

## CALIFORNIA INFRASTRUCTURE AND ECONOMIC DEVELOPMENT BANK (I-BANK)

### BOND APPROVAL MODIFICATION STAFF REPORT

**ISSUE:** Bay Photo, Inc. and Sammie Rae Abitbol, LLC (collectively, the Borrowers) have requested the I-Bank to issue a series of taxable bonds in addition to the tax-exempt bonds previously approved by the I-Bank Board on July 26, 2011. The proposed amendments will expand the definition of the Project and increase the amount of the I-Bank bonds by adding a taxable series to the 2011 tax exempt bond authorization.

**BACKGROUND INFORMATION:** On July 26, 2011, the I-Bank Board approved Resolution 11-15 authorizing the issuance of tax-exempt industrial development revenue bonds not to exceed \$8,775,000 on behalf of the Borrower (2011 Bonds) for the purpose of: (1) acquisition of the property which consists of three parcels of land totaling approximately 17 acres with three vacant buildings and related improvements totaling approximately 140,000 square feet that is commonly known as 900, 915 and 920 Disc Drive (Disc Drive Facilities) in Scotts Valley (Santa Cruz County); (2) refinancing the cost of the acquisition of real property and improvements located in Soquel, California; and (3) financing certain costs of issuance of the bonds (Project). The Borrowers plan to use the Disc Drive Facilities for manufacturing and distributing professional quality photographic prints, large format prints, canvas prints, metal prints and other products or for the manufacture of other tangible personal property. The Staff Report dated July 26, 2011, and a copy of Resolution 11-15 are attached for a more complete description of the Project and financing structure previously approved by the Board (see Attachment A).

In connection with the Borrowers' acquisition of real property for the Project, the Borrowers now report that the Letter of Credit provider, Comerica Bank, is requiring a first lien position on additional collateral. To fulfill this requirement, the Borrowers have agreed to provide a 16,000 square feet commercial/retail property located at 2955/2959 Park Avenue (Park Avenue Facilities) in Soquel, California as the additional collateral. In addition to the real property located in Scotts Valley, the Park Avenue Facilities will be used for manufacturing and distributing professional quality photographic prints, large format prints, canvas prints, metal prints, or other commercial activities.

The Borrowers have requested that Resolution 11-15 be amended and restated to include the issuance of taxable bonds to refinance the Park Avenue property. The existing debt on real property located in Soquel, California will be refinanced with the proceeds of a series of taxable bonds to be added to the previously approved tax-exempt bonds. The definition of the Project will be expanded to include these refinancing costs (Revised Project).

As such, the Borrowers have requested the Revised Project Description to include (additions underlined):

<b>Project Description:</b>	The project (Project) involves financing the acquisition and development of three parcels of property commonly known as 900, 915, and 920 Disc Drive, Scotts Valley, CA. The three parcels total approximately 17 acres with three vacant buildings and related improvements totaling approximately 140,000 square feet situated thereon. <u>The Project also includes refinancing existing debt encumbering a commercial/retail building located at 2955/2959 Park Avenue, Soquel, CA to be pledged as collateral to the Letter of Credit issuer.</u>
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The Financing Structure approved by the I-Bank Board on July 26, 2011 is also proposed to be increased and amended to include tax-exempt and taxable Industrial Development Revenue Bonds for the Revised Project as follows (additions underlined):

<b>Financing Structure:</b>	
Type of Issue	Limited offering of variable rate securities with a weekly reset in denominations of \$100,000 or any integral multiple of \$5,000 in excess thereof
Tax Status	Tax-exempt industrial development revenue bonds in the amount of not to exceed \$8,775,000 and <u>taxable bonds not to exceed \$1,050,000.</u>
Term	25 years
Credit Enhancement	Direct-Pay Letter of Credit issued by Comerica Bank
Credit Rating	Expected to be rated "A" by Fitch Ratings based upon the rating of Comerica Bank

Lastly, the estimated Revised Project Sources and Uses of funds will be amended as follows (amendments underlined):

