

RESOLUTION NO. 11-09

RESOLUTION OF THE CALIFORNIA INFRASTRUCTURE AND ECONOMIC DEVELOPMENT BANK AUTHORIZING THE ISSUANCE AND SALE OF NOT TO EXCEED \$150,000,000 CALIFORNIA INFRASTRUCTURE AND ECONOMIC DEVELOPMENT BANK REVENUE BONDS (BROAD MUSEUM PROJECT) SERIES 2011A TO PROVIDE FINANCIAL ASSISTANCE FOR THE DEVELOPMENT OF ECONOMIC DEVELOPMENT FACILITIES FOR THE BENEFIT OF THE BROAD COLLECTION, 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 revenue bonds to provide financing for economic development facilities (as defined in the Act) located in the State of California (the "State"); and

WHEREAS, The Broad Collection, a nonprofit public benefit corporation organized under the laws of the State (the "Borrower"), has submitted an application to the Bank for assistance in financing and refinancing the design, development, construction, installation, furnishing and equipping of, and the acquisition of art for, a new art museum facility to be located in the block bounded by Grand Avenue, Second Street, Hope Street and General Thaddeus Kosciuszko Way in downtown Los Angeles, California, which facility is to be comprised of (i) a three-story museum of approximately 114,000 square feet and (ii) facilities and infrastructure necessary and desirable in connection with the museum facility, including a pedestrian plaza adjacent to the museum, portions of a three-level parking garage that will both

act as physical support for the museum and the pedestrian plaza at street level and provide facilities necessary and desirable to the operation of the museum, and streetscape improvements (collectively, the “Project”), and paying certain costs of the Project, including costs of issuance of the Bonds (as defined herein) and capitalized interest on the Bonds; and

WHEREAS, the Borrower has made the following representations with respect to the facilities to be acquired, designed, developed or constructed (the “Facilities”): (1) upon completion, the museum facility will be owned and operated by the Borrower, (2) upon completion, the parking garage will be sold to and owned and operated by the Community Redevelopment Agency of the City of Los Angeles (“CRA/LA”), (3) the costs of the parking garage financed or refinanced with bond proceeds will represent the costs of developing (a) a foundation for the museum facility and the pedestrian plaza and (b) those portions of the parking garage that will remain within the control of or be available for use by the Borrower following the sale to CRA/LA (including portions available for parking for museum visitors and employees, a loading dock, and museum security offices), which are currently estimated by the Borrower to be approximately \$25 million, the Borrower has received \$8 million from CRA/LA which is available to the Borrower for the payment of costs of the parking garage, and the Borrower anticipates receipt of an additional \$14 million from CRA/LA or other source which shall be available to the Borrower for the payment of costs of the parking garage, (4) the streetscape improvements to be developed using bond proceeds are necessary to meet the design guidelines of the City of Los Angeles (the “City”) relating to the Project, (5) the Borrower expects to use bond proceeds to finance or refinance the costs of developing the pedestrian plaza, which will be owned by CRA/LA and which (a) will be used as ingress and egress to and from the museum facility, (b) is, in significant part, necessary to meet the set-back requirement and

other design guidelines of the City relating to the Project, and (c) will provide a complementary outdoor space and function as an extension of the museum for the display of art owned by or otherwise available for display by the Borrower, (6) any personal property purchased with bond proceeds, including any objects of art, will be displayed or stored primarily in the State, (7) the Borrower expects that, prior to the issuance of the Bonds, the Disposition and Development Agreement, by and between the Borrower, The Los Angeles Grand Avenue Authority, a California joint powers authority, and the Grand Avenue L.A., LLC, as amended as of April 11, 2011, will be further amended to permit the Borrower to undertake the construction of the Facilities (the “DDA Amendment”), and (8) prior to the issuance of the Bonds, the Borrower expects to enter into a lease of airspace rights for a term of at least the term of the Bonds (the “Lease”) on which interest in real property the museum portion of the Facilities will be constructed; and

WHEREAS, the Borrower has further represented that it intends to use the Facilities in a way that is consistent with the designation by the Internal Revenue Service of the Borrower as an organization described in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended (the “Code”), and

