to the CIEDB a statement describing the proposed amount of the Replacement Tax Allocation Loan Agreement, the report of an Independent Consultant referred to in Section 2.07(c) and Section 2.07(h)(1), and a Certificate of the Borrower certifying that all of the conditions precedent to the issuance of the Replacement Tax Allocation Loan Agreement set forth in this Section 2.14 and in Section 2.07 hereof have been satisfied; and

(e) the Borrower shall deliver to the CIEDB in a form acceptable to the CIEDB: (i) a certified copy of a duly adopted resolution of the Borrower authorizing the Replacement Tax Allocation Loan Agreement and authorizing the execution and delivery of all necessary documentation in connection therewith; (ii) a certified copy of a duly adopted resolution of the City Council of the City approving the Replacement Tax Allocation Loan Agreement; and (iii) an opinion of legal counsel to the Borrower to the effect that the Borrower has the legal authority to enter into the Replacement Tax Allocation Loan Agreement and that this Loan Agreement, including the Replacement Tax Allocation Loan Agreement, is a valid, legal, binding and enforceable agreement of the Borrower;

(f) the Borrower shall also deliver to the CIEDB such additional information and documentation as the CIEDB may reasonably request from the Borrower with respect to the Borrower, the Project Area, the Replacement Tax Allocation Loan Agreement and the Project.

After all of the foregoing conditions have been satisfied and the Replacement Tax Allocation Loan Agreement is made by the CIEDB to the Borrower, the CIEDB shall prepare and deliver to the Borrower a revised Exhibit E-Amortization Schedule to reflect the additional principal amount of the Loan and any other terms and conditions of the Loan that may have changed as a result of the Replacement Tax Allocation Loan Agreement. Such new Exhibit E and all of the other terms and conditions of this Loan Agreement shall be fully effective and binding upon the Borrower and the CIEDB with respect to the Loan as modified.

ARTICLE III

PLEDGE OF TAX REVENUES; APPLICATION OF FUNDS

SECTION 3.01. Pledge of Tax Revenues and Special Fund. The Loan and all Parity Debt shall be equally secured by a pledge of and first lien on all of the Tax Revenues and all amounts in the Special Fund, without preference or priority for series, issue, number, dated date, sale date, date of execution or date of delivery. The Tax Revenues and all amounts in the Special Fund are hereby pledged in their entirety to the payments required by Section 3.02. The Tax Revenues and all amounts in the Special Fund shall be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the Borrower.

Neither the Loan nor this Loan Agreement is a debt of the CIEDB, the State or any of its political subdivisions (other than the Borrower) and neither the CIEDB, the State nor any of its political subdivisions (other than the Borrower) is liable thereon, nor in any event shall the Loan be payable out of any funds or properties other than Tax Revenues of the Borrower and amounts in the Special Fund as provided herein. Neither the Loan nor this Loan Agreement constitutes an indebtedness within the meaning of any constitutional or statutory limitation or restriction, and neither the members of the Borrower nor any persons executing this Loan Agreement are liable personally on the Loan or this Loan Agreement.

SECTION 3.02. Special Fund; Deposits. In order to carry out its obligation to repay the Loan, the Borrower agrees and covenants that it shall establish the Special Fund. In each Fiscal Year, the Borrower shall transfer to the Special Fund an amount of Tax Revenues equal to the sum of (i) Debt Service payable on August 1 and February 1 of such Fiscal Year and (ii) Additional Payments payable during such Fiscal Year. The Tax Revenues in each Fiscal Year shall not be applied to any other purpose until such time as such deposit has been fully made. All money on deposit in the Special Fund shall be used to pay Section 3.03 amounts, Additional Payments, and Parity Debt. After making all the set-asides and payments hereinabove required to be made in each Fiscal Year, the Borrower may expend in such Fiscal Year any remaining money in the Special Fund and any remaining Tax Revenues not deposited into the Special Fund for any lawful purpose of the Borrower. The Borrower agrees and covenants to maintain the Special Fund so long as the Loan remains unpaid.

SECTION 3.03. Amounts Payable from the Special Fund. The Borrower shall promptly pay the following amounts at the following times from the Special Fund:

(a) **Interest/Principal Payments.** The Borrower shall pay to the CIEDB the principal due and payable under this Loan Agreement by August 1 of each year, as set forth in the Exhibit E amortization schedule. The interest due and payable under this Loan Agreement is due at the CIEDB by each Interest Payment Date.

(b) **Additional Payments.** The Borrower shall promptly pay to the CIEDB Additional Payments due pursuant to Section 2.03(f).

(c) The Borrower shall promptly pay to the holder of any Parity Debt the amount of Parity Debt Service as that amount becomes due and payable.

SECTION 3.04. Commingling of Accounts. The CIEDB may commingle any amounts in any of the funds and accounts held hereunder with any other amounts held by the CIEDB for purposes of making any deposit or investment, provided that the CIEDB shall maintain separate accounting procedures for the investment of all funds held hereunder. The value of investments credited to such fund shall be calculated at the cost thereof (excluding accrued interest).

SECTION 3.05 Borrower Special Fund Accounts. The Borrower may establish and maintain the Special Account required under Section 3.02 as an account, sub-account or fund, in the Borrower's accounting records. The Borrower will maintain the records of such account, sub-account or fund with due regard for protecting the pledged Tax Revenues, the Bonds, and the holders thereof.

ARTICLE IV

REPRESENTATIONS AND WARRANTIES OF THE BORROWER

SECTION 4.01. Organization; Authority. The Borrower is duly organized and existing as a municipal corporation under the laws of the State and has all necessary power and authority to enter into and perform its duties (including the authority to pledge the Tax Revenues) under this Loan Agreement.

SECTION 4.02. Agreement Valid and Binding; Approval by City. This Loan Agreement has been duly authorized, executed and delivered by the Borrower and constitutes the legal, valid and binding obligation of the Borrower, enforceable in accordance with its terms, except as enforcement may be limited by bankruptcy, insolvency, reorganization, moratorium or similar laws or equitable principles relating to or limiting creditors' rights generally. The legislative body of the City has authorized the Borrower to enter into this Loan Agreement and to accept the Loan hereunder by duly adopting a resolution in substantially the form attached hereto as Exhibit A2.

SECTION 4.03. No Conflict in Execution of Agreement. The execution and delivery by the Borrower of this Loan Agreement and compliance with the provisions hereof will not conflict with or constitute a breach of or default under any law, administrative regulation, court decree, resolution, charter, by-law or any agreement to which the Borrower is subject or by which it is bound or by which its properties may be affected.

SECTION 4.04. No Litigation. There is no action, suit, proceeding or investigation at law or in equity before or by any court or governmental agency or body pending or threatened against the Borrower to restrain or enjoin the execution or delivery of this Loan Agreement, or in any way contesting or affecting the validity of this Loan Agreement, or contesting the powers of the Borrower to enter into or perform its obligations under this Loan

Agreement, including the pledge of Tax Revenues or in any way contesting or affecting the establishment of the Project Area or the Redevelopment Plan.

SECTION 4.05. No Breach or Default. The Borrower is not in breach of or in default under any applicable law or administrative regulation of the State or the United States, ~~the Constitution~~ of the State (including Article XVI, section 18 thereof), any applicable judgment or decree, any loan agreement, indenture, bond, note, resolution, agreement or other instrument to which the Borrower is a party or is otherwise subject which would have a material adverse impact on the Borrower's ability to perform its obligations under this Loan Agreement and no event has occurred and is continuing which, with the passage of time or the giving of notice, or both, would constitute a default or an event of default under any such instrument.

SECTION 4.06. No Consent, Approval or Permission Necessary. No consent or approval of any trustee or holder of any indebtedness of the Borrower, and no consent, permission, authorization, order or licenses of, or filing or registration with, any governmental authority is necessary in connection with the execution and delivery of this Loan Agreement or the consummation of any transaction contemplated herein, except as have been obtained or made and as are in full force and effect.

SECTION 4.07. Pledged Funds; Limited Obligation. The Borrower expects that in each year the Tax Revenues will equal or exceed the current year's payments due under this Loan Agreement, and such payments will be treated as paid from the current Tax Revenues. The Borrower shall have no obligation to use any funds other than the Tax Revenues and amounts in the Special Fund, directly or indirectly, to pay principal of or interest on the Loan and Additional Payments; nor are any funds other than the Tax Revenues and amounts in the Special Fund so pledged as security for the Loan.

SECTION 4.08. Pledge and First Lien. The pledge of the Tax Revenues and amounts in the Special Fund constitute a valid pledge of and a first lien on all of the Tax Revenues and amounts in the Special Fund.

SECTION 4.09. Information Submitted to the CIEDB. The information relating to the Borrower, the Redevelopment Plan, the Project Area and the Project submitted by the Borrower to the CIEDB, including, but not limited to, all information in the application for financing, was true at the time submitted to the CIEDB and as of the date of this Loan Agreement, remains true and correct in all material respects; and such information did not and does not contain any untrue or misleading statement of a material fact or omit to state any material fact necessary to make the statements therein not misleading in light of the circumstances under which they were made.

SECTION 4.10. Financial Statements of the Borrower. The Borrower's financial statements furnished to the CIEDB have been prepared in conformity with generally accepted accounting principles and fairly present in all material respects the financial condition of the Borrower as of the date thereof and the results of its operations for the period covered thereby. There has been no material adverse change in the business, condition (financial or otherwise) or operations of the Borrower since the date of such financial statements.

SECTION 4.11. Establishment of Project Area. The Project Area has been duly established pursuant to the Redevelopment Plan and the Redevelopment Plan is in full force and effect and the Borrower is in compliance with the Redevelopment Plan and the Law.

SECTION 4.12. Project Completion.

(a) The Project consists and will consist of the facilities described in Exhibit D and the Borrower shall make no changes thereto or to the operation thereof which would affect the qualification of the Project as a "public development facility" within the meaning of the Act or the qualifications of the Project for tax-exempt financing under the Code.

(b) The City, upon completion of the Project, will have good and valid title to the Project sufficient to carry out the purposes of this Loan Agreement.

(c) The Borrower intends to utilize the Project or cause the Project to be utilized as a "public development facility" within the meaning of the Act.

(d) The Project will be located wholly within the County of Fresno.

(e) To the best of the Borrower's knowledge, no officer or official of the CIEDB has any material interest whatsoever in the Project or in the transactions contemplated by this Loan Agreement.

(f) All applicable local governmental agency, State and federal government certificates, approvals, permits and authorizations with respect to the construction of the Project have been obtained or will be obtained as soon as practicable.

SECTION 4.13. Existing Parity Obligations. As of the Effective Date, the CIEDB has a senior lien on Tax Revenues and there are no obligations on parity with this Loan.

ARTICLE V

AFFIRMATIVE COVENANTS OF THE BORROWER

SECTION 5.01. Punctual Payment. The Borrower will punctually pay, or cause to be paid, all payments required hereunder in strict conformity with the terms of this Loan Agreement, and it will faithfully observe and perform all of the conditions, covenants and requirements of this Loan Agreement.

SECTION 5.02. Payment of Claims. The Borrower from time to time will pay and discharge, or cause to be paid and discharged, any and all lawful claims for labor, materials or supplies, which, if unpaid, might become liens or charges upon the Tax Revenues or any part thereof, or upon any funds in the hands of the CIEDB, or which might impair the security of the Loan. Nothing herein contained shall require the Borrower to make any such payment so long as the Borrower in good faith shall contest the validity of said claims.

SECTION 5.03. Books and Accounts; Financial Statements.

(a) The Borrower will keep proper books of record and accounts in which complete and correct entries shall be made of all transactions relating to the tax increment revenues from the Project Area (which may be consolidated with other project areas or activities of the Borrower). Such books of record and accounts shall at all times during business hours be subject to the inspection of the CIEDB or its designee.

To the extent that any continuing disclosure certificate required by a Parity Debt Instrument provides the information required in subsections (b) through (c) of this Section 5.03, the Borrower may submit a copy of the certificate instead of providing separate statements setting forth the required information.

(b) The Borrower will prepare and file with the CIEDB annually as soon as practicable, but in any event not later than two hundred ten (210) days after the close of each Fiscal Year, so long as this Loan Agreement has not been discharged by the CIEDB, an audited financial statement of the Borrower relating to the Project Area for the preceding Fiscal Year, prepared by an Independent Accountant. The Borrower will furnish to the CIEDB such reasonable number of copies of such audited financial statements as may be required by the CIEDB for distribution (at the expense of the Borrower).

(c) Simultaneously with the delivery of the annual audited financial statements required by subsection (b), which may be referenced to meet the requirements of this subsection (c), the Borrower will deliver the following to the CIEDB:

(1) A Certificate of the Borrower stating the following:

(i) The total amount of assessed valuations of properties within the Project Area, for the most recent completed Fiscal Year, showing the total secured value, the total unsecured value and total other value, if applicable;

(ii) The total taxes eligible for allocation to the Borrower with respect to the Project Area pursuant to the Law for the most recent completed Fiscal Year, including gross tax increment revenues and all deductions for payments to Taxing Agencies, deposits into the housing fund and any other deductions required to be made to compute the Tax Revenues available to pay this Loan, Parity Debt and Subordinate Debt;

(iii) To the extent the Borrower has actual knowledge of any pending appeals of the amount of assessed valuation of any property in the Project Area, the total number of such appeals and the aggregate amount by which such assessed value and Tax Revenues would be reduced if all such appeals were granted in the amount requested;

(iv) The percentage by which annual Tax Revenues have provided coverage for this Loan and Parity Debt Service, and the percentage by which Tax Revenues available after the payment of Debt Service and Parity Debt Service provided coverage for Subordinate Debt for the most recent completed Fiscal Year; and

(v) The ten (10) largest assesseees of taxable property within the Project Area for the most recent completed Fiscal Year, showing the identity of each such assessee and the total assessed value of the properties owned by each such assessee, together with any assessment appeals filed by any of such taxpayers.

(2) Any amendments to the Redevelopment Plan that materially adversely affect the Tax Revenues. For purposes of this subsection, an estimated decrease in excess of five percent (5%) per annum from the prior Fiscal Year shall be deemed material;

(3) Notification of any Parity Debt or Subordinate Debt incurred since the last reporting date and certification that there had been no default or noncompliance under any Parity Debt Instruments or Subordinate Debt Instruments;

(4) Certification that no Event of Default has occurred and no event has occurred which, with the passing of time or the giving of notice or of both, would constitute an Event of Default;

(5) Certification that the Borrower is in compliance with the Tax Certificate;

(6) Notification of any other event or circumstance that would materially affect completion of the Project and/or repayment of this Loan; and

(7) Such other information as may be reasonably required.

(d) The Borrower shall, upon request, furnish to the CIEDB, in a format specified by the CIEDB, information concerning employment and other public benefits connected to the Project.

SECTION 5.04. Reserved.

SECTION 5.05. Notification to the CIEDB. The Borrower agrees to notify the CIEDB, immediately, by telephone promptly confirmed in writing, if any representation made in this Loan Agreement or in the application for financing to the CIEDB shall at any time so long as the Loan Agreement is outstanding prove untrue, or incorrect in any manner at the date the representation was made or reaffirmed, and the representation is material to the Loan.