<b>Est. Sources of Funds:</b>		<b>Est. Uses of Funds:</b>	
Par Amount of Tax Exempt Bonds	\$8,775,000	Acquisition of Land and Buildings	<u>\$8,225,000</u>
<u>Par Amount of Taxable Bonds</u>	<u>1,050,000</u>	Rehabilitation of Buildings	<u>410,000</u>
Equity Contribution	2,125,000	Acquisition of Equipment	<u>1,750,000</u>
		Costs of Issuance/Legal/LOC/Bank fees	<u>590,000</u>
		<u>Refinance of property acquisition costs</u>	<u>975,000</u>
<b>TOTAL SOURCES</b>	<b>\$11,950,000</b>	<b>TOTAL USES</b>	<b>\$11,950,000</b>

**NEED FOR BOARD ACTION:** I-Bank Board Resolution 08-35 authorizes the Executive Director to approve and execute certain bond document amendments. Because the proposed change in the scope of the Project is a material change to the terms of the transaction as approved, this amendment does not fit under the parameters of the delegation to the Executive Director and must be considered by the I-Bank Board.

**RECOMMENDATION:** Staff recommends approval of Resolution No. 11-19 for an amount not to exceed \$8,775,000 of tax-exempt bonds and \$1,050,000 of taxable bonds for Bay Photo, Inc. and Sammie Rae Abitbol, LLC.

**ATTACHMENT A**

**STAFF REPORT DATED July 26, 2011  
AND  
EXECUTED RESOLUTION NO. 11-15**

**CALIFORNIA INFRASTRUCTURE AND ECONOMIC DEVELOPMENT BANK (I-Bank)  
INDUSTRIAL DEVELOPMENT REVENUE BOND FINANCING PROGRAM**

**STAFF REPORT**

**EXECUTIVE SUMMARY**

<b>Applicant:</b>	Bay Photo, Inc. (Bay Photo) and Sammie Rae Abitbol, LLC (collectively, the Borrowers)	<b>Amount Requested:</b>	\$8,775,000
<b>Applicant Description:</b>	Bay Photo, Inc. is a professional quality photographic printing and finishing laboratory, primarily serving professional photographers that specialize in wedding, portrait, sport, school, and landscape photography.  Sammie Rae Abitbol, LLC, is a California limited liability company.	<b>Date of Board Meeting:</b>	July 26, 2011
		<b>Resolution Number:</b>	11-15
		<b>Type of Bonds:</b>	New Issue
<b>Project Site:</b>	900, 915 and 920 Disc Drive, Scotts Valley, California 95066 in the County of Santa Cruz.	<b>Prepared by:</b> Tara Dunn and Elizabeth Hess	
<b>Project Description:</b>	The project (Project) involves financing the acquisition and development of three parcels of property commonly known as 900, 915, and 920 Disc Drive, Scotts Valley, CA. The three parcels total approximately 17 acres with three vacant buildings and related improvements totaling approximately 140,000 square feet situated thereon.		
<b>Uses of Bond Proceeds:</b>	Bond proceeds will be used in part to purchase the land, buildings, and equipment, and to finance renovations and costs of issuance of the bonds.		
<b>Public Benefits:</b>	An estimated 78 full time jobs are expected to be created at the project site within two years of Project completion.		
<b>Financing Structure:</b>			
<b>Type of Issue:</b>	Limited-offering of variable rate securities with a weekly reset in denominations of \$100,000 or any integral multiple of \$5,000 in excess thereof.		
<b>Tax Status:</b>	Tax-exempt Industrial Development Revenue Bonds.		
<b>Term:</b>	25 years.		
<b>Security:</b>	Direct-Pay Letter of Credit issued by Comerica Bank.		
<b>Credit Rating:</b>	Expected to be rated "A" by Fitch Ratings based upon the rating of Comerica Bank.		
<b>Est. Sources of Funds:</b>		<b>Est. Uses of Funds:</b>	
Par Amount of Bonds	\$8,775,000	Acquisition of Land and Buildings	\$8,425,000
Equity Contribution	2,125,000	Rehabilitation of Buildings	1,360,000
		Acquisition of Equipment	750,000
		Costs of Issuance	365,000
<b>TOTAL SOURCES</b>	<b>\$10,900,000</b>	<b>TOTAL USES</b>	<b>\$10,900,000</b>
<b>Financing Team:</b>			
<b>Bond Counsel:</b>	Kutak Rock LLP		
<b>Underwriter:</b>	Gates Capital Corporation		
<b>Trustee:</b>	Wells Fargo Bank, NA		
<b>Financial Advisor:</b>	Growth Capital Associates, Inc.		
<b>Staff Recommendation:</b>			
Staff recommends approval of Resolution 11-15 for an amount not to exceed \$8,775,000 for Bay Photo, Inc. and Sammie Rae Abitbol, LLC.			

