

REQUEST FOR COUNCIL ACTION
CITY OF SAN DIEGO

1. CERTIFICATE NUMBER
(FOR AUDITOR'S USE ONLY) 5500
6/26

TO: CITY ATTORNEY
2. FROM (ORIGINATING DEPARTMENT): CITY PLANNING & COMMUNITY INVESTMENT
3. DATE: May 4, 2007

4. SUBJECT:
REPORT FOR JOINT POWERS AUTHORITY (CSCDA) INDUSTRIAL DEVELOPMENT BOND FINANCING FOR FIORELLA INVESTMENTS LLC/CANTARÉ FOODS

5. PRIMARY CONTACT (NAME, PHONE, & MAIL STA.) Trish Hughes-Raber, (619)236-6233, MS56D
6. SECONDARY CONTACT (NAME, PHONE, & MAIL STA.) Scott Kessler, (619) 236-6405, MS 56D
7. CHECK BOX IF REPORT TO COUNCIL IS ATTACHED

8. COMPLETE FOR ACCOUNTING PURPOSES

FUND				9. ADDITIONAL INFORMATION / ESTIMATED COST:
DEPT.				THERE IS NO FISCAL IMPACT ON THE GENERAL FUND. A \$10 MILLION CANTARÉ IDB RESULTS IN APPLICATION & ORIGINATION FEES TOTALING \$26,250 TO BE PAID INTO IDB ADMINISTRATIVE EXPENSE FUND (10240).
ORGANIZATION				
OBJECT ACCOUNT				
JOB ORDER				
C.I.P. NUMBER				
AMOUNT				

10. ROUTING AND APPROVALS

ROUTE (#)	APPROVING AUTHORITY	APPROVAL SIGNATURE	DATE SIGNED	ROUTE (#)	APPROVING AUTHORITY	APPROVAL SIGNATURE	DATE SIGNED
1	DEPUTY DIRECTOR	SCOTT KESSLER	5/30/07	8	DEPUTY CHIEF	JAMES WARING	6/7/07
2	COMMUNITY & ECONOMIC DEV. DIRECTOR	WILLIAM ANDERSON	5-9-07	9	COO		
3	FINANCIAL MGMT	ARLO MAGPANTAY	5/14/07	10	CITY ATTORNEY	Jana Garmo	6/15/07
4	CFO	JAY GOLDSTONE	5/15/07	11	ORIG. DEPT	TRISH HUGHES-RABER	6/15/07
5	EOC	CELIA GRIFFIN	6/5/07	DOCKET COORD: _____ COUNCIL LIAISON _____			
6	EAS		6/1/07	<input checked="" type="checkbox"/> COUNCIL PRESIDENT <input type="checkbox"/> SPOB <input type="checkbox"/> CONSENT <input checked="" type="checkbox"/> ADOPTION <input type="checkbox"/> REFER TO: _____ COUNCIL DATE: 6/26/07			
7	AUDITOR	CLAY SCHOEN	5/29/07				

11. PREPARATION OF: RESOLUTIONS ORDINANCE(S) AGREEMENT(S) DEED(S)

Hold a public hearing and adopt a resolution supporting the issuance by the California Statewide Communities Development Authority (a statewide Joint Powers Authority) of an Industrial Development Bond issue of up to \$10 million on behalf of Fiorella Investments LLC/Cantaré Foods in accordance with Council Policy 100-12.

11A. STAFF RECOMMENDATIONS:

Hold the required public hearing and adopt a resolution supporting issuance of the Industrial Development Bond by California Statewide Communities Development Authority Joint Powers Agency.

12. SPECIAL CONDITIONS (REFER TO A.R. 3.20 FOR INFORMATION ON COMPLETING THIS SECTION.)

COUNCIL DISTRICT(S): 8

COMMUNITY AREA(S): OTAY MESA

ENVIRONMENTAL IMPACT: THIS ACTIVITY (TO ADOPT A RESOLUTION SUPPORTING THE ISSUANCE BY THE CALIFORNIA STATEWIDE COMMUNITIES DEVELOPMENT AUTHORITY OF AN INDUSTRIAL DEVELOPMENT BOND) IS NOT A "PROJECT" AND IS THEREFORE NOT SUBJECT TO CEQA PURSUANT TO STATE CEQA GUIDELINES SECTION §15060(C)(3). ANY FUTURE DEVELOPMENT PROPOSAL RELATED TO THIS APPROVAL WILL BE SUBJECT TO CEQA REVIEW.

HOUSING IMPACT: N/A

OTHER ISSUES: N/A

EXECUTIVE SUMMARY SHEET

DATE REPORT ISSUED: May 4, 2007
ATTENTION: Council President and City Council
ORIGINATING DEPARTMENT: Community and Economic Development
SUBJECT: Support Issuance of Industrial Development Bond Financing by the California Statewide Communities Development Authority for Fiorella Investments LLC/Cantaré Foods
COUNCIL DISTRICT(S): 8
STAFF CONTACT: Scott Kessler/Trish Hughes-Raber

REQUESTED ACTION:

The City Council is being asked to hold a public hearing and adopt a resolution supporting the issuance by the California Statewide Communities Development Authority (CSCDA), a statewide Joint Powers Authority (JPA), of a tax-exempt Industrial Development Bond (IDB) of up to \$10 million on behalf of Fiorella Investments LLC/Cantaré Foods in accordance with Council Policy 900-12.