SECTION 5.06. Protection of Security and Rights. The Borrower shall preserve and protect the security of the Loan and the rights of the CIEDB. From and after the Effective Date, the validity of this Loan Agreement shall be incontestable by the Borrower.

SECTION 5.07. Reserved.

SECTION 5.08. Tax Covenant. The Borrower recognizes that the Loan Funds consist of proceeds of a tax-exempt financing program. In order to maintain the tax-exempt status of the financing, the Borrower will not take any action, or fail to take any action, if such action or failure to take such action would adversely affect the exclusion from gross income

of the interest on the Bonds, and the Borrower specifically agrees to comply with all terms and conditions contained in the Tax Certificate and to provide annual certification of its compliance.

The provisions of this Section 5.08 shall survive the discharge of the CIEDB's obligations hereunder and shall apply to any trustee or other successor or assignee described in Section 8.02.

SECTION 5.09. Taxation of Leased Property. Whenever any property in the Project Area is redeveloped by the Borrower and thereafter is leased by the Borrower to any person or persons, or whenever the Borrower leases any real property in the Project Area to any person or persons for redevelopment, the property shall be assessed and taxed in the same manner as privately-owned property (in accordance with the Law), and the lease or contract shall provide (i) that the lessee shall pay taxes upon the assessed value of the entire property and not merely upon the assessed value of the leasehold interest, and (ii) that if for any reason the taxes paid by the lessee on such property in any year during the term of the lease shall be less than the taxes that would have been payable upon the entire property if the property were assessed and taxed in the same manner as privately-owned property, the lessee shall pay such difference to the Borrower within thirty (30) days after the taxes for such year become payable, and in any event prior to the delinquency date of such taxes established by law. Notwithstanding this section, Borrower's leases to tax exempt public entities shall not be taxable pursuant to this Section 5.09; the limitation on such leases as set forth in Section 6.02 shall apply.

SECTION 5.10. Assumption of Loan Agreement. The obligations of the Borrower under this Loan Agreement may not be assumed by another entity except in connection with a transfer of the entire Project Area by the Borrower and only upon prior written approval of the CIEDB and receipt by CIEDB of:

(1) an opinion of counsel experienced in matters relating to the tax-exempt status of interest on any obligations secured by this Loan Agreement, and approved by the CIEDB, to the effect that such transfer would not cause interest on the obligations to be included in gross income for federal income tax purposes;

(2) a Report signed by an Independent Consultant concluding that such transfer would not materially adversely affect the security for the Loan or the rights of the CIEDB; and

(3) evidence satisfactory to the CIEDB that the entity assuming the Loan is eligible pursuant to the Act.

SECTION 5.11. Completion of Project; Construction Contracts.

(a) The Borrower shall ensure that all activities undertaken with respect to the completion of the Project are undertaken and accomplished with due diligence and in conformity with all requirements of the Act and other applicable law.

(b) All construction contracts shall be let to the lowest responsible bidder at a fixed price subject to increase only for allowable extra work, change orders approved by the Borrower,

and damages or delays authorized by the laws of the State. The Borrower shall not approve any change orders cumulatively resulting in an increase in Project costs of more than five percent (5%) of the original construction contract amount without having funds committed for the increased Project costs.

(c) The Borrower shall notify the CIEDB forthwith upon the filing of a stop notice, litigation or any other legal proceeding which may impact the completion

SECTION 5.12. Payment from Tax-Exempt Debt. The Borrower hereby covenants to notify the CIEDB at least forty-five (45) days before making any repayment or prepayment of this Loan Agreement from the proceeds of any tax-exempt debt incurred by the Borrower that is otherwise permitted by Section 2.07.

SECTION 5.13. Further Assurances. The Borrower will adopt, make, execute and deliver any and all such further resolutions, instruments and assurances as may be reasonably required by the CIEDB as necessary or proper to carry out the intention or to facilitate the performance of this Loan Agreement and for the better assuring and confirming unto the CIEDB of the rights and benefits provided in this Loan Agreement.

SECTION 5.14. Agreement to Complete.

(a) The Borrower agrees that it will acquire, construct or install the Project, and construct, acquire and install other facilities and real and personal property deemed by the Borrower necessary for the operation of the Project. The Borrower may supplement or amend the Project description with written approval from the CIEDB from time to time, provided that no such supplement or amendment shall cause the Project or any portion thereof to fail to constitute a "project" within the meaning of the Act.

(b) At any time, upon request of the CIEDB, the Borrower agrees to make available to the CIEDB for review and copying all then current plans and specifications for the Project. The Borrower may identify any proprietary information in such plans and specifications and, to the extent legally permissible, the CIEDB agrees to keep such information confidential.

(c) As soon as the Project is completed, the Borrower shall evidence such completion by providing a Certificate of the Borrower to the CIEDB stating that (i) construction of the Project has been completed substantially in accordance with the final plans and specifications therefor and all labor, services, materials and supplies used in construction have been paid for, and (ii) all other facilities necessary in connection with the Project have been constructed, acquired and installed in accordance with the final plans and specifications therefor and all costs and expenses incurred in connection therewith have been paid. Notwithstanding the foregoing, such certificate may state that it is given without prejudice to any rights of the Borrower against third parties for the payment of any amount not then due and payable which exist at the date of such certificate or which may subsequently exist.

SECTION 5.15. Borrower's General Responsibility. The Borrower is solely responsible for the design, construction, operation and maintenance of the Project. Any review

or approval of plans, specifications, bid documents or other construction documents by the CIEDB is solely for the purpose of proper administration of Loan Funds by the CIEDB and shall not be deemed to relieve or restrict the Borrower's responsibility or result in any duty, obligation or responsibility on the part of the CIEDB or the officers and agents thereof.

SECTION 5.16. Borrower's Assurances and Commitments.

(a) **Compliance with Laws and Regulations.** The Borrower shall at all times comply and require its contractor and subcontractors to comply with all applicable federal and State laws, rules and regulations, and all applicable local ordinances, specifically including, but not limited to, prevailing wage, environmental, procurement and safety laws, rules, regulations, and ordinances. Borrower agrees that its failure to act in accordance with the provisions of this subsection (a) will not result in any duty, obligation or responsibility on the part of the CIEDB or the officers and agents thereof.

(b) **Archeological or Historical Resources.** Should a potential archeological or historical resource be discovered during construction, the Borrower agrees that all work in the area of the find will cease until a qualified archeologist has evaluated the situation and the Borrower has determined appropriate actions regarding preservation of the resource.

(c) **Construction Activities.** The Borrower shall assure that adequate supervision and inspection of Project construction activities are maintained. The CIEDB reserves the right to conduct an audit of Borrower's construction expenditures during construction and up to three years following receipt by CIEDB of a notice of completion or other evidence of completion satisfactory to the CIEDB. The CIEDB, at its discretion, may require the Borrower to conduct an interim and/or final audit at the Borrower's expense, such audit to be conducted by and a report prepared by an Independent Accountant.

(d) **Compliance with the Law.** The Borrower will comply with the Law so as not to adversely affect the security for the payment of the Loan and any Parity Debt. The Borrower will comply with the deposits required by the Law to be made to the Housing Fund.

SECTION 5.17. Project Access. The Borrower shall assure that the CIEDB or its designee will have suitable access to the Project site at all reasonable times so long as this Loan is outstanding and shall include provisions assuring such access in all contracts and subcontracts relating to the Project.

SECTION 5.18. Performance and Payment Bonds.

(a) The Borrower shall require its contractor to certify under penalty of perjury, and provide the Borrower with a copy of such certificates, which shall be available for the CIEDB's inspection if requested, that it has obtained a bond or bonds by one or more authorized surety companies satisfactory to Borrower; surety companies must be authorized to do business in California and have an agent for service of process in California. The Borrower shall require that the Borrower be named as an additional payee on the performance and payment bonds required herein and shall provide the CIEDB with a copy of the bonds to that effect.

(b) Said bond shall be in the amounts and for the following purposes: (i) an amount not less than one hundred percent (100%) of the total estimated cost of the Project construction contract amount conditioned upon the faithful performance of the terms of this Loan Agreement including the maintenance of the work for a period of one year from the date of final acceptance of work or improvements by the Borrower against any defective work or labor done, or defective materials furnished, and (ii) an additional amount not less than one hundred percent (100%) of the estimated cost of the Project securing payment to the subcontractors and to persons renting equipment or furnishing labor or materials to them for the Project.

SECTION 5.19. Continuing Disclosure. Upon the request of the CIEDB, the Borrower covenants to furnish certain financial and operating data pertaining to the Borrower that may be required to either: (i) enable the CIEDB to secure an Indenture by this Loan Agreement and issue any Bonds; or (ii) enable any underwriter to comply with Rule 15c2-12(b)(5) of the Securities and Exchange Commission in connection with the Bonds.

SECTION 5.20. Notice of Default and Event of Default. The Borrower covenants that it will deliver to the CIEDB, immediately after the Borrower shall have obtained knowledge of the occurrence of an Event of Default or default hereunder, a Certificate of the Borrower setting forth the details of such Event of Default or default and the action which the Borrower proposes to take with respect thereto.

SECTION 5.21. Compliance with State Contract Requirements. The Borrower shall comply with all provisions contained in Exhibit F so long as this Loan is outstanding.

SECTION 5.22. Statements of Indebtedness. The Borrower shall comply with all requirements of the Law to insure the allocation and payment to it of the Tax Revenues, including without limitation the timely filing of any necessary statements of indebtedness with appropriate officials of the County.

SECTION 5.23. Cumulative Tax Revenue Limit. The Borrower covenants that it will not accept Tax Revenues greater than Debt Service, including Subordinate Debt Service, in any year, if such acceptance will cause the amount remaining under any then-applicable tax increment limit in the Redevelopment Plan to fall below remaining cumulative Debt Service and Subordinate Debt Service, except for the purpose of depositing such revenues in escrow for the payment of this Loan and interest on and principal of and redemption premiums, if any, on Parity Debt or Subordinate Debt.

ARTICLE VI

NEGATIVE COVENANTS OF THE BORROWER

SECTION 6.01. Limitation on Additional Debt; No Senior Debt. The Borrower hereby covenants that, until the Loan has been paid and discharged pursuant to Section 8.05, the Borrower shall not after the date of this Loan Agreement issue any bonds, notes or other obligations, enter into any agreement or otherwise incur any loans, advances or

indebtedness, which are in any case secured by a lien on all or any part of the Tax Revenues that is superior to or on a parity with the lien established hereunder for the security of the Loan, excepting only Parity Debt meeting the requirements set out in Section 2.07 herein and Subordinate Debt meeting the requirements set out in Section 2.08 herein. Nothing herein is intended nor shall be construed in any way to prohibit or impose any limitations upon the issuance or incurrence by the Borrower of loans, bonds, notes, advances or other indebtedness that is not secured by Tax Revenues.

SECTION 6.02. Disposition of Property. The Borrower will not, except as otherwise provided in this Section 6.02, authorize the disposition of any real property in the Project Area to anyone which will result in such property becoming exempt from taxation because of public ownership or use or otherwise (except for public ownership or use contemplated by the Redevelopment Plan in effect on the date of adoption of this Loan Agreement, or property to be used for public streets or public off-street parking facilities or easements or rights of way for public utilities, or other similar uses) if such dispositions, together with all dispositions made on or after the Effective Date, shall result in more than ten percent (10%) of the land area in the Project Area being exempt from taxation. If the Borrower proposes to make any such disposition that when aggregated with dispositions on or after the Effective Date, shall comprise more than ten percent (10%) of the land area in the Project Area it shall cause to be filed with the CIEDB a Report of an Independent Consultant on the effect of such proposed disposition. If the Report concludes that the Tax Revenues will not be materially reduced by such proposed disposition, the Borrower may proceed with such proposed disposition. If the Report concludes that Tax Revenues will be materially reduced by such proposed disposition, the Borrower shall as a condition precedent to proceeding with such proposed disposition, require that such new owner or owners either:

(1) deposit in the Special Fund, so long as this Loan remains unpaid, an amount equal to the amount that would have been received by the Borrower as Tax Revenues if such property were assessed and taxed in the same manner as privately-owned non-exempt property, which payment shall be made within thirty (30) days after taxes for each year would become payable to the Taxing Agencies for non-exempt property and in any event prior to the delinquency date of such taxes established by law; or

(2) deposit to the Special Fund a single sum equal to the amount estimated by an Independent Consultant to be receivable from taxes on such property from the date of such payment to the final maturity of this Loan, less expected earnings on such amount calculated at five percent (5%) per annum.

For purposes of this section, a decrease in Tax Revenues in excess of five percent (5%) per annum from the prior Fiscal Year shall be deemed material.

SECTION 6.03. Nondiscrimination.

(a) During the performance of this Loan Agreement, Borrower, any contractor and its subcontractors shall not deny the contracts' benefits to any person on the basis of religion, color, ethnic group identification, sex, age, physical or mental disability, nor shall they discriminate unlawfully against any employee or applicant for employment because of race, religion, color,

national origin, ancestry, physical handicap, mental disability, medical condition, marital status, age or sex. The Borrower, any contractor and its subcontractor shall insure that the evaluation and treatment of employees and applicants for employment are free of such discrimination.

(b) The Borrower, any contractor and its subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Government Code section 12900 et seq.), the regulations promulgated thereunder (Title 2, California Code of Regulations, section 7285.0 et seq.), the provisions of Article 9.5, Chapter 1, Part 1, Division 3, Title 2 of the Government Code (sections 11135-11139.5) and any regulations promulgated thereunder.

(c) The Borrower, any contractor and its subcontractors shall not knowingly give preferential treatment of any kind whatsoever in connection with any business transaction related to the construction or operation of the Project to any of its affiliates or to any business enterprise in which Borrower has any financial interest, but in such business transactions shall deal at all times with such affiliates and enterprises on the same basis as though Borrower were dealing with any other parties.

(d) The Borrower, any contractor and its subcontractors shall, with respect to the Project described herein, give written notice of their obligations under this section to labor organizations representing employees of the Borrower and any contractor or subcontractor performing work on the Project which have a collective bargaining or other contract with the Borrower, contractor or subcontractor.

(e) The Borrower, any contractor and its subcontractors shall include the provisions of this section in all subcontracts to perform work under this Loan Agreement or any contract contemplated hereby.

SECTION 6.04. Amendment of Redevelopment Plan. The Borrower will not amend the Redevelopment Plan except as provided in this section. If the Borrower proposes to amend the Redevelopment Plan, it shall cause to be filed with the CIEDB a Report of an Independent Consultant on the effect of such proposed amendment. If the Report concludes that Tax Revenues will not be materially reduced by such proposed amendment, the Borrower may undertake such amendment. If the Report concludes that Tax Revenues will be materially reduced by such proposed amendment, the Borrower may not undertake such proposed amendment without the prior written consent of the CIEDB. For purposes of this section, a decrease in Tax Revenues in excess of five percent (5%) per annum from the prior Fiscal Year shall be deemed material.

ARTICLE VII

EVENTS OF DEFAULT AND REMEDIES

SECTION 7.01. Events of Default and Acceleration of Loan.