## APPLICANT BACKGROUND AND HISTORY

Established in 1981, Bay Photo is a professional high quality photographic printing and finishing laboratory, primarily serving professional photographers and sophisticated amateur photographers that specialize in wedding, portrait, sport, school, and landscape photography. The company provides a variety of products to the photographic community, including digital prints and proofs, large format prints, mounting and framing, canvas prints, ThinWrap prints, MetalPrints, albums (design and binding), boxes and cases, watercolor giclées, cards and holiday products. The company also manufactures the various products into which the photographs are integrated. Bay Photo's administrative, sales and production operations are currently located in two locations in Santa Cruz.

Bay Photo has experienced significant sales growth in recent years. For the four calendar years from 2007 through 2010 average annual sales growth exceeded 20%. As a result, the company's current facilities totaling 33,000 square feet are inadequate to accommodate any future growth and the addition of new product offerings. The project will allow Bay Photo to consolidate its operations into a single, larger campus-type facility that should support growth and an increased workforce for the foreseeable future.

Sammie Rae Abitbol, LLC was formed in July 2011 for the sole purpose of holding title to the project site and leasing the site to Bay Photo. Sammie Rae Abitbol operates as a real property holding company and will lease the real property to Bay Photo.

## PROJECT DESCRIPTION

The proceeds from the bonds will be used to: acquire three parcels of property commonly known as 900, 915 and 920 Disc Drive, Scotts Valley, California; renovate three vacant buildings and related improvements totaling approximately 140,000 square feet situated on the property; purchase equipment; and, pay for costs of issuance of the bonds (Project). The Project property is currently in escrow with a closing expected by September 1, 2011. Renovation is expected to begin in October 2011 and be complete by March 2012.

Bay Photo will be relocating from the City of Santa Cruz to the City of Scotts Valley in Santa Cruz County. The City of Santa Cruz is aware of the necessity of Bay Photo's relocating and has no objection to the issuance of the Bonds.

Photographs of the Project site can be found in Attachment A.

## FINANCING STRUCTURE

The Borrower is requesting the issuance of the California Infrastructure and Economic Development Bank Variable Rate Demand Industrial Development Revenue Bonds (Bay Photo, Inc. Project), Series 2011 as variable rate tax-exempt bonds in an aggregate amount not to exceed \$8,775,000 (Bonds). Payment of principal and interest

on the Bonds will be enhanced by a letter of credit from Comerica Bank to be executed simultaneously with the issuance of the Bonds. The Bonds are expected to be rated A/F1 by Fitch Ratings based upon the letter of credit provider's credit rating.

In no event shall the Bonds constitute a pledge of the faith and credit of the State or any political corporation, subdivision or agency of the State, and neither the State nor any political corporation, subdivision or agency of the State shall be liable to make any appropriation for the repayment of the Bonds. The Bonds shall constitute a special obligation of the I-Bank, payable solely from revenues or other sources provided for in the loan agreement between the I-Bank and the Borrower.

**CALIFORNIA INDUSTRIAL DEVELOPMENT FINANCING ADVISORY COMMISSION  
SCORING/PUBLIC BENEFITS**

The Project received private activity bond allocation from the California Industrial Development Financing Advisory Commission (CIDFAC) scoring 73 points based on the evaluation criteria of CIDFAC, summarized below:

<b>EVALUATION SCORING</b>		
<b>Point Criteria</b>	<b>Maximum Points Allowed</b>	<b>Points Scored</b>
Community Economic Need		
1. Unemployment Rate of Project Area	10	0
2. Poverty Rate of Project Area	5	0
3. Special Designation Area	5	5
4. Median Family Income of Project Area	5	0
Job Creation Ratio	35	35
Job Retention	10	0
Average Hourly Wage	10	3
Workforce and Economic Development		
1. Welfare to Work Plan	5	0
2. Workforce Training	5	0
3. Exports Outside California	5	5
Health Care Benefits	15	15
Payment of Retirement Benefits	5	0
Environmental Stewardship		
1. Land Use	3	3
2. Public Transit Corridor	4	4
3. Energy Efficiency and Renewable Energy	15	0
4. Manufacturer of Certified Environmentally Preferable Products	5	0
Leveraging	5	3
<b>Total Points</b>	<b>147</b>	<b>73</b>