WHEREAS, the Borrower has further represented that it intends to use the Facilities as a cultural facility, and facilities or infrastructure necessary or desirable in connection therewith, in a manner consistent with the definition of an economic development facility in the Act; and

WHEREAS, the Borrower has further represented that the Facilities will be consistent with any existing local or regional comprehensive plan, and that the contractors involved with the construction of the Facilities will be properly licensed by the Contractors’ State License Board; and

WHEREAS, for these purposes, the Borrower has requested the Bank to (a) authorize the issuance of revenue bonds in an aggregate principal amount not to exceed \$150,000,000 designated as California Infrastructure and Economic Development Bank Revenue Bonds (Broad Museum Project) Series 2011A (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 or refinance 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 the Bonds will be rated at least "A3" by Moody's Investors Service or "A-" by Standard & Poor's in accordance with the Bank's bond issuance policies, and that the Bonds are expected to be rated "Aa1" by Moody's Investors Service; and

WHEREAS, the Borrower has further represented that its main sources of revenue that will be available to pay debt service on the Bonds will consist of admission fees, concessions and amounts to be received by pledgors and other donors, including a pledge from The Eli and Edythe Broad Foundation, a California charitable trust ("TBF"), under a Pledge Agreement (the "Pledge Agreement"), to be entered into by TBF and the Borrower; and

WHEREAS, the Borrower has further represented that it will assign and grant to the Bank and its assigns a security interest in, all its right, title and interest in and to the Pledge Agreement and all pledged amounts to the Borrower by TBF thereunder; and

WHEREAS, the Bank may not issue the Bonds to assist in financing or refinancing the Project until the Board of Directors of the Bank (the "Board") 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 of the Bank (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 The Bank of New York Mellon Trust Company, N.A., as trustee (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 purchase agreement to be entered into by and among the Bank, the Treasurer of the State and Morgan Stanley & Co. Incorporated, as underwriter for the Bonds (the "Underwriter"), and approved by the Borrower, providing for the sale of the Bonds;

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

(e) a proposed form of a tax agreement between the Bank and the Borrower, concerning the exclusion of interest on the Bonds from gross income for federal income tax purposes.

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 the representations of the Borrower, the Board hereby finds and determines as follows:

(a) the Project is within the State;

(b) the Borrower is capable of meeting its payment obligations under the Loan Agreement (as defined herein) as approved by this resolution, which finding is based in particular on the determination by Moody's Investors Service to provide a rating on the

Bonds of at least "A3," and on the Borrower's representations concerning its main sources of revenue that will be available to pay debt service on the Bonds;

(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 the current expenses of the Bank in connection with the financing and to make all the payments on the Bonds;

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

(f) the Borrower will certify in the Loan Agreement that the contracts involved with the construction of the Facilities will be properly licensed by the Contractors' State License Board; and

(g) the Facilities are consistent with any existing local or regional comprehensive plan.

Section 3. Based on the information provided and representations made by the Borrower, the Board hereby finds and determines that the Project demonstrates clear evidence of a defined public benefit in that the Facilities will be used to provide an art museum housing a significant collection of postwar and contemporary art that will be made available to the public, and which will create direct and indirect economic development benefits as a result of visitor attraction to the community in which the museum will be located. In addition, there will be economic benefits as a result of the jobs created as a result of the construction and post-construction operation of the Facilities.

Section 4. Based on the information provided and representations made by the Borrower, the Board hereby finds and determines that the loan of proceeds of the Bonds to finance and refinance the costs of the Project constitute a loan in connection with a financing for an economic development facility in accordance with Section 63010(j) of the Act.

Section 5. The Bank authorizes and approves the loan of the proceeds of the Bonds to the Borrower in order to finance and refinance costs of the Project pursuant to the terms and

provisions of a loan agreement as approved by this resolution. The proposed form of loan agreement on file with the Secretary is hereby approved, and the Executive Director of the Bank (the "Executive Director") or whomever he shall assign (the "Executive Director's assignee"), the Chair of the Board (the "Chair of the Board"), or the designee of the Chair of the Board (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 a loan agreement to the Borrower in substantially said 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 the Bank's counsel, may require or approve, such requirement or approval to be conclusively evidenced by the execution and delivery thereof (as so executed, the "Loan Agreement"). The Secretary is authorized to attest to the Bank's execution of the Loan Agreement.