(a) The following events shall constitute Events of Default hereunder:

(1) failure by the Borrower to pay the principal of or interest or prepayment premium (if any) on the Loan pursuant to Section 3.03(a) or any Additional Payment pursuant to Section 3.03(b) when and as the same shall become due and payable;

(2) the occurrence of an event of default with respect to any Parity Debt or any Subordinate Debt which causes all principal of such Parity Debt or Subordinate Debt to become due and payable immediately;

(3) failure by the Borrower to observe and perform any of the covenants, agreements or conditions on its part contained in this Loan Agreement, other than as referred to in the preceding subsection (1), for a period of sixty (60) days after written notice specifying such failure and requesting that it be remedied has been given to the Borrower by the CIEDB, or to the Borrower and the CIEDB; provided, however, that if the failure stated in such notice can be corrected, but not within such sixty (60) day period, the CIEDB may consent to an extension of such time if corrective action is instituted by the Borrower within such sixty (60) day period and diligently pursued until such failure is corrected;

(4) the filing by the Borrower of a petition or answer seeking reorganization or arrangement under the federal bankruptcy laws or any other applicable law of the United States of America, or if a court of competent jurisdiction shall approve a petition, filed with or without the consent of the Borrower, seeking reorganization under the federal bankruptcy laws or any other applicable law of the United States of America, or if, under the provisions of any other law for the relief or aid of debtors, any court of competent jurisdiction shall assume custody or control of the Borrower or of the whole or any substantial part of its property;

(5) any representation or other written statement made by the Borrower contained in this Loan Agreement, the Loan application or in any instrument furnished in compliance with or in reference thereto shall prove to have been incorrect in any material respect; or

(6) an unexcused failure by the Borrower to pay amounts due under any bond, note, installment sale agreement, capital lease or other agreement or instrument to which it is a party relating to the borrowing of money, if such unpaid amount shall exceed fifty thousand dollars (\$50,000).

(b) If an Event of Default has occurred and is continuing, the CIEDB may (i) declare the principal of the Loan, together with the accrued interest on all unpaid installments thereof, to be due and payable immediately, and upon any such declaration the same shall become immediately due and payable, anything in this Loan Agreement to the contrary notwithstanding, and (ii) exercise any other remedies available to the CIEDB in law or at equity. Immediately upon becoming aware of the occurrence of an Event of Default, the CIEDB shall give notice of such Event of Default to the Borrower by telephone, telecopier, facsimile or other telecommunication device, promptly confirmed in writing. This provision, however, is subject to the condition that if, at any time after the principal of the Loan shall have been so declared due and payable, and before any judgment or decree for the payment of the moneys due shall have been obtained or entered, the Borrower shall deposit with the CIEDB a sum sufficient to pay all

installments of principal of the Loan due prior to such declaration and all accrued interest thereon, with interest on such overdue installments of principal and interest at the rate of the lesser of twelve percent (12%) per annum or the maximum rate permitted by law, and the reasonable expenses of the CIEDB (including but not limited to attorneys fees and costs), and any and all other defaults known to the CIEDB (other than in the payment of principal of and interest on the Loan due and payable solely by reason of such declaration) shall have been made good or cured to the satisfaction of the CIEDB or provision deemed by the CIEDB to be adequate shall have been made therefor, then, and in every such case, the CIEDB may, by written notice to the Borrower, rescind and annul such declaration and its consequences. However, no such rescission and annulment shall extend to or shall affect any subsequent default, or shall impair or exhaust any right or power consequent thereon.

SECTION 7.02. Remedies. Upon the occurrence of an Event of Default the CIEDB shall have the following rights, in addition to its rights under Section 7.01:

(a) by mandamus or other action or proceeding or suit at law or in equity to enforce its rights against the Borrower or any member, officer or employee thereof, and to compel the Borrower or any such member, officer or employee to perform and carry out its or his duties under law and the agreements and covenants required to be performed by it or him contained herein;

(b) by suit in equity to enjoin any acts or things which are unlawful or violate the rights of the CIEDB; or

(c) by suit in equity to require the Borrowers and its members, officers and employees to account as the trustee of an express trust.

SECTION 7.03. Application of Funds upon Default. All amounts received by the CIEDB pursuant to any right given or action taken by the CIEDB under provisions of this Loan Agreement, or otherwise held by the CIEDB upon the occurrence of an Event of Default, shall be applied by the CIEDB in the following order:

(a) First, to the payment of the costs and expenses of the CIEDB, including reasonable compensation to their agents and attorneys, including CIEDB employees as set forth in Section 2.03(f)(2); and

(b) Second, to the payment of the whole amount of interest on and principal of the Loan and any Parity Debt then due and unpaid, with interest on overdue installments of principal and interest at the rate of the lesser of twelve percent (12%) per annum or the maximum rate permitted by law; provided, however, that in the event such amounts shall be insufficient to pay in full the amount of such interest and principal, then such amounts shall be applied in the following order of priority:

(1) first, to the payment of all installments of interest on the Loan and any Parity Debt then due and unpaid, on a pro rata basis in the event that the available amounts are insufficient to pay all such interest in full;

(2) second, to the payment of principal of all installments of the Loan and any Parity Debt then due and unpaid, other than principal having come due and payable solely by reason of acceleration pursuant to Section 7.01, on a pro rata basis in the event that the available amounts are insufficient to pay all such principal in full; and

(3) third, to the payment of principal of the Loan and any Parity Debt then due and unpaid and having come due and payable solely by reason of acceleration pursuant to Section 7.01 or otherwise, on a pro rata basis in the event that the available amounts are insufficient to pay all such principal in full.

(c) Third, to the payment of other Additional Payments to the CIEDB as described in Section 7.03(f)(1).

SECTION 7.04. No Waiver. Nothing in this Article VII or in any other provision of this Loan Agreement shall affect or impair the obligation of the Borrower, which is absolute and unconditional, to pay from the Tax Revenues and other amounts pledged hereunder, all payments due hereunder, or affect or impair the right of action, which is also absolute and unconditional, of the CIEDB to institute suit to enforce such payment by virtue of the contract embodied in this Loan Agreement.

A waiver of any default by the CIEDB shall not affect any subsequent default or impair any rights or remedies on the subsequent default. No delay or omission of the CIEDB to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver of any such default or an acquiescence therein, and every power and remedy conferred upon the CIEDB by this Article VII may be enforced and exercised from time to time and as often as shall be deemed expedient by the CIEDB.

If a suit, action or proceeding to enforce any right or exercise any remedy shall be abandoned or determined adversely to the CIEDB, the Borrower and the CIEDB shall be restored to their former positions, rights and remedies as if such suit, action or proceeding had not been brought or taken.

SECTION 7.05. Remedies Not Exclusive. No remedy herein conferred upon or reserved to the CIEDB is intended to be exclusive of any other remedy. Every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute or otherwise, and may be exercised without exhausting and without regard to any other remedy conferred by law.

ARTICLE VIII

MISCELLANEOUS

SECTION 8.01. Venue. The CIEDB and the Borrower hereby agree that any action arising out of this Loan Agreement shall be filed and maintained in the Superior Court in and for the County of Sacramento, California, or in the United States District Court in and for the Eastern District of California.

SECTION 8.02. Assignment. This Loan Agreement may, at the CIEDB's discretion after the Bond Date, be assigned by the CIEDB to a trustee or any other party for the purpose of securing the payment of any bonds, notes or other obligations issued by the CIEDB and secured by this Loan Agreement and Loan, and the Borrower hereby consents to such assignment.

SECTION 8.03. Benefits Limited to Parties. Nothing in this Loan Agreement, expressed or implied, is intended to give to any person other than the Borrower, the CIEDB and any trustee for the Bonds, any right, remedy or claim under or by reason of this Loan Agreement. All covenants, stipulations, promises or agreements contained in this Loan Agreement by and on behalf of the Borrower shall be for the sole and exclusive benefit of the CIEDB.

SECTION 8.04. Successor. Whenever in this Loan Agreement either the Borrower or the CIEDB is named or referred to, such reference shall be deemed to include the successors or assigns thereof, and all the covenants and agreements in this Loan Agreement contained by or on behalf of the Borrower or the CIEDB shall bind and inure to the benefit of the respective successors and assigns thereof whether so expressed or not. Following the Bond Date the trustee for the Bonds will be the CIEDB's assignee.

SECTION 8.05. Discharge of Loan Agreement.

(a) If the Borrower shall pay and discharge the entire indebtedness under this Loan by paying or causing to be paid the principal of, interest and prepayment premium (if any) and Additional Payments on the Loan, as and when the same become due and payable, then, at the election of the Borrower, but only if all other amounts then due and payable hereunder shall have been paid or provision for their payment made, the pledge of and lien upon the Tax Revenues and other funds provided for in this Loan Agreement and all other obligations of the CIEDB and the Borrower under this Loan Agreement with respect to the Loan shall cease and terminate, except only (i) the obligation of the Borrower to pay or cause to be paid to the CIEDB, from the amounts so deposited with the CIEDB or such other fiduciary, all sums due with respect to this Loan Agreement including, without limitation, Additional Payments, and (ii) the obligations of the Borrower under Sections 5.08, 8.01, and 8.12. Notice of such election shall be filed with the CIEDB.

(b) After the Bond Date, all or any portion of unpaid principal installments of the Loan payment shall, prior to their payment dates or dates of prepayment, be deemed to have been paid within the meaning of and with the effect expressed in this section (except that the Borrower shall remain liable for such Loan payment, but only out of such money or securities deposited with the Bond trustee or other fiscal agent approved by the CIEDB for such payment), if (i) there shall have been deposited with the Bond trustee or other fiscal agent approved by the CIEDB either money in an amount which shall be sufficient, or federal securities (as defined below) which are not subject to redemption prior to maturity except by the holder thereof (including any such federal securities issued or held in book entry form) or tax-exempt obligations of a state or a political subdivision thereof which have been defeased under irrevocable escrow instructions with federal securities, the interest on and principal of which when paid will provide money

which, together with money, if any, deposited with the CIEDB, shall be sufficient to pay when due the principal and interest installments of such portions thereof on and prior to their payment dates or their dates of prepayment, as the case may be, and the prepayment premiums, if any, applicable thereto, and (ii) an opinion of nationally recognized bond counsel acceptable to the CIEDB is filed with the CIEDB to the effect that the action taken pursuant to this section will not cause the interest on the Bonds to be includable in gross income under the Code for federal income tax purposes. As used in this section, "federal securities" means United States of America Treasury bills, notes, bonds or certificates of indebtedness, or obligations of, or obligations guaranteed directly or indirectly by, the United States of America, or securities evidencing ownership interests in such obligations or in specified portions of the interest on or principal of such obligations.

SECTION 8.06. Amendment. This Loan Agreement may be amended by the parties in writing.

SECTION 8.07. Waiver of Personal Liability. No member, officer, agent or employee of the Borrower shall be individually or personally liable for the payment of the principal or premium if any, or the interest under this Loan Agreement; but nothing herein contained shall relieve any such member, officer, agent or employee from the performance of any official duty provided by law.

SECTION 8.08. Payment on Business Days. Whenever in this Loan Agreement any amount is required to be paid on a day that is not a Business Day, such payment shall be required to be made on the Business Day immediately following such day and no further interest shall accrue.

SECTION 8.09. Notices. All written notices to be given under this Loan Agreement shall be given by first-class mail or personal delivery to the party entitled thereto at its address set forth below, or at such address as the party may provide to the other party in writing from time to time, except that notices from the Borrower to the CIEDB shall be given by registered mail, or by telecommunication confirmed in writing. Notice shall be effective forty-eight (48) hours after deposit in the United States mail, postage prepaid or, in the case of any notice to the CIEDB or in the case of personal delivery to any person, upon actual receipt at the address set forth below:

If to the CIEDB:

California Infrastructure and Economic Development Bank
Attention: Credit Support Manager, CIEDB No. 03-048
P.O. Box 2830
Sacramento, California 95812-2830

For overnight or personal delivery:

California Infrastructure and Economic Development Bank
Attention: Credit Support Manager, CIEDB 03-048
1001 I Street, 19th Floor

Sacramento, California

Or to such other address as may be designated in writing by the CIEDB.

If to the Borrower:

Redevelopment Agency of the City of Fresno
Attention: Executive Director
2344 Tulare Street, Suite 200
Fresno, California 93721

Or to such other address as may be designated in writing by the Borrower.

SECTION 8.10. Partial Invalidity. If any portion of this Loan Agreement shall for any reason be held illegal, invalid or unenforceable, such holding shall not affect the validity and enforceability of the remaining portions of this Loan Agreement.

SECTION 8.11. Governing Law. This Loan Agreement shall be construed and governed in accordance with the laws of the State.

SECTION 8.12. Indemnification. The Borrower shall, to the extent permitted by law, indemnify and hold harmless the CIEDB and its respective members, directors, officers, employees and agents, and the Bond trustee and underwriter and its members, directors, officers, employees and agents, from and against any and all losses, claims, damages, liabilities or expenses, of every conceivable kind, character and nature whatsoever, including, but not limited to, losses, claims, damages, liabilities or expenses arising out of, resulting from or in any way connected with (i) this Loan Agreement or the Project, or the conditions, occupancy, use, possession, conduct or management of, or work done in or about, or from the planning, design, acquisition, installation or construction of the Project or any part thereof; (ii) the carrying out of any of the transactions contemplated by this Loan Agreement or any related document; (iii) information provided by the Borrower which is used in the offering for sale of the Bonds; or (iv) any violation of any environmental law, rule or regulation with respect to, or the release of any toxic substance on or near, the Project. The Borrower shall, to the extent permitted by law, pay or reimburse the CIEDB and its members, directors, officers, employees and agents for the Borrower's pro rata share of any and all reasonable costs, reasonable attorneys' fees, liabilities or expenses incurred in connection with investigating, defending against or otherwise in connection with any such losses, claims, damages, liabilities, expenses or actions. Notwithstanding anything to the contrary in this Loan Agreement, the CIEDB and its members, directors, officers, employees and agents shall not be entitled to payment, reimbursement or indemnification with respect to actions involving willful misconduct, default or gross negligence on the part of the CIEDB or its members, directors, officers, employees and agents.

The provisions of this Section 8.12 shall survive the discharge of the Borrower's obligations hereunder and shall apply to any trustee or other successor or assignee covered in Section 8.02.

SECTION 8.13. Contact Persons.

(a) The executive director of the CIEDB or such other person as designated in writing by the CIEDB shall manage this Loan Agreement for the CIEDB and shall have authority to make determinations and findings with respect to each controversy arising under or in connection with the interpretation, performance, or payment for work performed under this Agreement.


(b) The Borrower Project manager shall be the executive director of the Redevelopment Agency of the City of Fresno or such other person as designated in writing by the Borrower. The Borrower Project manager shall be the Borrower's representative for the administration of this Loan Agreement and shall have full authority to act on behalf of the Borrower in such administration. The executive director or such other person as designated by the executive director may designate in writing another person or persons authorized to request disbursement of Loan Funds. All communications given to the Borrower Project manager shall be as binding as if given to the Borrower.