## DESCRIPTION OF PUBLIC BENEFITS

- **Special Designation Area:**  
The project site is located in a Redevelopment Project Area that was established to alleviate blight in the local community.
- **Total number of new jobs to be created and jobs to be retained within two years of project completion:**  
The Company anticipates hiring 78 new full time employees (a 44% increase) within two years of Project completion.
- **Weighted Average Hourly Rate:**  
The Borrower's wages are 126% of the median hourly wage rate for Santa Cruz-Watsonville Metropolitan Statistical Area for May 2010 (\$17.32/\$13.77).
- **Exports Outside California:**  
The Borrower exports more than 50% of the products manufactured at the facility outside of California.
- **Health Care Benefits:**  
The Borrower contributes an average of \$383 per month per employee towards health care benefits.
- **Environmental Stewardship:**  
The Project involves the reuse of a vacant building.
- **Public Transit Corridor/Transportation System Management Plan:**  
The Project site is located within ¼ mile of regular route stops for both bus routes 30 and 35A operated by the Santa Cruz Metropolitan Transit District.
- **Leveraging:**  
The Company will borrow \$8.775 million of the Project costs in the form of tax-exempt IDB financing, which will cover approximately 80.5% of the Project costs. The remaining 19.5% of Project costs will be covered by the Company's private funds and/or equity.