STAFF RECOMMENDATION:

Hold the required public hearing and adopt a resolution supporting issuance of the IDB by the JPA.

EXECUTIVE SUMMARY:

The City Council is requested to hold a public hearing and adopt a resolution supporting a CSCDA tax-exempt IDB issuance of up to \$10 million for Fiorella Investments LLC/Cantaré Foods (Cantaré). The IDB issuance would be a source of inexpensive financing for Cantaré's new facility in the City. Cantaré will use the bond proceeds to finance a 72,500 s.f. food processing facility, subject to further environmental review, to be located on a 3.57 acre site on St. Andrews Avenue in the Brown Field Business Park in the community of Otay Mesa. The requested hearing process is a requirement for all tax-exempt private activity bond financings as stipulated under the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA). Local agency TEFRA hearings are intended to allow interested persons an opportunity to express their views for or against the issuance of bonds.

Cantaré was established in 1992 and is a producer of authentic, high quality, Mediterranean artisan foods and has received worldwide recognition for its award winning gourmet cheeses. Cantaré has production facilities in Baldwin Park, CA and Miramar. Cantaré intends to move its production facility and headquarters to a new facility in Otay Mesa which will allow for expanded operations. In addition to expanding the City's tax base, Phase I and II of the new food production facility in Otay Mesa is expected to create 100 new jobs upon completion. Phase I is completed and Phase II will be complete in August 2007. As the proposed CSCDA IDB issuance facilitates tax base/employment benefits that match public benefit eligibility criteria set forth in Council Policy 100-12, staff recommends that the proposed financing for Cantaré be supported.

The City has been a member of the JPA (CSCDA) since 1991. CSCDA is a statewide conduit issuer of private activity bonds. CSCDA has previously issued bonds for various City-approved projects including financing for: Delimex; Johanson Dielectrics; Carvin Corp; Howard Leight Industries; the Salk Institute; the San Diego State University Foundation; and Figi Graphics, Inc. CSCDA is sponsored by the League of California Cities and the California State Association of Counties. As

with previous JPA issues, the City does not issue these bonds or pledge to support them in any way. The City's role is limited to holding the TEFRA hearing.

FISCAL CONSIDERATIONS:

There is no fiscal impact on the General Fund. Council Policy 900-12 provides for an application fee and a loan origination fee based on the size of the bond issue. A \$10 million Cantaré IDB would result in application and origination fees totaling up to \$26,250 which would be paid into the City's IDB Administrative Expense Fund (10240).

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

None

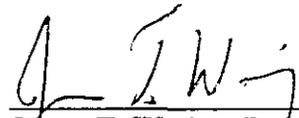
COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The requested City Council hearing requested fulfills the TEFRA requirement to hold a public hearing involving the legislative body of the local agency in which the proposed project is located. As required, notice of the TEFRA hearing will be published in a newspaper of general circulation at least 14 days prior to the date of the public hearing.

KEY STAKEHOLDERS & PROJECTED IMPACTS (if applicable):

There are not any known stakeholders who are opposed or impacted by the proposed development. It is estimated that the project will create 80 new jobs and retain 30 existing jobs in City of San Diego. Additionally, the development of the new Cantaré facility will generate additional tax revenue for the City's General Fund.


Originating Department


James T. Waring, Deputy Chief
Land Use and Economic Development

CITY OF SAN DIEGO
MEMORANDUM

DATE: June 21, 2007

TO: Michelle Strauss, Council Representative, Council Administration

FROM: James Waring, Deputy Chief, City Planning & Community Investment

SUBJECT: Supplemental Docket Request, June 26, 2007

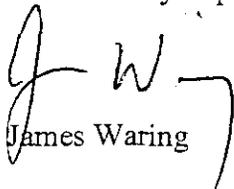
REFERENCE: Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA) Hearing --
Fiorella Investments LLC/Cantaré Foods (Cantaré)

City Planning & Community Investment, Economic Development Division, is requesting the referenced TEFFA Hearing, originally docketed for June 26, 2007, be placed as a Supplemental Docket Item for Council meeting June 26, 2007.

The reasons for this date being chosen and required are listed below:

1. The \$10,000,000 in IDB funding being provided to Cantaré by the State of California will be utilized to pay off a construction loan to Comerica Bank which matures in December of this year.
2. Failure to receive the \$10,000,000 in bond financing will create a hardship on this company by potentially damaging their credit with Comerica Bank and their ability to complete their new Otay Mesa food processing facility. This project will retain 30 jobs and create 100 quality jobs.
3. The deadline for completing the IDB application for Cantaré to the State is July 3, 2007. Extending the hearing date for the TEFRA will result in the loss of this funding for 2007, as the state has indicated that there are no additional funds available this year. The final application is not complete until the JPA/State of California receives an executed Resolution by the City San Diego.
4. City Council is adjourned the week of July 2nd and therefore the last Council hearing date is June 26th in order to meet the mandated deadline.
5. The TERFA Hearing for June 26, 2007 was publicly noticed in the Daily Transcript on June 11, 2007, pursuant to IRS Code section 147(f), in accordance with Temporary Income Tax Regulation 5f.103-2.