SECTION 8.14. Execution. This Agreement may be executed and entered into in several counterparts, each of which shall be deemed an original, and all of which shall constitute but one and the same instrument.

[The balance of this page is intentionally left blank.]

IN WITNESS WHEREOF, the parties hereto have caused this Loan Agreement to be signed by the respective officers, all as of the day and year first above written.

CALIFORNIA INFRASTRUCTURE AND
ECONOMIC DEVELOPMENT BANK

By 
Stanton C. Madzeloth
Executive Director

Attest

By 
Blake Fowler
Assistant Executive Director

REDEVELOPMENT AGENCY OF THE CITY OF
FRESNO

By 
Daniel R. Fitzpatrick
Executive Director

Attest

By 
Rebecca E. Klisch
Ex Officio Clerk

EXHIBIT A-1

RESOLUTION NO. _____

A RESOLUTION OF THE REDEVELOPMENT AGENCY OF THE CITY OF FRESNO MAKING CERTAIN FINDINGS, AUTHORIZING THE EXECUTION AND DELIVERY OF THE TAX ALLOCATION LOAN AGREEMENT BETWEEN THE REDEVELOPMENT AGENCY OF THE CITY OF FRESNO AND THE CALIFORNIA INFRASTRUCTURE AND ECONOMIC DEVELOPMENT BANK, AND APPROVING CERTAIN OTHER MATTERS IN CONNECTION THEREWITH

WHEREAS, the California Infrastructure and Economic Development Bank ("Infrastructure Bank") administers a financing program to assist local governments with financing public development facilities as described in Section 63000 *et seq.* of the California Government Code (the "Act"); and

WHEREAS, the Infrastructure Bank has approved the application of the Redevelopment Agency of the City of Fresno (the Agency), and the application of the City of Fresno (the City), for financing to complete certain improvements in and benefiting the Roeding Redevelopment Park Redevelopment Project Area (Project Area) and related costs (the "Project") known as the "Roeding Infrastructure Improvements - Phase III," and for costs associated with the financing including, without limitation, the Infrastructure Bank's financing origination fee ("Project Costs"); and

WHEREAS, the City is concurrently seeking authorization to enter into certain lease agreements with the Infrastructure Bank for financing not exceeding two million, four hundred forty-one thousand dollars (\$2,441,000), the proceeds of which will be used to pay for Project Costs; and

WHEREAS, the Agency proposes to enter into a Tax Allocation Loan Agreement (the "Loan Agreement") with the Infrastructure Bank for a loan not exceeding two million, one hundred eighteen thousand dollars (\$2,118,000), the proceeds of which will be used for the Project Costs, and the repayment of which will be secured and repaid from tax increment revenues collected solely from the Project Area; and

WHEREAS, the proposed Loan Agreement has been presented at this meeting.

NOW, THEREFORE, the Board of the Redevelopment Agency of the City of Fresno does resolve as follows:

Section 1. Findings. Pursuant to section 33445 of the Health and Safety Code of the State of California, the Redevelopment Agency of the City of Fresno makes the following findings in support of the Loan:

- (a) The development and construction of the "Project" will benefit the

Redevelopment Agency of the City of Fresno Roeding Business Park Redevelopment Project Area (the "Project Area").

(b) Based on findings by the Council of the City, there is no other reasonable means of financing the Project available to the City or the Agency.

(c) Using tax increment for the Project will help eliminate one or more blighting conditions in the Project Area, including, but not limited to the following: upgrading Marks Avenue from a two lane country road to a four lane urban arterial street with curbs, gutters and paving, landscaping, street lights and an upgraded public water, sewer and storm drain system will help to attract new industrial development and contribute to the retention of quality existing businesses in the Project Area which will help eliminate physical blight and economic stagnation, including the elimination of depressed and stagnate property values. In the long term, new industry and the expansion and upgrading of existing businesses resulting from the public infrastructure improvements, the use of tax increment for the Project Area will help eliminate obsolete buildings; incompatible land uses; deteriorated and dilapidated buildings; depreciated or stagnant property values or impaired investments. New development and upgraded existing development will contribute to the elimination of physical and visual blight thereby helping to create a modern industrial-business park.

(d) The Project is in compliance with, and using tax increment for the Project is consistent with the Redevelopment Plan and with the Five-Year Implementation Plan for the Project Area (the latter adopted July 23, 2003).

Section 2. Approval. The Loan Agreement, substantially in the form presented at this meeting, the proceeds of which are to (i) finance the Project, and (ii) finance costs associated with the financing is hereby authorized and approved, with repayment thereof secured by and payable from tax increment moneys collected within the Project Area. Terms of the Loan Agreement to include: (a) interest rate not exceeding three and fifty-three hundredths percent (3.53%) per annum, (b) principal not exceeding two million, one hundred eighteen thousand dollars (\$2,118,000), (c) repayment term of thirty (30) years, (d) additional payments including but not limited to the annual fee to the Infrastructure Bank not exceeding three tenths of one percent (.3%).

Section 3. Authority and Direction. The Executive Director is authorized and directed to execute the Loan Agreement, substantially in the form presented, dated as of August 19, 2003, with such minor modifications thereto as the Executive Director may approve, and to deliver the Loan Agreement to the Infrastructure Bank. Execution and delivery shall conclusively evidence approval thereof. The Executive Director and the Finance Officer are each authorized and individually directed, for the Agency, to take any and all steps and to execute and deliver any and all certificates, contracts and other documents which they might deem necessary or appropriate to effectuate the purposes of this resolution including, without limitation, executing a tax certificate, and the Ex Officio Clerk is authorized and directed to attest to the Loan Agreement and to execute and deliver any and all certificates as may be necessary or appropriate to the financing.

Section 4. Ratification. Prior actions of Agency staff relating to the financing and the Loan Agreement are hereby ratified and confirmed.

Section 5. Effective Date. This resolution shall take effect upon adoption.

STATE OF CALIFORNIA)
COUNTY OF FRESNO) ss.
CITY OF FRESNO)

I, REBECCA E. KLISCH, Ex Officio Clerk of the Redevelopment Agency of the City of Fresno, certify that the foregoing resolution was adopted by the Board of the Redevelopment Agency at a regular meeting held on the ___ day of _____, 2004.

AYES :
NOES :
ABSENT :
ABSTAIN :

REBECCA E. KLISCH
City Clerk

BY: _____
Deputy

APPROVED AS TO FORM
CITY ATTORNEY'S OFFICE

BY: _____
Deputy

RESOLUTION NO. 1647

A RESOLUTION OF THE REDEVELOPMENT AGENCY OF THE CITY OF FRESNO MAKING CERTAIN FINDINGS, AUTHORIZING THE EXECUTION AND DELIVERY OF THE TAX ALLOCATION LOAN AGREEMENT BETWEEN THE REDEVELOPMENT AGENCY OF THE CITY OF FRESNO AND THE CALIFORNIA INFRASTRUCTURE AND ECONOMIC DEVELOPMENT BANK, AND APPROVING CERTAIN OTHER MATTERS IN CONNECTION THEREWITH

WHEREAS, the California Infrastructure and Economic Development Bank ("Infrastructure Bank") administers a financing program to assist local governments with financing Public Development Facilities as described in Section 63000 *et seq.* of the California Government Code (the "Act"); and

WHEREAS, the Infrastructure Bank has approved the application of the Redevelopment Agency of the City of Fresno (the Agency), and the application of the City of Fresno (the City), for financing to complete certain improvements in and benefiting the Roeding Redevelopment Park Redevelopment Project Area (Project Area) and related costs (the "Project") known as the "Roeding Infrastructure Improvements - Phase III, and for costs associated with the financing including, without limitation, the Infrastructure Bank's financing origination fee ("Project Costs"); and

WHEREAS, the City is concurrently seeking authorization to enter certain lease agreements with the Infrastructure Bank for financing not exceeding \$2,441,000, the proceeds of which will be used to pay for Project Costs; and

WHEREAS, the Agency proposes to enter a Tax Allocation Loan Agreement (the Loan Agreement) with the Infrastructure Bank for a loan not exceeding \$2,118,000, the proceeds of which will be used for the Project Costs, and the repayment of which will be secured and repaid from tax increment revenues collected solely from the Project Area; and

WHEREAS, the proposed Loan Agreement has been presented at this meeting and/or is on file with the City Clerk.

NOW, THEREFORE, the Board of the Redevelopment Agency of the City of Fresno does resolve as follows:

Section 1. Findings. Pursuant to section 33445 of the Health and Safety Code of the State of California, the Redevelopment Agency of the City of Fresno makes the following findings in support of the Loan:

(a) The development and construction of the "Project" will benefit to the Redevelopment Agency of the City of Fresno Roeding Business Park Redevelopment Project

Adopted _____
Approved _____
Effective _____

1647

Area (the "Project Area").

(b) Based on findings by the Council of the City, there is no other reasonable means of financing the Project available to the City.

(c) Using tax increment for the Project will help eliminate one or more blighting conditions in the Project Area, including, but not limited to the following: Upgrading Marks Avenue from a two lane country road to a four lane urban arterial street with curbs, gutters and paving, landscaping, street lights and an upgraded public water, sewer and storm drain system will help to attract new industrial development and contribute to the retention of quality existing businesses in the Project Area which will help eliminate physical blight and economic stagnation, including the elimination of depressed and stagnate property values. In the long term, new industry and the expansion and upgrading of existing businesses resulting from the public infrastructure improvements, the use of tax increment for the Project Area will help eliminate obsolete buildings; incompatible land uses; deteriorated and dilapidated buildings; depreciated or stagnant property values or impaired investments. New development and upgraded existing development will contribute to the elimination of physical and visual blight thereby helping to create a modern industrial-business park.

(d) The Project is in compliance with, and using tax increment for the Project is consistent with the Redevelopment Plan and with the Five-Year Implementation Plan for the Project Area (the latter adopted July 23, 2003).

Section 2. Approval. The Loan Agreement, substantially in the form presented at this meeting and/or on file with the City Clerk, the proceeds of which are to (i) finance the Project, and (ii) finance costs associated with the financing is hereby authorized and approved, with repayment thereof secured by and payable from tax increment moneys collected within the Project Area. Terms of the Loan Agreement to include: (a) interest rate not exceeding 3.53 percent per annum, (b) principal not exceeding \$2,118,000, (c) repayment term of 30 years, and (d) Additional Payments including, without limitation, an annual fee to the Infrastructure Bank not exceeding three tenths of one percent (.3%).

Section 3. Authority and Direction. The Executive Director and the Chairperson, either one acting alone, are each authorized and individually directed to execute the Loan Agreement, substantially in the form presented and/or on file with the City Clerk, dated as of August 19, 2003, with such minor modifications thereto as the Executive Director or Chairperson may approve, and to deliver the Loan Agreement to the Infrastructure Bank. Execution and delivery shall conclusively evidence approval thereof. The Executive Director, Agency Chairperson, and the Finance Officer are each authorized and individually directed, for the Agency, to take any and all steps and to execute and deliver any and all certificates, contracts and other documents which they might deem necessary or appropriate to effectuate the purposes of this resolution including, without limitation, executing a tax certificate, and the Ex Officio Clerk is authorized and directed to attest to the Loan Agreement and to execute and deliver any and all certificates as may be necessary or appropriate to the financing.

Section 4. Ratification. Prior actions of Agency staff relating to the financing and

the Loan Agreement are hereby ratified and confirmed.

Section 5. Effective Date. This resolution shall take effect upon adoption.

* * * * *

STATE OF CALIFORNIA)
COUNTY OF FRESNO) ss.
CITY OF FRESNO)

I, REBECCA E. KLISCH, Ex Officio Clerk of the Redevelopment Agency of the City of Fresno, certify that the foregoing resolution was adopted by the Board of the Redevelopment Agency at a regular meeting held on the 10th day of February 2004.

AYES : Boyajian, Calhoun, Dages, Duncan, Perea, Sterling.
NOES : None
ABSENT : Castillo
ABSTAIN : None

REBECCA E. KLISCH
City Clerk

BY: Rebecca Klisch
~~Deputy~~

APPROVED AS TO FORM
CITY ATTORNEY'S OFFICE

BY: Justin Smith
Deputy

EXHIBIT A-2

CERTIFICATION OF RESOLUTION

The undersigned hereby states and certifies:

(1) I am the duly qualified and acting Ex Officio Clerk of the Redevelopment Agency of the City of Fresno (the "Borrower"), and, as such, am familiar with the facts herein certified and am fully authorized to certify the same.

(2) Attached hereto is a true, correct and complete copy of the resolution of the governing body of the Borrower authorizing the execution and delivery of the Loan Agreement dated as of August 19, 2003 between the Borrower and the California Infrastructure and Economic Development Bank, adopted at a meeting thereof duly held on the date set forth in such resolution, of which meeting all of the members of said governing body had due notice and at which a quorum was present and acting throughout.

(3) I further certify that I have carefully compared the attached copy of the resolution with the original minutes of said meeting on file and of record in my office; that said copy is a true, correct and complete copy of the original resolution duly adopted by said governing body at said meeting and entered in said minutes; and that said resolution has not been amended, modified or rescinded since its adoption and is in full force and effect as of the date hereof.

(4) I further certify that in accordance with Government Code section 54954.2, the agenda of the meeting contained a brief description of the resolution to be considered at the meeting, and a copy thereof was posted at least seventy-two (72) hours before the meeting in a location freely accessible to members of the public.

Dated: _____, _____

REBECCA E. KLISCH
Ex Officio Clerk

By _____
Deputy

CERTIFICATION OF RESOLUTION

The undersigned hereby states and certifies:

(1) I am the duly qualified and acting Ex Officio Clerk of the Redevelopment Agency of the City of Fresno (the "Borrower"), and, as such, am familiar with the facts herein certified and am fully authorized to certify the same.

(2) Attached hereto is a true, correct and complete copy of the resolution of the governing body of the Borrower authorizing the execution and delivery of the Loan Agreement dated as of August 19, 2003 between the Borrower and the California Infrastructure and Economic Development Bank, adopted at a meeting thereof duly held on the date set forth in such resolution, of which meeting all of the members of said governing body had due notice and at which a quorum was present and acting throughout.

(3) I further certify that I have carefully compared the attached copy of the resolution with the original minutes of said meeting on file and of record in my office; that said copy is a true, correct and complete copy of the original resolution duly adopted by said governing body at said meeting and entered in said minutes; and that said resolution has not been amended, modified or rescinded since its adoption and is in full force and effect as of the date hereof.

(4) I further certify that in accordance with Government Code section 54954.2, the agenda of the meeting contained a brief description of the resolution to be considered at the meeting, and a copy thereof was posted at least seventy-two (72) hours before the meeting in a location freely accessible to members of the public.

Dated: FEB 10, 2004

REBECCA E. KLISCH
Ex Officio Clerk

By Rebecca E. Klisch
Deputy

EXHIBIT A-3

RESOLUTION NO.