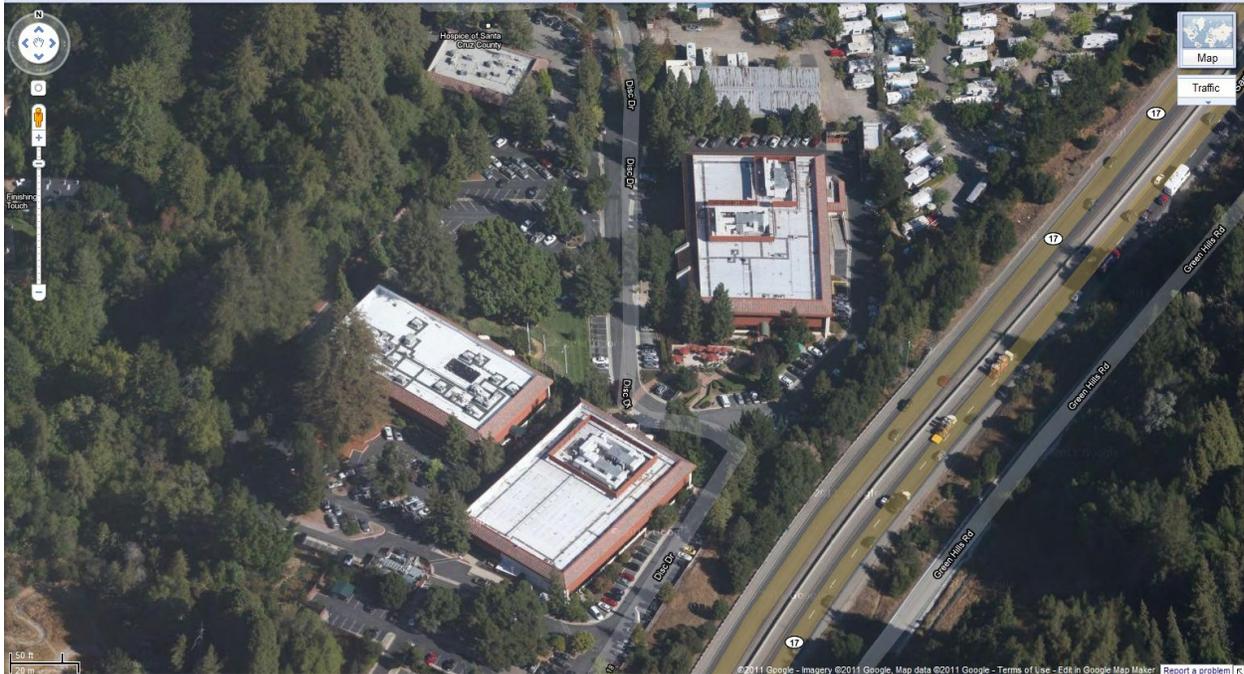
**OTHER PROJECT DATA**

<b>PERMITS AND APPROVAL</b>	
Required?	<input checked="" type="checkbox"/> <b>NO</b> <input type="checkbox"/> <b>YES, Describe:</b>
<b>TEFRA</b>	
Date of TEFRA:	07/14/2011
Publications:	<i>Santa Cruz Sentinel</i> <i>The Sacramento Bee</i>
Any Oral/Written Comments:	<input checked="" type="checkbox"/> <b>NO</b> <input type="checkbox"/> <b>YES, Explain:</b>
<b>LEGAL QUESTIONNAIRE</b>	
Completed?	<input type="checkbox"/> <b>NO</b> <input checked="" type="checkbox"/> <b>YES</b>
Legal Issues?	<input checked="" type="checkbox"/> <b>NO</b> <input type="checkbox"/> <b>YES, Explain:</b>
<b>ELIGIBILITY REVIEW</b>	
Project meets Public Interest Criteria (per G.C. § 63046 and 63047(d)) <input checked="" type="checkbox"/> <b>YES</b> <input type="checkbox"/> <b>NO</b>	<ol style="list-style-type: none"> <li>1. The Project is in the State of California.</li> <li>2. Borrower is capable of meeting its obligation incurred under the proposed loan agreement, and, in particular as to the repayment obligations which secure the Bonds, based upon the direct-pay letter of credit from Comerica Bank with a rating sufficient to obtain the anticipated rating on the Bonds.</li> <li>3. Payments to be made by Borrower to the I-Bank under the proposed loan agreement are adequate to pay the current expenses of the I-Bank in connection with the financing and to make all the scheduled payments on the Bonds.</li> <li>4. The proposed financing is appropriate for the Project.</li> <li>5. The Borrower has represented that the Project is consistent with any existing local or regional comprehensive plans.</li> </ol>
The Project meets the Policies and Procedures for Conduit Revenue Bond Financing for Economic Development Facilities established as guidelines for I-Bank Staff by the Board: <input checked="" type="checkbox"/> <b>YES</b> <input type="checkbox"/> <b>NO</b>	
<b>INDUCEMENT CERTIFICATE</b>	
Completed	<input type="checkbox"/> <b>NO</b> <input checked="" type="checkbox"/> <b>YES</b> Certificate No.: C-11-0003 <input type="checkbox"/> <b>N/A</b> Date: June 22, 2011

**RECOMMENDATION**

Staff recommends approval of Resolution 11-15 for an amount not to exceed \$8,775,000 for Bay Photo, Inc. and Sammie Rae Abitbol, LLC.

**APPENDIX A – PROJECT PHOTOGRAPHS**



900 Disc Drive, 915 Disc Drive and 920 Disc Drive, Scotts Valley, CA



Front of 915 Disc Drive, Scotts Valley, CA

**RESOLUTION NO. 11-15**

**RESOLUTION OF THE CALIFORNIA INFRASTRUCTURE AND ECONOMIC DEVELOPMENT BANK AUTHORIZING THE SALE AND ISSUANCE OF CALIFORNIA INFRASTRUCTURE AND ECONOMIC DEVELOPMENT BANK VARIABLE RATE DEMAND INDUSTRIAL DEVELOPMENT REVENUE BONDS (BAY PHOTO, INC. PROJECT), SERIES 2011 IN THE AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$8,775,000 TO PROVIDE FINANCIAL ASSISTANCE FOR THE DEVELOPMENT OF CERTAIN ECONOMIC DEVELOPMENT FACILITIES, PROVIDING THE TERMS AND CONDITIONS OF THE SALE AND ISSUANCE OF SAID BONDS AND OTHER MATTERS RELATING THERETO, AND AUTHORIZING THE EXECUTION OF CERTAIN DOCUMENTS HEREIN SPECIFIED**

**WHEREAS**, the California Infrastructure and Economic Development Bank (the “Bank”) was established pursuant to the Bergeson-Peace Infrastructure and Economic Development Bank Act (California Government Code Section 63000 and following) (the “Act”), for the purpose of promoting economic development; and

**WHEREAS**, the Bank is authorized to issue tax-exempt revenue bonds to provide financing for economic development facilities (as defined in the Act) located in the State of California (the “State”); and

**WHEREAS**, Bay Photo, Inc., a California corporation (the “Applicant”) has submitted an application to the Bank for assistance in financing the cost of acquisition, construction, restoration, improvement, renovation, equipping and general development of the real property and improvements located at 900, 915 and 920 Disc Drive, Scotts Valley, California 95066 (the “Project”), consisting of three parcels of land totaling approximately 17 acres, with three buildings and related improvements totaling approximately 140,000 square feet (collectively, the “Facilities”), and (b) pay certain costs of issuance in connection with the issuance of the Series 2011 Bonds.; and