Section 6. The proposed form of indenture of trust 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, acknowledge and deliver an indenture of trust to the Trustee in substantially said 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 the Bank's counsel, may require or approve, such requirement or approval to be conclusively evidenced by the execution and delivery thereof (as so executed, the "Indenture"). The Secretary is authorized to attest to the Bank's execution of the Indenture.

Section 7. The proposed form of purchase 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 and on behalf and in the name of the Bank, to execute and deliver to the Underwriter and the Treasurer of the State a purchase agreement in substantially said 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 the Bank's counsel, may require or approve, such requirement or approval to be conclusively evidenced by the execution and delivery thereof. At the request of the Borrower, the Underwriter is appointed as the underwriter for the Bonds. The Treasurer of the State, as agent for sale of the Bank's bonds, is hereby requested to sell the Bonds, in one or more series, at negotiated sale, at such prices and at such initial interest rates as he may determine in accordance with the Indenture. Pursuant to Section 63074(d) of the Act, 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 8. The sections entitled "THE INFRASTRUCTURE BANK" and "NO LITIGATION – The Infrastructure Bank" in the proposed preliminary form of official statement on file with the Secretary are hereby approved. 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 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 the Bank's counsel, is or are acceptable to the officer or official executing the same, to the effect that such portions of the official

statement (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 the Bank's counsel, 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 an official statement in preliminary form to the prospective purchasers of the Bonds and an official statement in final form in connection with the sale of the Bonds.

Section 9. The proposed form of tax 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 and in the name and on behalf of the Bank, to execute and deliver to the Borrower and bond counsel a tax 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 Bank's counsel and bond counsel, may require or approve, such requirement or approval to be conclusively evidenced by the execution and delivery thereof.

Section 10. The Bank approves the issuance of not to exceed \$150,000,000 aggregate principal amount of the Bonds for the Project in accordance with 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 Bonds shall not be deemed to constitute a debt or liability of the State or the Bank except as to the Bank to the limited extent provided in the Indenture. 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 and bear such additional series designations as provided in the Indenture, mature on the date or dates provided in the Indenture which shall be not later than ten years and six months from the date of issuance thereof, be subject to redemption as provided in the Indenture, carry the registration privileges provided in the Indenture and bear interest at a rate to be set forth in the Indenture, which rate shall not exceed the lesser of 12% per annum or the maximum rate of interest on the Bonds permitted by the laws of the State.

Section 11. 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 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 12. 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 the Bonds by executing the Trustee's certificate of authentication 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 such

officer or official, 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 13. The Executive Director, the Executive Director's assignee, the Chair of the Board or the Chair's designee, each acting alone, is hereby authorized to execute and deliver any and all certificates and instruments (including without limitation letters of representations and certifications of authority and tax forms required by the IRS in connection with the issuance of the Bonds, if any), which such officer or official, acting upon advice of the Bank's counsel 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 14. 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 and instruments which they or counsel or bond 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 15. The authorizations and directions of this resolution shall not be effective until the Executive Director or the Executive Director's assignee has been provided evidence of the following:

- (a) the Bonds shall have obtained an initial rating of at least "A3" by Moody's Investors Service or "A-" by Standard & Poor's;

- (b) the Borrower shall have entered into the Lease;
- (c) the DDA Amendment shall have been entered into by all parties thereto and approved as required by the terms of the DDA Amendment;
- (d) the Borrower and TBF shall have entered into the Pledge Agreement; and
- (e) the Borrower's certification that it has received \$22 million from CRA/LA or such other source, which is available to the Borrower for the payment of costs of the parking garage.

Section 16. This resolution shall take effect immediately upon its adoption.

PASSED, APPROVED, AND ADOPTED at a meeting of the California Infrastructure and Economic Development Bank on May 24, 2011 by the following vote:

AYES: REYES, LUJANO, CABALLERO, RICE

NOES: NONE

ABSENT: NONE

ABSTAIN: JIMENEZ


Stanton C. Hazelroth, Executive Director

Attest:



Roma Cristia-Plant,
Secretary of the Board of Directors