A RESOLUTION OF THE COUNCIL OF THE CITY OF FRESNO MAKING CERTAIN FINDINGS AND APPROVING THE EXECUTION AND DELIVERY OF THE TAX ALLOCATION LOAN AGREEMENT BETWEEN THE REDEVELOPMENT AGENCY OF THE CITY OF FRESNO AND THE CALIFORNIA INFRASTRUCTURE AND ECONOMIC DEVELOPMENT

WHEREAS, the Redevelopment Agency of the City of Fresno ("Agency") desires to engage in the Roeding Infrastructure Improvements - Phase III (the "Project"), within Roeding Business Park Redevelopment Project Area (the "Project Area"), described as follows:

Improvements to Marks Avenue including right-of-way acquisitions; street and public utility improvements; railroad crossing improvements; the relocation of two canals; the construction of three bridges, two temporary drainage basins and a new water supply well; and business park entrance identification improvements.

WHEREAS, there are insufficient City resources to pay for all of the costs associated with the development and construction of the Project; and

WHEREAS, the California Infrastructure and Economic Development Bank is prepared to provide a loan in an amount not to exceed two million, one hundred eighteen thousand dollars (\$2,118,000) (the "Loan") for development and construction of the Project, to be repaid from tax increment revenues of the Project Area.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF FRESNO, AS FOLLOWS:

Section 1. Findings. Pursuant to section 33445 of the Health and Safety Code of the State of California, the City makes the following findings in support of the Loan;

(a) The development and construction of the "Project" will benefit to the Redevelopment Agency of the City of Fresno Roeding Business Park Redevelopment Project Area (the "Project Area").

(b) No other reasonable means of financing the Project are available to the City.

(c) Using tax increment for the Project will help eliminate one or more blighting conditions in the Project Area, including, but not limited to the following: upgrading Marks Avenue from a two lane country road to a four lane urban arterial street with curbs, gutters and paving, landscaping, street lights and an upgraded public water, sewer and storm drain system will help to attract new industrial development and contribute to the retention of quality existing businesses in the Project Area which will help eliminate physical blight and economic stagnation, including the elimination of depressed and stagnate property values. In the long term, new industry and the expansion and upgrading of existing businesses resulting from the

public infrastructure improvements, the use of tax increment for the Project Area will help eliminate obsolete buildings; incompatible land uses; deteriorated and dilapidated buildings; depreciated or stagnant property values or impaired investments. New development and upgraded existing development will contribute to the elimination of physical and visual blight thereby helping to create a modern industrial-business park.

(d) The Project is in compliance with, and using tax increment for the Project is consistent with the Redevelopment Plan and with the Five-Year Implementation Plan for the Project Area (the latter adopted July 23, 2002).

Section 2. Authority. The Redevelopment Agency of the City of Fresno is authorized to enter into the Tax Allocation Loan Agreement (the "Loan Agreement"), dated as of August 19, 2003, proposed to be entered into by the Redevelopment Agency of the City of Fresno and the California Infrastructure and Economic Development Bank. The aggregate principal amount of the Loan under the Loan Agreement shall not exceed two million, one hundred eighteen thousand dollars (\$2,118,000). As executed and delivered, such document shall be in substantially the form presented at this meeting, with such minor additions thereto or minor changes therein as the officers executing such document shall require or approve, such approval to be conclusively evidenced by the execution and delivery thereof.

Section 3. Effective Date. This resolution shall take effect upon its adoption.

* * * * *

STATE OF CALIFORNIA)
COUNTY OF FRESNO) ss.
CITY OF FRESNO)

I, REBECCA E. KLISCH, Ex Officio Clerk of the Redevelopment Agency of the City of Fresno, certify that the foregoing resolution was adopted by the Board of the Redevelopment Agency at a regular meeting held on the ___ day of _____, 2004.

AYES :
NOES :
ABSENT :
ABSTAIN :

BY: _____
REBECCA E. KLISCH
City Clerk

APPROVED AS TO FORM
CITY ATTORNEY'S OFFICE

BY: _____
Deputy

RESOLUTION NO. 2004-51

A RESOLUTION OF THE COUNCIL OF THE CITY OF FRESNO MAKING CERTAIN FINDINGS AND APPROVING THE EXECUTION AND DELIVERY OF THE TAX ALLOCATION LOAN AGREEMENT BETWEEN THE REDEVELOPMENT AGENCY OF THE CITY OF FRESNO AND THE CALIFORNIA INFRASTRUCTURE AND ECONOMIC DEVELOPMENT BANK

WHEREAS, the Redevelopment Agency of the City of Fresno ("Agency") desires to engage in the Roeding Infrastructure Improvements - Phase III (the "Project"), within Roeding Business Park Redevelopment Project Area (the "Project Area"), described as follows:

Improvements to Marks Avenue including right-of-way acquisitions; street and public utility improvements; railroad crossing improvements; the relocation of two canals; the construction of three bridges, two temporary drainage basins and a new water supply well; and business park entrance identification improvements.

WHEREAS, there are insufficient City resources to pay for all of the costs associated with the development and construction of the Project; and

WHEREAS, the California Infrastructure and Economic Development Bank is prepared to provide a loan in an amount not to exceed two million, one hundred eighteen thousand dollars (\$2,118,000) (the "Loan") for development and construction of the Project, to be repaid from tax increment revenues of the Project Area.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF FRESNO, AS FOLLOWS:

Section 1. Findings. Pursuant to section 33445 of the Health and Safety Code of the State of California, the City makes the following findings in support of the Loan;

(a) The development and construction of the "Project" will benefit to the Redevelopment Agency of the City of Fresno Roeding Business Park Redevelopment Project Area (the "Project Area").

(b) No other reasonable means of financing the Project are available to the City.

(c) Using tax increment for the Project will help eliminate one or more blighting conditions in the Project Area, including, but not limited to the following: upgrading Marks Avenue from a two lane country road to a four lane urban arterial street with curbs, gutters and paving, landscaping, street lights and an upgraded public water, sewer and storm drain system will help to attract new industrial development and contribute to the retention of quality existing businesses in the Project Area which will help eliminate physical blight and economic stagnation, including the elimination of depressed and stagnate property values. In the long

Adopted _____
Approved _____
Effective _____
2/10/04

2004-51

term, new industry and the expansion and upgrading of existing businesses resulting from the public infrastructure improvements, the use of tax increment for the Project Area will help eliminate obsolete buildings; incompatible land uses; deteriorated and dilapidated buildings; depreciated or stagnant property values or impaired investments. New development and upgraded existing development will contribute to the elimination of physical and visual blight thereby helping to create a modern industrial-business park.

(d) The Project is in compliance with, and using tax increment for the Project is consistent with the Redevelopment Plan and with the Five-Year Implementation Plan for the Project Area (the latter adopted July 23, 2002).

Section 2. Authority. The Redevelopment Agency of the City of Fresno is authorized to enter into the Tax Allocation Loan Agreement (the "Loan Agreement"), dated as of August 19, 2003, proposed to be entered into by the Redevelopment Agency of the City of Fresno and the California Infrastructure and Economic Development Bank. The aggregate principal amount of the Loan under the Loan Agreement shall not exceed two million, one hundred eighteen thousand dollars (\$2,118,000). As executed and delivered, such document shall be in substantially the form presented at this meeting, with such minor additions thereto or minor changes therein as the officers executing such document shall require or approve, such approval to be conclusively evidenced by the execution and delivery thereof.

Section 3. Effective Date. This resolution shall take effect upon its adoption.

* * * * *

STATE OF CALIFORNIA)
COUNTY OF FRESNO) ss.
CITY OF FRESNO)

I, REBECCA E. KLISCH, Ex Officio Clerk of the Redevelopment Agency of the City of Fresno, certify that the foregoing resolution was adopted by the Board of the Redevelopment Agency at a regular meeting held on the 10th day of February 2004.

AYES : Boyajian, Calhoun, Dages, Duncan, Perea, Sterling
NOES : None
ABSENT : Castillo
ABSTAIN : None

REBECCA E. KLISCH
City Clerk

BY: Rebecca E. Klisch
Deputy

APPROVED AS TO FORM
CITY ATTORNEY'S OFFICE

BY: Deborah Smith
Deputy

EXHIBIT A-4

CERTIFICATION OF RESOLUTION

The undersigned hereby states and certifies:

(1) I am the duly qualified and acting City Clerk of the City Council and the Ex Officio Clerk of the Redevelopment Agency of the City of Fresno (the "Borrower"), and, as such, am familiar with the facts herein certified and am fully authorized to certify the same.

(2) Attached hereto is a true, correct and complete copy of the resolution of the Council of the City of Fresno authorizing the execution and delivery of the Loan Agreement dated as of August 19, 2003 between the Borrower and the California Infrastructure and Economic Development Bank, adopted at a meeting thereof duly held on the date set forth in such resolution, of which meeting all of the members of said governing body had due notice and at which a quorum was present and acting throughout.

(3) I further certify that I have carefully compared the attached copy of the resolution with the original minutes of said meeting on file and of record in my office; that said copy is a true, correct and complete copy of the original resolution duly adopted by said governing body at said meeting and entered in said minutes; and that said resolution has not been amended, modified or rescinded since its adoption and is in full force and effect as of the date hereof.

(4) I further certify that in accordance with Government Code section 54954.2, the agenda of the meeting contained a brief description of the resolution to be considered at the meeting, and a copy thereof was posted at least seventy-two (72) hours before the meeting in a location freely accessible to members of the public.

Dated: _____, _____

By _____
REBECCA E. KLISCH
City Clerk

CERTIFICATION OF RESOLUTION

The undersigned hereby states and certifies:

(1) I am the duly qualified and acting City Clerk of the City Council and the Ex Officio Clerk of the Redevelopment Agency of the City of Fresno (the "Borrower"), and, as such, am familiar with the facts herein certified and am fully authorized to certify the same.

(2) Attached hereto is a true, correct and complete copy of the resolution of the Council of the City of Fresno authorizing the execution and delivery of the Loan Agreement dated as of August 19, 2003 between the Borrower and the California Infrastructure and Economic Development Bank, adopted at a meeting thereof duly held on the date set forth in such resolution, of which meeting all of the members of said governing body had due notice and at which a quorum was present and acting throughout.

(3) I further certify that I have carefully compared the attached copy of the resolution with the original minutes of said meeting on file and of record in my office; that said copy is a true, correct and complete copy of the original resolution duly adopted by said governing body at said meeting and entered in said minutes; and that said resolution has not been amended, modified or rescinded since its adoption and is in full force and effect as of the date hereof.

(4) I further certify that in accordance with Government Code section 54954.2, the agenda of the meeting contained a brief description of the resolution to be considered at the meeting, and a copy thereof was posted at least seventy-two (72) hours before the meeting in a location freely accessible to members of the public.

Dated: Feb 10, 2004

REBECCA E. KLISCH
City Clerk

By Rebecca E. Klisch
Deputy

EXHIBIT B

**CERTIFICATE OF
FINANCIAL OFFICER OF THE REDEVELOPMENT AGENCY OF THE CITY OF FRESNO**

The undersigned hereby states and certifies:

- (1) I am the duly qualified and acting Financial Officer of the Redevelopment Agency of the City of Fresno (the "Borrower"), and, as such, am familiar with the facts herein certified and am fully authorized to certify the same.
- (2) The financial data submitted by Borrower in the application for financing (including supplements thereto) in connection with the Tax Allocation Loan Agreement by and between the Borrower and the California Infrastructure and Economic Development Bank (the "CIEDB") dated as of August 19, 2003 (the "Loan Agreement") was true at the time submitted to the CIEDB and as of the date of this certification, remains true and correct in all material respects, and such information did not and does not contain any untrue or misleading statement of a material fact or omit to state any material fact necessary to make the statements therein not misleading in light of the circumstances under which they were made.
- (3) The Borrower is not in breach of or in default under any bond indenture, loan agreement, note or other instrument to which it is a party.
- (4) The Borrower maintains workers' compensation insurance covering all Borrower's employees.
- (5) The CIEDB financing secured by this Loan Agreement is the only obligation secured by a first lien on tax increment revenue.
- (6) The representations and warranties made in the Loan Agreement are true and correct as if made on the date of this certificate.

Dated: _____, _____

**REDEVELOPMENT AGENCY OF THE CITY OF
FRESNO**

By _____
**Lora Kutka
Financial Officer**

CERTIFICATE OF
FINANCIAL OFFICER OF THE REDEVELOPMENT AGENCY OF THE CITY OF
FRESNO

The undersigned hereby states and certifies:

- (1) I am the duly qualified and acting Financial Officer of the Redevelopment Agency of the City of Fresno (the "Borrower"), and, as such, am familiar with the facts herein certified and am fully authorized to certify the same.
- (2) The financial data submitted by Borrower in the application for financing (including supplements thereto) in connection with the Tax Allocation Loan Agreement by and between the Borrower and the California Infrastructure and Economic Development Bank (the "CIEDB") dated as of August 19, 2003 (the "Loan Agreement") was true at the time submitted to the CIEDB and as of the date of this certification, remains true and correct in all material respects, and such information did not and does not contain any untrue or misleading statement of a material fact or omit to state any material fact necessary to make the statements therein not misleading in light of the circumstances under which they were made.
- (3) The Borrower is not in breach of or in default under any bond indenture, loan agreement, note or other instrument to which it is a party.
- (4) The Borrower maintains workers' compensation insurance covering all Borrower's employees.
- (5) The CIEDB financing secured by this Loan Agreement is the only obligation secured by a first lien on tax increment revenue.
- (6) The representations and warranties made in the Loan Agreement are true and correct as if made on the date of this certificate.

Dated: 2/10, 2004

REDEVELOPMENT AGENCY OF THE
CITY OF FRESNO

By Lora Kutka

Lora Kutka
Financial Officer

EXHIBIT C

CONDITIONS PRECEDENT TO DISBURSEMENT

(a) **Initial Disbursement.** Disbursement for the Borrower's origination fee in the amount of eighteen thousand three dollars (\$18,003) shall be made concurrent with the initial disbursement. No funds shall be disbursed pursuant to this Loan Agreement until and unless Borrower, in the good faith judgment of the CIEDB, has specifically complied with each of the following and has provided certification or documentation satisfactory to the CIEDB:

(1) An opinion of legal counsel that Borrower has the legal authority to enter into this Loan Agreement and that the Loan Agreement is a legal, binding and enforceable agreement of Borrower in a form substantially similar to Exhibit H;

(2) Resolution adopted by Borrower and Certification of Resolution in a form substantially similar to Exhibit A-1.

(3) Resolution adopted by City Council of the City of Fresno and Certification of Resolution in a form substantially similar to Exhibit A-2.

(4) Certificate of the Borrower's authorized representative in a form substantially similar to Exhibit B.

(5) Tax Certificate executed by Borrower in a form substantially similar to Exhibit G.

(6) Fully executed Facility Lease between CIEDB and the City of Fresno, providing additional Project financing, and a fully executed Site Lease between CIEDB and the City of Fresno, with resolutions and legal opinion.