**WHEREAS**, the Applicant has notified the Bank that the borrower in connection with such financing will be the Applicant and Sammie Rae Abitbol, LLC, a California limited liability company (collectively, the “Borrower”); and

**WHEREAS**, the Borrower has represented that it will use the Facilities for manufacturing and distributing professional quality photographic prints, large format prints, canvas prints, metal prints, and other products or for the manufacture of other tangible personal property, which operation of the Facilities is consistent with the definition of an economic development facility in the Act, and that the Facilities will be consistent with any existing local or regional comprehensive plan; and

**WHEREAS**, for these purposes, the Borrower has requested the Bank to (a) authorize the issuance of its Variable Rate Demand Industrial Development Revenue Bonds (Bay Photo, Inc. Project), Series 2011, in an aggregate principal amount not to exceed \$8,775,000 (the “Bonds”), (b) provide for the sale of the Bonds, (c) provide for the loan of proceeds of the sale of the Bonds to the Borrower to finance the costs of the Project; (d) provide for the payment of the principal of, premium, if any, and interest on the Bonds with revenues derived from the Borrower’s repayment of that loan; and (e) take and authorize certain other actions in connection with the foregoing; and

**WHEREAS**, the Borrower has represented that it will obtain an irrevocable direct-pay letter of credit to be issued by Comerica Bank (the “Comerica Bank”) for the benefit of the holders of the Bonds and the purpose of securing the Bonds (the “Credit Facility”), which will support an initial rating on the Bonds of A/FI from Fitch Ratings and which Credit Facility is expected to remain in effect for five years unless a comparable substitute credit facility is provided by Borrower, the Bonds are held by Comerica Bank, the Bonds are converted to bear interest at a fixed rate and are rated no lower than “A3” by Moody’s Investors Service, or “A-” by Standard and Poor’s or Fitch Ratings or the Bonds are redeemed; and

**WHEREAS**, the Bank may not issue the Bonds to finance the Project until the Board of Directors of the Bank makes certain determinations relating to the Project as required by the Act; and

**WHEREAS**, there is now on file with the Secretary of the Board of Directors (the “Secretary”) the following:

(a) a proposed form of a loan agreement to be entered into by and between the Bank and the Borrower, providing for the loan of the proceeds of the Bonds to the Borrower;

(b) a proposed form of an indenture of trust to be entered into between the Bank and Wells Fargo Bank, National Association (the “Trustee”), providing for the authorization and issuance of the Bonds to be dated the date of delivery thereof;

(c) a proposed form of a bond purchase contract to be entered into by and among the Bank, the Treasurer of the State and Gates Capital Corporation, as underwriter (the “Underwriter”), and approved by the Borrower providing for the sale of the Bonds;

(d) a proposed form of limited offering memorandum to be used by the Underwriter in connection with the offering and sale of the Bonds; and

(e) a proposed form of tax regulatory agreement to be entered into by and between the Bank and the Borrower, relating to the tax-exempt status of the interest on the Bonds;

**NOW, THEREFORE, BE IT RESOLVED** by the Board of Directors of the California Infrastructure and Economic Development Bank, as follows:

**Section 1.** The above recitals are true and correct.

**Section 2.** Pursuant to Sections 63046 and 63047 of the Act, and based upon representations made by the Borrower, the Board of Directors of the Bank hereby finds and determines that:

(a) the Facilities are within the State;

(b) the Borrower is capable of meeting its payment obligations under the loan agreement as approved by this resolution, which finding is based in particular on the Borrower’s ability to satisfy the requirements imposed by Comerica Bank to the issuance of the Credit Facility;

(c) the Borrower is capable of meeting the obligations other than payment obligations incurred by the Borrower under the agreements approved by this resolution;

(d) the payments to be made by the Borrower to the Bank under the loan agreement as approved by this resolution are adequate to pay all current expenses of the Bank in connection with the financing and to make all the payments on the Bonds;

(e) the proposed financing is appropriate for the Project; and

(f) the Facilities are consistent with any existing local or regional comprehensive plans.

**Section 3.** Based on the information provided and representations made by the Borrower, the Board hereby finds and determines that the issuance of the Bonds will provide clear economic benefit to the community in which the Facilities are located in that the Project will result in the creation of new jobs in such community.