We sincerely request your consideration to place the item on Supplemental.


James Waring

SK/plhr

Attachments: Letter from Olivier Fischer-Morelle, CEO, Cantaré

cc: William Anderson, Director, City Planning & Community Investment
Scott Kessler, Economic Development Deputy Director



AUTHENTIC ARTISAN FOODS

June 21, 2007

Dear Council Representative,

I have just been informed that our scheduled TEFRA hearing has been delayed. Please note that by delaying our TEFRA hearing we are in serious jeopardy of losing our ability to participate in the current IDB funding round, which will have a drastic impact on our project. I have been told that it is an extremely competitive round with limited availability of funds and the timing of this hearing is critical for a successful funding.

If Cantaré Foods fails to obtain financing this round, it will seriously impact our ability to complete our project in the Otay Mesa Enterprise zone. We have construction loans and interim equipment loans that are due to mature within the next few months which are supposed to be refinanced by these IDBs. We will be facing additional penalties and increased fees and interest if we fail to fund this year which could put the project in financial jeopardy.

Please allow us to proceed with this hearing as originally planned; current and future jobs depend on this.

Sincerely yours,

Olivier Fischer-Morelle
CEO

CANTARÉ FOODS, INC.

7651 ST. ANDREWS AVENUE, SAN DIEGO CA 92154

T 619.690.7550 F 619.690.7551

TOLL FREE FAX 877.578.8065

WWW.CANTAREFOODS.COM

RESOLUTION NUMBER R-_____

DATE OF FINAL PASSAGE _____

RESOLUTION OF THE CITY COUNCIL SUPPORTING THE
ISSUANCE BY THE CALIFORNIA STATEWIDE
COMMUNITIES DEVELOPMENT AUTHORITY OF A
TAX-EXEMPT INDUSTRIAL DEVELOPMENT BOND.

WHEREAS, California Statewide Communities Development Authority [Issuer] proposes to issue tax-exempt industrial development bonds in an aggregate principal amount not to exceed \$10,000,000 [Bonds] pursuant to the California Industrial Development Financing Act, as codified in California Government Code section 91500 et seq. [Act];

WHEREAS, the Bonds shall be used for the acquisition, construction, reconstruction and/or improvement of real and personal property to be used as a manufacturing/food processing facility, owned and operated by Fiorella Investments LLC/Cantaré Foods, and located within the City of San Diego [Project];

WHEREAS, the City of San Diego [City] must approve the issuance of the Bonds in order to satisfy the public approval requirement of Section 147(f) of the Internal Revenue Code of 1986, as amended [IRS Code]; the requirements of Section 9 of the June 1, 1988 Amended and Restated Joint Exercise of Powers Agreement among certain local agencies, including the City [Agreement]; and the public agency approval requirement of California Government Code section 91530(f);

WHEREAS, the Council of the City of San Diego is the elected legislative body of the City and the applicable elected representative required to approve the issuance of the Bonds under IRS Code section 147(f);

WHEREAS, pursuant to IRS Code section 147(f), the City has provided reasonable notice to the public in accordance with Temporary Income Tax Regulation 5f.103-2, and said notice was published in a newspaper of general circulation in the City on June 11, 2007;

WHEREAS, the City held a public hearing on June 26, 2007, providing a reasonable opportunity for persons to comment on the issuance of the Bonds and the location of the Project;

WHEREAS, City staff expects this Project to create jobs and expand the City's tax base consistent with Council Policy 100-12; and

WHEREAS, it is intended this Resolution constitute the approval of the issuance of the Bonds as required by IRS Code section 147(f), Section 9 of the Agreement, and California Government Code section 91530(f); NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego:

1. That the above recitals are fully incorporated by reference herein.
2. That Council finds the Project is expected to create jobs and expand the City's tax base consistent with Council Policy 100-12.
3. That the issuance of the Bonds is hereby approved for the purposes of IRS Code section 147(f), Section 9 of the Agreement, and California Government Code section 91530(f).
4. That Council's approval of this Resolution for the issuance of the Bonds is contingent upon a provision within the relevant Bond documents providing for indemnification in favor of the City, and its elected officials, representatives, agents, and employees for any liability related to this Project.

5. That the City does not warrant the creditworthiness of the Bonds or guarantee, in any way, the payment of the Bonds. No moneys of the City will be pledged or applied to the repayment of the Bonds.

6. That certification of the adoption of this Resolution shall be made by the Office of the City Clerk to the Issuer.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By 
Jana L. Garmo
Deputy City Attorney

JLG:als
06/14/07
Or.Dept:Econ.Devt.
R-2007-1243

I hereby certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of _____.

ELIZABETH S. MALAND
City Clerk

By _____
Deputy City Clerk

Approved: _____
(date)

JERRY SANDERS, Mayor

Vetoed: _____
(date)

JERRY SANDERS, Mayor