(b) **Construction Costs.** Other than the origination fee, no funds shall be disbursed pursuant to this Loan Agreement until and unless Borrower has, in the good faith judgment of the CIEDB, provided the CIEDB with all the documents required in section (a) herein and the following documents:

(1) Certificate of the Borrower's executive director or legal counsel that Borrower has obtained any and all lands, rights-of-way, easements, lot line adjustments, and orders of possession which are required for construction and operation of the Project;

(2) Certificate of the Borrower's Executive Director that all required permits have been obtained for the construction of the Project;

(3) Certificate of the Borrower's executive director that:

(A) All construction contracts and subcontracts necessary for Project construction have been awarded, and were awarded pursuant to competitive bidding and Borrower procedures normally required for similar construction projects;

(B) Costs are consistent with the Exhibit D sources and uses chart;

(C) All prime contracts require the contractor to maintain appropriate builder's risk insurance and name Borrower as an additional insured and loss payee, require the contractor to maintain liability insurance and name the Borrower as an additional insured, and include the performance and payment bond provisions set forth in Section 5.18 of this Loan Agreement and name the Borrower as an additional payee;

(D) All construction contracts are let to the lowest responsible bidder at a fixed price subject to increase only for allowable extra work, change orders approved by Borrower, and damages or delays authorized by the laws of the State;

(E) All construction contracts require payment of prevailing wage rates and compliance with Chapter 1 (commencing with section 1720) of Part 7 of Division 2 of the California Labor Code;

(F) All construction contracts require payment of workers' compensation insurance by contractors and subcontractors;

(G) All construction contracts include the nondiscrimination provisions set forth in Section 6.03; and

(H) Borrower utilized contractor pre-qualification forms developed by the Director of Industrial Relations as set forth in AB 574 (Chapter 972 of the Statutes of 1999) codified in Public Contract Code section 20101 et seq.

(c) Final disbursement: The final disbursement of Loan Funds allocated for construction costs shall not be made until and unless Borrower, in the good faith judgment of the CIEDB, has specifically complied with each of the following and provided certification or documentation satisfactory to the CIEDB:

(1) Recorded Project notice of completion or other evidence of completion;

(2) Lien waivers for the Project, or passage of the applicable statutory time periods for filing mechanics and other similar liens;

(3) Certificate of the Borrower that the Project has been completed according to its approved final plans and specifications, that the completed Project is consistent with the definition of Project in this Loan Agreement and is acceptable to the Borrower and that the requirements of Section 5.14(c) have been met;

(4) Certification of Recycled Content as set out in Section 6 of Exhibit F; and

(5) Certification that the Borrower has obtained all licenses and permits (including

operating permits), and approvals from any governmental agency or authority having jurisdiction over the Borrower in connection with the Project, where applicable.

EXHIBIT D

DESCRIPTION AND PROJECT SOURCES AND USES

Project Title:

Roeding Infrastructure Improvements - Phase III

Project Description:

Improvements to Marks Avenue including right-of-way acquisitions; street and public utility improvements; railroad crossing improvements; the relocation of two canals; the construction of three bridges, two temporary drainage basins and a new water supply well; and business park entrance identification improvements.

Project Sources and Uses:

Project Uses	Project Sources				Total
	CIEDB City	CIEDB Agency	Agency	EDA	
Land Acquisition	\$483,999				\$483,999
Street and Public Utilities Improvements	\$527,042	\$2,099,997	\$1,500,000	\$420,000	\$4,532,039
Engineering/Architectural/Design/Plan Review	\$277,752				\$277,752
Railroad Crossing Improvement	\$490,858				\$490,858
Water Well	\$350,000				\$350,000
Fiscal Consultant Report	\$32,500				\$32,500
Business Park Entrance Sign and Landscaping	\$250,000				\$250,000
Title Insurance	\$3,200				\$3,200
Legal Fees ⁽¹⁾	\$5,000				\$20,000
CIEDB Origination Fee	\$20,749	\$18,003			\$38,752
Total	\$2,441,100	\$2,118,000	\$1,500,000	\$420,000	\$6,479,100

⁽¹⁾ Legal Fees associated with the creation of a specialized lease agreement containing a tax increment conversion provision.

City is the City of Fresno.
 Agency is the Borrower.
 EDA is the U.S. Economic Development Administration.

Any line item may be amended up to twenty percent (20%) upon the prior written approval of the CIEDB.

The CIEDB shall not be responsible for the payment of any cost overruns.

The Borrower shall submit invoices only for expenses incurred. Expenses contained in the invoices shall be listed according to the categories contained in the above Project sources and uses chart. The CIEDB shall pay ninety percent (90%) of all approved invoices for construction costs submitted to the Borrower prior to compliance with Exhibit C, section (c) provided that if the Borrower demonstrates to the satisfaction of the CIEDB that the Borrower is obliged by law to make payments to certain construction contractors for one hundred percent (100%) for invoiced amounts or to establish a retention fund for final payment to certain contractors, the CIEDB shall disburse Loan Funds in the amount required by law.

Borrower shall not approve any change orders cumulatively resulting in an increase in

Project costs of more than five percent (5%) of the original construction contract amount without having funds committed for the increased Project costs.

Project costs not covered by this Loan Agreement will be paid by the Borrower.

No costs of the Project to be paid by CIEDB can be incurred prior to the Effective Date except for Engineering/Architectural/Design/Plan Review, Fiscal Consultant Report, and Legal Fees.

EXHIBIT E

AMORTIZATION SCHEDULE

NOTE: This amortization schedule is an estimate only and assumes that the total amount of Loan Funds will be disbursed as of January 1, 2004. Please note that prior to the Bond Date during the interest only period, interest payments will be calculated on amounts disbursed. Principal shall be due as scheduled below. A replacement amortization schedule will be sent to the Borrower upon the Bond Date.

1-Jan-2004	\$2,118,000.00						
1-Aug-2004			\$43,613.15	\$43,613.15	\$6,354.00	\$49,967.15	
1-Feb-2005			\$37,382.70	\$37,382.70		\$37,382.70	\$87,349.85
1-Aug-2005	\$2,074,901.74	\$43,098.26	\$37,382.70	\$80,480.96	\$6,354.00	\$86,834.96	
1-Feb-2006			\$36,622.02	\$36,622.02		\$36,622.02	\$123,456.97
1-Aug-2006	\$2,030,282.12	\$44,619.63	\$36,622.02	\$81,241.64	\$6,224.71	\$87,466.35	
1-Feb-2007			\$35,834.48	\$35,834.48		\$35,834.48	\$123,300.83
1-Aug-2007	\$1,984,087.42	\$46,194.70	\$35,834.48	\$82,029.18	\$6,090.85	\$88,120.02	
1-Feb-2008			\$35,019.14	\$35,019.14		\$35,019.14	\$123,139.17
1-Aug-2008	\$1,938,262.05	\$47,825.37	\$35,019.14	\$82,844.51	\$5,952.26	\$88,796.78	
1-Feb-2009			\$34,175.03	\$34,175.03		\$34,175.03	\$122,971.80
1-Aug-2009	\$1,886,748.44	\$49,513.61	\$34,175.03	\$83,688.63	\$5,808.79	\$89,497.42	
1-Feb-2010			\$33,301.11	\$33,301.11		\$33,301.11	\$122,798.53
1-Aug-2010	\$1,835,487.01	\$51,281.44	\$33,301.11	\$84,582.55	\$5,660.25	\$90,222.79	
1-Feb-2011			\$32,396.35	\$32,396.35		\$32,396.35	\$122,619.14
1-Aug-2011	\$1,782,416.04	\$53,070.97	\$32,396.35	\$85,467.31	\$5,506.46	\$90,973.77	
1-Feb-2012			\$31,459.64	\$31,459.64		\$31,459.64	\$122,433.42
1-Aug-2012	\$1,727,471.67	\$54,944.37	\$31,459.64	\$86,404.01	\$5,347.25	\$91,751.26	
1-Feb-2013			\$30,489.87	\$30,489.87		\$30,489.87	\$122,241.14
1-Aug-2013	\$1,670,587.76	\$56,883.91	\$30,489.87	\$87,373.78	\$5,182.42	\$92,558.20	
1-Feb-2014			\$29,485.87	\$29,485.87		\$29,485.87	\$122,042.07
1-Aug-2014	\$1,611,695.85	\$58,891.91	\$29,485.87	\$88,377.78	\$5,011.76	\$93,389.55	
1-Feb-2015			\$28,446.43	\$28,446.43		\$28,446.43	\$121,835.98
1-Aug-2015	\$1,550,725.06	\$60,970.79	\$28,446.43	\$89,417.23	\$4,835.09	\$94,252.31	
1-Feb-2016			\$27,370.30	\$27,370.30		\$27,370.30	\$121,622.61
1-Aug-2016	\$1,487,602.00	\$63,123.06	\$27,370.30	\$90,493.36	\$4,652.18	\$95,145.53	
1-Feb-2017			\$26,256.18	\$26,256.18		\$26,256.18	\$121,401.71
1-Aug-2017	\$1,422,250.69	\$65,351.31	\$26,256.18	\$91,607.48	\$4,462.81	\$96,070.29	
1-Feb-2018			\$25,102.72	\$25,102.72		\$25,102.72	\$121,173.01
1-Aug-2018	\$1,354,592.48	\$67,658.21	\$25,102.72	\$92,760.93	\$4,266.75	\$97,027.68	
1-Feb-2019			\$23,908.56	\$23,908.56		\$23,908.56	\$120,936.24
1-Aug-2019	\$1,284,545.94	\$70,046.54	\$23,908.56	\$93,955.10	\$4,063.78	\$98,018.88	
1-Feb-2020			\$22,672.24	\$22,672.24		\$22,672.24	\$120,691.11
1-Aug-2020	\$1,212,026.76	\$72,519.19	\$22,672.24	\$95,191.42	\$3,853.64	\$99,045.06	
1-Feb-2021			\$21,392.27	\$21,392.27		\$21,392.27	\$120,437.33
1-Aug-2021	\$1,136,947.64	\$75,079.11	\$21,392.27	\$96,471.38	\$3,636.08	\$100,107.46	
1-Feb-2022			\$20,067.13	\$20,067.13		\$20,067.13	\$120,174.59
1-Aug-2022	\$1,059,218.24	\$77,729.41	\$20,067.13	\$97,796.53	\$3,410.84	\$101,207.37	
1-Feb-2023			\$18,695.20	\$18,695.20		\$18,695.20	\$119,902.58

1-Aug-2023	\$978,744.99	\$80,473.25	\$18,695.20	\$99,168.45	\$3,177.65	\$102,346.11	
1-Feb-2024			\$17,274.85	\$17,274.85		\$17,274.85	\$119,620.96
1-Aug-2024	\$895,431.03	\$83,313.96	\$17,274.85	\$100,588.81	\$2,936.23	\$103,525.04	
1-Feb-2025			\$15,804.36	\$15,804.36		\$15,804.36	\$119,329.40
1-Aug-2025	\$809,176.09	\$86,254.94	\$15,804.36	\$102,059.30	\$2,686.29	\$104,745.59	
1-Feb-2026			\$14,281.96	\$14,281.96		\$14,281.96	\$119,027.55
1-Aug-2026	\$719,876.35	\$89,299.74	\$14,281.96	\$103,581.70	\$2,427.53	\$106,009.23	
1-Feb-2027			\$12,705.82	\$12,705.82		\$12,705.82	\$118,715.04
1-Aug-2027	\$627,424.32	\$92,452.02	\$12,705.82	\$105,157.84	\$2,159.63	\$107,317.47	
1-Feb-2028			\$11,074.04	\$11,074.04		\$11,074.04	\$118,391.51
1-Aug-2028	\$531,708.74	\$95,715.56	\$11,074.04	\$106,789.62	\$1,882.27	\$108,671.89	
1-Feb-2029			\$9,384.66	\$9,384.66		\$9,384.66	\$118,056.55
1-Aug-2029	\$432,614.41	\$99,094.34	\$9,384.66	\$108,479.00	\$1,595.13	\$110,074.12	
1-Feb-2030			\$7,635.64	\$7,635.64		\$7,635.64	\$117,709.77
1-Aug-2030	\$330,022.04	\$102,592.37	\$7,635.64	\$110,228.01	\$1,287.84	\$111,525.86	
1-Feb-2031			\$5,824.89	\$5,824.89		\$5,824.89	\$117,350.74
1-Aug-2031	\$223,808.16	\$106,213.88	\$5,824.89	\$112,038.77	\$990.07	\$113,028.83	
1-Feb-2032			\$3,950.21	\$3,950.21		\$3,950.21	\$116,979.05
1-Aug-2032	\$113,844.93	\$109,983.23	\$3,950.21	\$113,913.44	\$671.42	\$114,584.87	
1-Feb-2033			\$2,009.36	\$2,009.36		\$2,009.36	\$116,594.23
1-Aug-2033		\$113,844.93	\$2,009.36	\$115,854.29	\$341.53	\$116,195.83	\$116,195.83
Total Payments:		\$2,118,000.00	\$1,343,659.20	\$3,461,659.20	\$116,839.50	\$3,578,498.70	\$3,578,498.70

EXHIBIT F

STATE CONTRACT REQUIREMENTS

SECTION 1. Record Establishment, Access and Retention.

(a) The Borrower agrees that the CIEDB shall have the right to review, obtain, and copy all records pertaining to performance of this Loan Agreement. The Borrower agrees to provide the CIEDB with any relevant information requested and shall permit the access to its premises, upon reasonable notice, during normal business hours for the purpose of interviewing employees and inspecting and copying such books, records, accounts, and other material that may be relevant to a matter under investigation for the purpose of determining compliance with Government Code section 8546.7. The Borrower further agrees to maintain records concerning costs paid with State funds for three years following the CIEDB's receipt of a notice of completion or payment of an invoice, whichever is later. In the event of a Loan Agreement performance or payment dispute, the three-year minimum shall automatically be extended until the dispute is resolved.

(b) Upon inspection, the Borrower shall promptly implement any corrective measures recommended by the CIEDB, its representatives, or the Bureau of State Audits ("BSA") regarding the requirements of this section.

(c) The Borrower shall keep all books, records, accounts and documents pertaining to this Loan Agreement separate from other activities unrelated to this Loan Agreement.

SECTION 2. Nondiscrimination Clause and Compliance Statement.

(a) By signing this Loan Agreement, the Borrower and its contractors agree that each shall not, during the performance of this Loan Agreement, unlawfully discriminate, harass or allow harassment, against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, disability (including HIV and AIDS), medical condition (cancer), age, marital status, denial of family and medical care leave or denial of pregnancy disability leave. The Borrower and its contractors shall ensure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. The Borrower and its contractors shall comply with the provisions of the Fair Employment and Housing Act (Government Code section 12900 et seq.), and the applicable regulations promulgated thereunder (Title 2, California Code of Regulations, section 7285.0 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code section 12990 (a) through (f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations are incorporated into this Loan Agreement by reference and made a part hereof as if set forth in full. The Borrower and its contractor shall give written notice of their obligations under this subsection to labor organizations with which they have a collective bargaining or other agreement.

(b) The Borrower shall include the nondiscrimination and compliance provisions as detailed in subsection (a) of this section, in all contracts to perform work under this

Loan Agreement.