**Section 4.** The Bank authorizes and approves the loan of the proceeds of the Bonds to the Borrower in order to finance the costs of the Project pursuant to the terms and provisions of the loan agreement approved by this resolution. The proposed form of loan agreement on file with the Secretary of the Board (the “Secretary”) is hereby approved and the Chair of the Board, the Chair’s designee, the Executive Director of the Bank (the “Executive Director”) or the Executive Director’s assignee, each acting alone, is hereby authorized and directed, for and on behalf and in the name of the Bank, to execute and deliver to the Borrower a loan agreement in substantially said form, with such changes and insertions therein as may be necessary or appropriate to cause the same to carry out the intent of this resolution and as the officer or official executing the same, with the advice of counsel to the Bank, may require or approve, such requirement or approval to be conclusively evidenced by the delivery thereof (as so executed, the “Loan Agreement”). The Secretary is authorized to attest to the Bank’s execution of the Loan Agreement.

**Section 5.** The proposed form of indenture on file with the Secretary is hereby approved and the Executive Director, the Executive Director’s assignee, the Chair of the Board, or the Chair’s designee, each acting alone, is hereby authorized and directed, for and on behalf and in

the name of the Bank, to execute and deliver to the Trustee an indenture of trust in substantially said form, with such changes and insertions therein as may be necessary or appropriate to cause the same to carry out the intent of this resolution and as the officer or official executing the same, with the advice of counsel to the Bank, may require or approve, such requirement or approval to be conclusively evidenced by the delivery thereof (as so executed, the “Indenture”). The Secretary is authorized to attest to the Bank’s execution of the Indenture.

**Section 6.** The proposed form of bond purchase contract on file with the Secretary is hereby approved and the Chair of the Board, the Chair’s designee, the Executive Director or the Executive Director’s assignee, each acting alone, is hereby authorized and directed, for and on behalf and in the name of the Bank, to execute and deliver to the Underwriter and the Treasurer of the State a bond purchase contract in substantially said form, with such changes and insertions therein as may be necessary or appropriate to cause the same to carry out the intent of this resolution and as the officer or official executing the same, with the advice of counsel to the Bank, may require or approve, such requirement or approval to be conclusively evidenced by the delivery thereof. At the request of the Borrower, the Underwriter is appointed as the underwriter and remarketing agent for the Bonds. The Treasurer, as agent for sale for the Bank’s bonds, is hereby requested to sell the Bonds at negotiated sale, at such prices and at such initial interest rates as he may determine in accordance with the Indenture. Notwithstanding Section 63074(d) of the Act to the contrary, such sale may take place at any time within one hundred eighty (180) days of the adoption of this resolution, or at such later date approved by the Executive Director which is not later than the date three hundred sixty (360) days of the adoption of this resolution.

**Section 7.** The proposed form of tax regulatory agreement on file with the Secretary is hereby approved and the Executive Director, the Executive Director’s assignee, the Chair of the Board or the Chair’s designee, each acting alone, is hereby authorized and directed, for an in the name and on behalf of the Bank, to execute and deliver to the Borrower and bond counsel to the Bank a tax regulatory agreement in substantially said form, with such changes and insertions therein as may be necessary to cause the same to carry out the intent of this resolution and as the officer or official executing the same, with the advice of the counsel to the Bank, may require or approve, such requirement or approval to be conclusively evidenced by the execution and delivery thereof.

**Section 8.** The sections entitled “THE ISSUER” and “NO LITIGATION – The Issuer” in the proposed preliminary form of limited offering memorandum on file with the Secretary are hereby approved. The Executive Director, the Executive Director’s assignee, the Chair of the Bank, or the Chair’s designee, each acting alone, is hereby authorized and directed, for and in the name and on behalf of the Bank, to execute a certificate or certificates in a form or forms which, with the advice of counsel to the Bank, is or are acceptable to the officer or official executing the same, to the effect that such portions of the limited offering memorandum in either its preliminary or final form, with such insertions and changes therein as may be necessary or appropriate to cause the same to carry out the intent of this resolution and as the officer or official executing the same, with the advice of counsel to the Bank, may require or approve, are “deemed final” as of the date of each or any such certificate. The Underwriter is hereby authorized to distribute copies of a limited offering memorandum in preliminary form to the prospective purchasers of the Bonds and a limited offering memorandum in final form in connection with the sale of the Bonds.