SECTION 3. Americans with Disabilities Act Certification. By signing this Loan Agreement, the Borrower assures the CIEDB that it complies with the Americans with Disabilities Act ("ADA") of 1990 (42 U.S.C. 12101 et seq.), which prohibits discrimination on the basis of disability, as well as all applicable regulations and guidelines issued pursuant to the ADA.

SECTION 4. National Labor Relations Board Certification. By signing this Loan Agreement, the Borrower does swear under the penalty of perjury that no more than one final unappealable finding of contempt of court by a federal court has been issued against the Borrower within the immediately preceding two year period because of the Borrower's failure to comply with an order of a federal court which orders the Borrower to comply with an order of the National Labor Relations Board.

SECTION 5. Certification of Drug Free Workplace.

(a) By signing this Loan Agreement, the Borrower hereby certifies under penalty of perjury under the laws of the State of California that the Borrower shall comply with the requirements of the Drug Free Workplace Act of 1990 (Government Code section 8350 et seq.) and shall provide a drug free workplace by:

(1) publishing a statement notifying employees that unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations, as required by Government Code section 8355(a).

(2) establishing a Drug Free Awareness Program as required by Government Code section 8355(b), to inform employees about:

- (A) the dangers of drug abuse in the workplace;
- (B) the person's or organization's policy of maintaining a drug-free workplace;
- (C) any available counseling, rehabilitation and employee assistance programs; and,
- (D) penalties that may be imposed upon employees for drug abuse violations; and,

(3) providing, as required by Government Code section 8355(c), that every employee who performs work under this Borrower shall:

- (A) receive a copy of the Borrower's drug-free policy statement; and,

(B) agree to abide by the terms of the Borrower's statement as a condition of employment under this Borrower.

(b) In addition to any other consequences specified in this Loan Agreement, failure to comply with these requirements may result in the Borrower being ineligible for award of any future State contracts if the CIEDB determines that the Borrower:

- (1) has made a false certification; or,
- (2) violates the certification by failing to carry out the requirements as noted above.

SECTION 6. Certification of Recycled Content. The Borrower shall certify in writing, under penalty of perjury, the minimum, if not exact, percentage of recycled content of both post-consumer material and secondary material as defined in Public Contract Code sections 12161 and 12200, in materials, goods or supplies offered, or products used in the performance of this Loan Agreement, regardless of whether the product meets the required recycled product percentage as defined in Public Contract Code sections 12161 and 12200. The Borrower may certify that the product contains zero recycled content. The Recycle Certification shall be delivered to the CIEDB not more than thirty (30) calendar days following the date of the notice of completion.

SECTION 7. Child Support Compliance Act.

(a) The Borrower recognizes the importance of child and family support obligations and shall fully comply with all applicable state and federal laws relating to child and family support enforcement, including, but not limited to, disclosure of information and compliance with earnings assignment orders, as provided in Chapter 8 (commencing with section 5200) of Part 5 of Division 9 of the Family Code; and

(b) The Borrower, to the best of its knowledge, is fully complying with the earnings assignment orders of all employees and is providing the names of all new employees to the New Hire Registry, maintained by the California Employment Development Department.

SECTION 8. Welfare Recipients.

(a) The Borrower shall give priority consideration in filling vacancies in positions funded by the Borrower to qualified recipients of aid under Chapter 2 (commencing with section 11200) of Part 3 of Division 9 of the Welfare and Institutions Code in accordance with Article 3.9 (commencing with section 11349) of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code.

(b) Nothing in this provision shall be construed to:

- (1) interfere with or create a violation of the terms of valid collective

bargaining agreements;

- (2) require the Borrower to hire an unqualified recipient of aid;
- (3) interfere with or create a violation of any federal affirmative action obligation of the Borrower for hiring disabled veterans or veterans of the Vietnam era; or,
- (4) interfere with or create a violation of the requirements of Government Code section 12990.

SECTION 9. Prevailing Wages.

(a) By signing this Loan Agreement, the Borrower agrees to comply with the provisions of section 1720 et seq. of the California Labor Code in the award of public works contracts and subcontracts involving the expenditure of funds provided in this Loan Agreement, and to insure that its contractor and subcontractors meet the requirements of those enactments.

(b) The Borrower shall comply with Labor Code provisions that include but are not limited to the following requirements: The Borrower shall obtain, from the Director of the Department of Industrial Relations, the general prevailing rate of per diem wages and the general prevailing rate for holiday and overtime work in the locality in which the public work is to be performed for each craft, classification, or type of worker needed to execute the Loan Agreement. The Borrower shall either specify the general prevailing rates in bid and contract documents or include a statement in those documents that such information is available; take cognizance of any violations of prevailing wage law and notify the Department of Industrial Relations of such violations; require that the contractor and subcontractors keep adequate payroll and other records and withhold funds pending investigation of violations.

(c) The Borrower shall require its contractor and subcontractors to adhere to prevailing wage requirements, including but not limited to the following requirements: contracts between the contractor and subcontractors must include provisions regarding prevailing wage; the contractor shall monitor subcontractors' payment of prevailing wage by periodically reviewing certified payroll records and diligently taking corrective action if the subcontractors fail to pay prevailing wage; contractor and subcontractors shall maintain certified payroll records and time records. The contractor to whom a contract is awarded, and any subcontractor under him, shall not pay less than the specified prevailing wage; contractor and subcontractors are subject to penalties for violations of prevailing wage provisions.

(d) The Borrower acknowledges that it has been informed by the CIEDB that the CIEDB will contract with the Department of Industrial Relations to conduct audits of some contracts to assure compliance with prevailing wage requirements. The Borrower shall require its contractor and subcontractors to cooperate in an audit if requested to do so by the CIEDB and shall inform its contractor and subcontractors that spot audits are planned.

EXHIBIT G

TAX CERTIFICATE

This Tax Certificate is executed and delivered by the Redevelopment Agency of the City of Fresno (the "Borrower") in connection with the Tax Allocation Loan Agreement between the Borrower and the California Infrastructure and Economic Development Bank (the "CIEDB"), dated as of August 19, 2003 (the "Obligation") in the amount of two million, one hundred eighteen thousand dollars (\$2,118,000). The Borrower certifies, covenants, warrants and represents as follows:

ARTICLE I. IN GENERAL

1.1 **The Borrower.** The Borrower is a redevelopment agency duly organized and existing under the laws of the State of California.

1.2 **Purpose of Tax Certificate.** In the future, the CIEDB intends to issue bonds (the "Bonds") to refinance the Obligation. The Borrower is delivering this Tax Certificate to the CIEDB with the understanding that the CIEDB will rely in part upon this Tax Certificate in obtaining an opinion from bond counsel that interest on the Bonds is excluded from gross income for federal income tax purposes under section 103 of the Code (as defined below).

1.3 **Purpose of Financing.** The Obligation is being issued to finance the Roeding Infrastructure Improvements - Phase III (the "Project"), as described in more detail in the application of the Borrower to the CIEDB, dated July 3, 2003, including amendments thereto and in Exhibit D of the Obligation.

1.4 **Definitions.** Unless the context otherwise requires, the following capitalized terms have the following meanings:

"Code" means the Internal Revenue Code of 1986 (including amendments thereto).

"Current Revenues" has the meaning given thereto in Section 2.7 hereof.

"Governmental Unit" means any state, or political subdivision of a state, but excludes the United States and its agencies or instrumentalities.

"Investment Property" means any security or obligation, any annuity contract, or any other investment-type property, but does not include any Tax-Exempt Bond unless such obligation is a "specified private activity bond" within the meaning of section 57(a)(5)(C) of the Code.

"Nongovernmental Person" means any person or entity other than a Governmental Unit.

"Payment Account" has the meaning given thereto in Section 2.7 hereof.

"Preliminary Expenditures" means architectural, engineering, surveying, soil testing, and similar costs paid with respect to the Project in an aggregate amount not exceeding twenty percent (20%) of the Obligation. However, Preliminary Expenditures do not include land acquisition, site preparation or similar costs incident to the commencement of construction.

"Tax-Exempt Bond" means any obligation the interest on which is excluded from gross income for federal income tax purposes pursuant to section 103 of the Code or section 103 of the Internal Revenue Code of 1954, as amended, and Title XIII of the Tax Reform Act of 1986, as amended, as well as stock in a regulated investment company to the extent at least ninety-five percent (95%) of income to the stockholder is treated as interest that is excludable from gross income under section 103 of the Code.

ARTICLE II. TAX LIMITATIONS

2.1 Expenditure of Proceeds. Proceeds of the Obligation shall be used exclusively for the following purposes: (i) architectural, engineering, surveying, soil testing, and similar costs paid with respect to the Project incurred prior to the commencement of construction and in an aggregate amount not exceeding twenty percent (20%) of the Obligation; (ii) capital expenditures originally paid by the Borrower on or after the date hereof, (iii) interest on the Obligation through the later of three years after the date hereof or one year after the Project is placed in service, and (iv) initial operating expenses directly associated with the Project (in aggregate amount not exceeding five percent (5%) of the amount of the Obligation).

2.2 Governmental Bond Status. The Borrower will not loan any of the proceeds of the Obligation to one or more Nongovernmental Persons. The Borrower will not allow more than five percent (5%) of proceeds of the Obligation or more than five percent (5%) of the Project to be used directly or indirectly by any Nongovernmental Person, other than as a member of the general public. In addition, a Nongovernmental Person will be treated as "using" proceeds of the Obligation to the extent the Nonexempt Person:

- (i) borrows proceeds of the Obligation, or
- (ii) uses the Project (e.g., as owner, lessee, service provider, operator or manager).

2.3 Change in Use. The Borrower reasonably expects to use all proceeds of the Obligation and all of the Project as set forth in Section 2.1 for the entire stated term to maturity of the Obligation. Absent written agreement by the CIEDB, the Borrower in fact will use all proceeds of the Obligation and all of the Project as set forth in Section 2.1.

2.4 Federal Guarantee. The Borrower will not directly or indirectly use or permit the use of any proceeds of the Obligation or take or omit to take any action that would cause the Bonds to be obligations that are "federally guaranteed" within the meaning of section 149(b) of the Code. In furtherance of this covenant, the Borrower will not allow the payment of principal or interest with respect to the Obligation to be guaranteed (directly or indirectly) in whole or in part by the United States or any agency or instrumentality thereof. The Borrower

will not use five percent (5%) or more of the proceeds of the Obligation to make or finance loans the payment of principal or interest with respect to which is guaranteed in whole or in part by the United States or any agency or instrumentality thereof.

2.5 No Refunding. Proceeds of the Obligation will not be used directly or indirectly to make principal, interest or premium payments with respect to any obligation other than the Obligation.

2.6 No Hedge Bonds. The Borrower reasonably expects that more than eighty-five percent (85%) of proceeds of the Obligation will be expended for the purposes of the Obligation within three years.

2.7 Loan Payments. "Payment Account" means the funds or accounts (or any portions of any funds or accounts) that will hold monies that are expected by the Borrower to be used to pay debt service on the Obligation. "Current Revenues" means revenues which are both received by the Borrower and utilized for the payment of debt service on the Obligation within a six month period. The Payment Account will be used primarily to achieve a proper matching of revenues and debt service within each year; a matching of revenues means that revenue and debt service come in and go out at approximately the same level and the Payment Account is cleared out to a very low balance at least one time during the year. Current Revenues in the Payment Account shall be invested without regard to yield. Revenues other than Current Revenues in the Payment Account will not be invested in Investment Property with a yield exceeding the yield on the Obligation.

2.8 No Other Replacement Proceeds. The Borrower will not use any proceeds of the Obligation to replace funds of the Borrower which are or will be used to acquire Investment Property reasonably expected to produce a yield that is materially higher than the yield on the Obligation.

2.9 No Expected Sale. It is not expected that the Project or any part thereof will be sold or otherwise disposed of so long as the Obligation is outstanding.

2.10 Tax Covenant. The Borrower will not take any action, or fail to take any action, if such action or failure to take such action would adversely affect the exclusion from gross income of the interest on the Bonds pursuant to section 103 of the Code and specifically (i) the Borrower will not directly or indirectly use or make any use of the proceeds of the Bonds or any other funds of the Borrower or take or omit to take any action that would cause the Bonds or to be "arbitrage bonds" subject to federal income taxation by reason of section 148 of the Code or obligations subject to federal income taxation because they are "federally guaranteed" as provided in section 149(b) of the Code, as applicable; and (ii) to that end the Borrower, with respect to the proceeds of the Bonds will comply with all requirements of such sections of the Code to the extent that such requirements are, at the time, applicable and in effect; provided, that if the Borrower shall obtain an Opinion of Counsel nationally recognized in the area of the exemption of interest from gross income under of the Code to the effect that any action required under this Section is no longer required, or to the effect that some further action is required, to maintain the exclusion from gross income of the interest evidenced and represented by the Bonds

pursuant to section 103 of the Code, as applicable, the Borrower may rely conclusively on such opinion in complying with the provisions hereof.

2.11 Private Use. No more than five percent (5%) of the Project (determined both on the basis of space and cost) shall be used for private use. Private use includes use in the trade or business of any nongovernmental persons, but does not include the portion of the proceeds properly allocable to facilities expected to be used by an organization described in section 501(c)(3) of the Code in a manner that does not constitute an unrelated trade or business of such organization, as defined in section 513(a) of the Code. For purposes of this section, the federal government is considered a nongovernmental person.

(a) For purposes of this section, private use shall include any contract for the management or operation of any portion of the Project unless each of the following conditions is met: (i) the term of such contract (including renewal options) does not exceed five years; (ii) the manager or operator under such contract is not compensated on the basis of a share of net profits; (iii) the compensation of the manager or operator is reasonable; (iv) the Borrower must be able to cancel such contract without penalty or cause at the end of the third year of the contract; and (v) neither the Borrower nor the manager or operator may control more than twenty percent (20%) of the voting power of the other's governing board; and

(b) The service provider's compensation for management or operation services rendered must be pursuant to one of the following four methods: (i) at least fifty percent (50%) of annual compensation is based on a periodic fixed fee; (ii) the compensation is based on a capitation fee or a combination of a capitation fee and a periodic fixed fee; (iii) in the case of certain contracts with a term not longer than three years, the compensation is based on a per-unit fee or a combination of a per-unit fee and periodic fixed fee and the contract is cancelable after two years; and (iv) in the case of certain contracts with a term not longer than two years, the compensation is based on a percentage of fees charged and the contract is cancelable after one year.

(c) The term "renewal option" as used in this Section, means a provision under which the service provider has a legally enforceable right to renew the contract. Thus, for example, a provision under which a contract is automatically renewed for one year periods absent cancellation by either party is not a renewal option (even if it is expected to be renewed).

ARTICLE III. OTHER MATTERS

3.1 Expectations. The undersigned is an authorized representative of the Borrower acting for and on behalf of the Borrower in executing this Tax Certificate. To the best of the knowledge and belief of the undersigned, there are no other facts, estimates or circumstances that would materially change the expectations as set forth herein, and said expectations are reasonable.

3.2 Amendments. Notwithstanding any other provision of this Tax Certificate, the Borrower may amend this Tax Certificate and thereby alter any actions allowed or required by this Tax Certificate if such amendment is signed by an authorized officer and is supported by formal written agreement by the CIEDB.