**Section 9.** The Bank approves the issuance on a tax-exempt basis of not to exceed \$8,775,000 aggregate principal amount of the Bonds for the Project in accordance with the terms of this resolution and the terms of and to be secured by the Indenture. Payment of the principal of, premium, if any, and the interest on, the Bonds shall be made solely from the revenues to be received by the Bank pursuant to the Loan Agreement and the Indenture, the purchase price of the Bonds shall be payable solely from the proceeds of the remarketing of the Bonds and amounts made available therefore under the Indenture (including amounts made available therefore by draws upon the Credit Facility or a permitted substitute credit facility). The Bonds shall not be deemed to constitute a debt or liability of the Bank (except to the limited extent provided in the Indenture) or the State of California. Neither the full faith and credit of the State or the Bank, nor the taxing power of the State is pledged to the payment of the principal or purchase price of, or premium, if any, or interest on, the Bonds. The Bonds shall be dated the date of their issuance and shall be paid in lawful money of the United States at the time or times and place or places provided in the Indenture. The Bonds shall be in the form and the denominations as provided in the Indenture, mature on the date or dates provided in the Indenture which shall be not later than 30 years from the date of issuance thereof, be subject to redemption as provided in the Indenture, shall carry the registration privileges provided in the

Indenture and shall bear interest at a variable rate or rates to be determined in accordance with the Indenture, which rates shall not to exceed the lesser of twelve percent (12%) per annum or the maximum rate of interest on the Bonds permitted by the laws of the State.

**Section 10.** The Chair of the Board, the Chair's designee, the Executive Director or the Executive Director's assignee, each acting alone, is hereby authorized and directed, for and in the name and on behalf of the Bank, to execute, by manual or facsimile signature, the Bonds, in an aggregate principal amount not to exceed the amount authorized hereunder, in accordance with the terms of this resolution and the Indenture and in the form set forth in the Indenture.

**Section 11.** The Bonds, when executed as provided in this resolution, shall be delivered to the Trustee for authentication by the Trustee pursuant to the Indenture. The Trustee is hereby requested and directed to authenticate and register the Bonds so delivered by executing the appropriate certificate of authentication and registration appearing thereon. The Trustee is hereby requested and directed to deliver the Bonds, when duly executed and authenticated, to The Depository Trust Company, New York, New York or its agent (the "Depository") on behalf of the purchasers thereof in accordance with written instructions executed on behalf of the Bank by the Executive Director, the Executive Director's assignee, the Chair of the Board, or the Chair's designee, which instructions each signatory, acting singly, is hereby authorized and directed, for and on behalf and in the name of the Bank, to execute and to deliver to the Trustee. Such instructions shall provide for the delivery of the Bonds to the Depository, on behalf of the purchasers thereof, upon payment of the purchase price therefor.

**Section 12.** The Executive Director, the Executive Director's assignee, the Chair of the Board or the Chair's designee, each acting alone, is hereby authorized, for and on behalf of and in the name of the Bank, to execute and deliver all certificates and instruments (including, without limitation, letters of representations and certificates of authority and tax forms required by the Internal Revenue Service in connection with the issuance of the Bonds) which they or counsel to the Bank may deem necessary or advisable to consummate the issuance, sale and delivery of the Bonds, and otherwise to effectuate the purposes of this resolution.

**Section 13.** All actions heretofore taken by the officers and employees of the Bank with respect to the approval, issuance and sale of the Bonds are hereby approved, confirmed and

ratified. The officers of the Bank and their authorized designees, deputies, agents and counsel are hereby authorized and directed, jointly and severally, to perform their duties and to execute and deliver any and all certificates which they or counsel to the Bank may deem necessary or advisable in order to consummate the issuance, sale and delivery of the Bonds and otherwise to effectuate the purposes of this resolution.

**Section 14.** This resolution shall take effect immediately upon its passage.

PASSED, APPROVED, AND ADOPTED at a meeting of the California Infrastructure and Economic Development Bank on July 26, 2011, by the following vote:

AYES: REYES, LUJANO, JIMENEZ, CABALLERO, RICE

NOES: NONE

ABSENT: NONE

ABSTAIN: NONE

By   
Stanton C. Hazelroth, Executive Director

Attest:

By   
Roma Cristia-Plant,  
Secretary to the Board of Directors