3.3 Survival of Defeasance. Notwithstanding any provision in this Tax Certificate to the contrary, the obligation to comply with all requirements contained in this Tax Certificate shall survive defeasance or prepayment of the Obligation.

Dated: _____

**REDEVELOPMENT AGENCY OF THE CITY OF
FRESNO**

By _____
Daniel R. Fitzpatrick
Executive Director

TAX CERTIFICATE

This Tax Certificate is executed and delivered by the Redevelopment Agency of the City of Fresno (the "Borrower") in connection with the Tax Allocation Loan Agreement between the Borrower and the California Infrastructure and Economic Development Bank (the "CIEDB"), dated as of August 19, 2003 (the "Obligation") in the amount of two million, one hundred eighteen thousand dollars. The Borrower certifies, covenants, warrants and represents as follows:

ARTICLE I. IN GENERAL

1.1 **The Borrower.** The Borrower is a redevelopment agency duly organized and existing under the laws of the State of California.

1.2 **Purpose of Tax Certificate.** In the future, the CIEDB intends to issue bonds (the "Bonds") to refinance the Obligation. The Borrower is delivering this Tax Certificate to the CIEDB with the understanding that the CIEDB will rely in part upon this Tax Certificate in obtaining an opinion from bond counsel that interest on the Bonds is excluded from gross income for federal income tax purposes under section 103 of the Code (as defined below).

1.3 **Purpose of Financing.** The Obligation is being issued to finance the Roeding Infrastructure Improvements - Phase III (the "Project"), as described in more detail in the application of the Borrower to the CIEDB, dated July 3, 2003, including amendments thereto and in Exhibit D of the Obligation.

1.4 **Definitions.** Unless the context otherwise requires, the following capitalized terms have the following meanings:

"Code" means the Internal Revenue Code of 1986 (including amendments thereto).

"Current Revenues" has the meaning given thereto in Section 2.7 hereof.

"Governmental Unit" means any state, or political subdivision of a state, but excludes the United States and its agencies or instrumentalities.

"Investment Property" means any security or obligation, any annuity contract, or any other investment-type property, but does not include any Tax-Exempt Bond unless such obligation is a "specified private activity bond" within the meaning of section 57(a)(5)(C) of the Code.

"Nongovernmental Person" means any person or entity other than a Governmental Unit.

"Payment Account" has the meaning given thereto in Section 2.7 hereof.

"Preliminary Expenditures" means architectural, engineering, surveying, soil testing, and similar costs paid with respect to the Project in an aggregate amount not exceeding twenty percent (20%) of the Obligation. However, Preliminary Expenditures do not include land acquisition, site preparation or similar costs incident to the commencement of construction.

"Tax-Exempt Bond" means any obligation the interest on which is excluded from gross income for federal income tax purposes pursuant to section 103 of the Code or section 103 of the Internal Revenue Code of 1954, as amended, and Title XIII of the Tax Reform Act of 1986, as amended, as well as stock in a regulated investment company to the extent at least 95 percent of income to the stockholder is treated as interest that is excludable from gross income under section 103 of the Code.

ARTICLE II. TAX LIMITATIONS

2.1 Expenditure of Proceeds. Proceeds of the Obligation shall be used exclusively for the following purposes: (i) architectural, engineering, surveying, soil testing, and similar costs paid with respect to the Project incurred prior to the commencement of construction and in an aggregate amount not exceeding twenty percent (20%) of the Obligation; (ii) capital expenditures originally paid by the Borrower on or after the date hereof, (iii) interest on the Obligation through the later of three years after the date hereof or one year after the Project is placed in service, and (iv) initial operating expenses directly associated with the Project (in aggregate amount not exceeding five percent (5%) of the amount of the Obligation).

2.2 Governmental Bond Status. The Borrower will not loan any of the proceeds of the Obligation to one or more Nongovernmental Persons. The Borrower will not allow more than five percent (5%) of proceeds of the Obligation or more than five (5%) of the Project to be used directly or indirectly by any Nongovernmental Person, other than as a member of the general public. In addition, a Nongovernmental Person will be treated as "using" proceeds of the Obligation to the extent the Nonexempt Person:

- (i) borrows proceeds of the Obligation, or
- (ii) uses the Project (e.g., as owner, lessee, service provider, operator or manager).

2.3 Change in Use. The Borrower reasonably expects to use all proceeds of the Obligation and all of the Project as set forth in Section 2.1 for the entire stated term to maturity of the Obligation. Absent written agreement by the CIEDB, the Borrower in fact will use all proceeds of the Obligation and all of the Project as set forth in Section 2.1.

2.4 Federal Guarantee. The Borrower will not directly or indirectly use or permit the use of any proceeds of the Obligation or take or omit to take any action

that would cause the Bonds to be obligations that are "federally guaranteed" within the meaning of section 149(b) of the Code. In furtherance of this covenant, the Borrower will not allow the payment of principal or interest with respect to the Obligation to be guaranteed (directly or indirectly) in whole or in part by the United States or any agency or instrumentality thereof. The Borrower will not use five percent (5%) or more of the proceeds of the Obligation to make or finance loans the payment of principal or interest with respect to which is guaranteed in whole or in part by the United States or any agency or instrumentality thereof.

2.5 No Refunding. Proceeds of the Obligation will not be used directly or indirectly to make principal, interest or premium payments with respect to any obligation other than the Obligation.

2.6 No Hedge Bonds. The Borrower reasonably expects that more than eighty-five percent (85%) of proceeds of the Obligation will be expended for the purposes of the Obligation within three years.

2.7 Loan Payments. "Payment Account" means the funds or accounts (or any portions of any funds or accounts) that will hold monies that are expected by the Borrower to be used to pay debt service on the Obligation. "Current Revenues" means revenues which are both received by the Borrower and utilized for the payment of debt service on the Obligation within a six month period. The Payment Account will be used primarily to achieve a proper matching of revenues and debt service within each year; a matching of revenues means that revenue and debt service come in and go out at approximately the same level and the Payment Account is cleared out to a very low balance at least one time during the year. Current Revenues in the Payment Account shall be invested without regard to yield. Revenues other than Current Revenues in the Payment Account will not be invested in Investment Property with a yield exceeding the yield on the Obligation.

2.8 No Other Replacement Proceeds. The Borrower will not use any proceeds of the Obligation to replace funds of the Borrower which are or will be used to acquire Investment Property reasonably expected to produce a yield that is materially higher than the yield on the Obligation.

2.9 No Expected Sale. It is not expected that the Project or any part thereof will be sold or otherwise disposed of so long as the Obligation is outstanding.

2.10 Tax Covenant. The Borrower will not take any action, or fail to take any action, if such action or failure to take such action would adversely affect the exclusion from gross income of the interest on the Bonds pursuant to section 103 of the Code and specifically (i) the Borrower will not directly or indirectly use or make any use of the proceeds of the Bonds or any other funds of the Borrower or take or omit to take any action that would cause the Bonds or to be "arbitrage bonds" subject to federal income taxation by reason of section 148 of the Code or obligations subject to federal income taxation because they are "federally guaranteed" as provided in section 149(b) of the Code, as applicable; and (ii) to that end the Borrower, with respect to the proceeds of

the Bonds will comply with all requirements of such sections of the Code to the extent that such requirements are, at the time, applicable and in effect; provided, that if the Borrower shall obtain an Opinion of Counsel nationally recognized in the area of the exemption of interest from gross income under of the Code to the effect that any action required under this Section is no longer required, or to the effect that some further action is required, to maintain the exclusion from gross income of the interest evidenced and represented by the Bonds pursuant to section 103 of the Code, as applicable, the Borrower may rely conclusively on such opinion in complying with the provisions hereof.

2.11 Private Use. No more than five percent (5%) of the Project (determined both on the basis of space and cost) shall be used for private use. Private use includes use in the trade or business of any nongovernmental persons, but does not include the portion of the proceeds properly allocable to facilities expected to be used by an organization described in section 501(c)(3) of the Code in a manner that does not constitute an unrelated trade or business of such organization, as defined in section 513(a) of the Code. For purposes of this section, the federal government is considered a nongovernmental person.

(a) For purposes of this section, private use shall include any contract for the management or operation of any portion of the Project unless each of the following conditions is met: (i) the term of such contract (including renewal options) does not exceed five years; (ii) the manager or operator under such contract is not compensated on the basis of a share of net profits; (iii) the compensation of the manager or operator is reasonable; (iv) the Borrower must be able to cancel such contract without penalty or cause at the end of the third year of the contract; and (v) neither the Borrower nor the manager or operator may control more than twenty percent (20%) of the voting power of the other's governing board; and

(b) The service provider's compensation for management or operation services rendered must be pursuant to one of the following four methods: (i) at least fifty percent (50%) of annual compensation is based on a periodic fixed fee; (ii) the compensation is based on a capitation fee or a combination of a capitation fee and a periodic fixed fee; (iii) in the case of certain contracts with a term not longer than three years, the compensation is based on a per-unit fee or a combination of a per-unit fee and periodic fixed fee and the contract is cancelable after two years; and (iv) in the case of certain contracts with a term not longer than two years, the compensation is based on a percentage of fees charged and the contract is cancelable after one year.

(c) The term "renewal option" as used in this Section, means a provision under which the service provider has a legally enforceable right to renew the contract. Thus, for example, a provision under which a contract is automatically renewed for one year periods absent cancellation by either party is not a renewal option (even if it is expected to be renewed).

ARTICLE III. OTHER MATTERS

3.1 **Expectations.** The undersigned is an authorized representative of the Borrower acting for and on behalf of the Borrower in executing this Tax Certificate. To the best of the knowledge and belief of the undersigned, there are no other facts, estimates or circumstances that would materially change the expectations as set forth herein, and said expectations are reasonable.

3.2 **Amendments.** Notwithstanding any other provision of this Tax Certificate, the Borrower may amend this Tax Certificate and thereby alter any actions allowed or required by this Tax Certificate if such amendment is signed by an authorized officer and is supported by formal written agreement by the CIEDB.

3.3 **Survival of Defeasance.** Notwithstanding any provision in this Tax Certificate to the contrary, the obligation to comply with all requirements contained in this Tax Certificate shall survive defeasance or prepayment of the Obligation.

Dated: 2/10/04

REDEVELOPMENT AGENCY OF THE
CITY OF FRESNO

By 
Daniel R. Fitzpatrick
Executive Director

EXHIBIT H

*[Attorney's letterhead]
dated after Borrower has signed Agreement*

Redevelopment Agency of the City of Fresno
2344 Tulare Street
Fresno, CA 93721
Attn: Executive Director

California Infrastructure and Economic Development Bank
Attn: Credit Support Manager, CIEDB 03-048
1102 Q Street, Suite 6000
Sacramento, California 95814

Re: Tax Allocation Loan Agreement, Between the Redevelopment Agency of the City of Fresno, as Borrower, and the California Infrastructure and Economic Development Bank, Dated as of August 19, 2003, CIEDB No. 03-048, not exceeding two million, one hundred eighteen thousand dollars (\$2,118,000), for the Roeding Infrastructure Improvements - Phase III

Ladies and Gentlemen:

Our office has acted as counsel to the Redevelopment Agency of the City of Fresno (the "Public Agency") in connection with the above-described Tax Increment Loan Agreement (the "Agreement"). In connection with the Agreement, we have examined: (a) laws pertaining to the Public Agency, (b) the Redevelopment Plan for the Roeding Business Park Redevelopment Project Area Project Area, (c), the original Agreement signed by the Public Agency, (d) the Facility Lease between the California Infrastructure and Economic Development Bank and the City of Fresno, dated as of August 19, 2003, CIEDB No. 03-047, (e) the Site Lease between the California Infrastructure and Economic Development Bank and the City of Fresno, dated as of August 19, 2003, (f) the Public Agency Resolution No. _____, adopted XXX, 2004 (the "Agency Resolution"), (g) the Council of the City of Fresno (and legislative body of the Public Agency) Resolution No. _____ adopted XXX, 2004 (the "Council Resolution"), and (h) such other information and documents as we considered necessary to render this opinion.

Based on such examination, on the assumption that all signatures other than the Public Agency and all signatures and documents presented by parties are authorized and genuine, on the assumption that Project contracts entered before the Effective Date of the Agreement meet the requirements of the Agreement, and other assumptions stated herein, at and as of the date of this letter, we are of the opinion that:

(i) The Public Agency is a public body, corporate and politic, duly organized and validly existing under California Community Redevelopment Law.

(ii) The Council of the City of Fresno duly adopted the Council Resolution, and the Agency Board duly adopted the Agency Resolution at a regularly scheduled meeting that was called and held pursuant to law, and at which a quorum was present and acting throughout.

(iii) The Public Agency has the legal right, power and authority to enter into and deliver the Agreement and its execution and delivery thereof has been duly authorized. The Agreement has been executed on behalf of the Public Agency. The Agreement constitutes a legal, valid and binding agreement of the Agency enforceable in accordance with its terms, except as the enforcement thereof may be limited by bankruptcy, insolvency, moratorium, or other laws affecting the enforcement of creditors' rights generally, or by the application of equitable principles if sought, or by the limitations on legal remedies imposed on actions against public entities, such as the Agency, in the State of California.

(iv) To the best of our knowledge, after due inquiry, the execution and delivery of the Agreement and compliance with the provisions thereof, under the circumstances contemplated thereby, do not and will not in any material respect conflict with or constitute on the part of the Public Agency a breach of or default under any agreement or other instrument to which the Public Agency is a party or by which it is bound or any existing law, regulation, court order or consent decree to which the Public Agency is subject.

(v) To the best of our knowledge, after due inquiry, there is no action, suit, proceeding, inquiry or investigation before or by any court or public body pending or threatened against or affecting the Public Agency that does any of the following: 1) challenges or questions the transactions contemplated by the Agreement or any other agreement, document or certificate related to such transactions; 2) challenges or questions the creation, organization, existence or powers of the Public Agency; 3) seeks to enjoin or restrain the execution of the Agreement or the building of the Project defined in the Agreement; 4) seeks to enjoin or restrain the collection of any of the Revenues pledged under the Agreement; 5) in any way questions or affects any of the rights, powers, duties or obligations of the Public Agency with respect to the Revenues pledged under the Agreement; 6) in any way questions or affects any authority for the executing the Agreement or validity or enforceability of the Agreement; or 7) in any way questions or affects any other agreement or instrument concerning the Agreement to which the Public Agency is a party.

We do not render any opinion as to any federal or state securities or tax law. We furnish this opinion solely for your benefit in connection with the Agreement. This letter is not to be used, circulated, quoted or otherwise referred to for any other purpose or relied upon by any other person or entity. Our office offers no opinion as to the content of the applications for the Agreement, any Public Agency disclosure in connection with the Agreement. We offer no opinion as to the laws of any jurisdiction other than the State of California and local laws.

Actions taken or events occurring after the date hereof may affect the opinions expressed herein. The undersigned has not undertaken to determine or to inform any person regarding any such subsequent actions or events.

Very truly yours,

**CITY OF FRESNO, CITY ATTORNEY'S OFFICE
EX-OFFICIO ATTORNEY TO THE PUBLIC AGENCY**