

## RESOLUTION NO. 11-10

### **RESOLUTION OF THE CALIFORNIA INFRASTRUCTURE AND ECONOMIC DEVELOPMENT BANK AUTHORIZING (I) AN AMENDED AND RESTATED INDENTURE AND AN AMENDED AND RESTATED LOAN AGREEMENT TO ADD AN INDEX RATE METHOD OF CALCULATING INTEREST ON, AND (II) A TAX AGREEMENT IN RELATION TO AN ANTICIPATED TAX REISSUANCE WITH RESPECT TO, THE CALIFORNIA INFRASTRUCTURE AND ECONOMIC DEVELOPMENT BANK VARIABLE RATE DEMAND REVENUE BONDS (ORANGE COUNTY PERFORMING ARTS CENTER) SERIES 2008A, SERIES 2008B, AND SERIES 2008C**

**WHEREAS**, the California Infrastructure and Economic Development Bank (the “Issuer”) 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 Issuer 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; and

**WHEREAS**, on July 2, 2008, the Issuer issued its Variable Rate Demand Revenue Bonds (Orange County Performing Arts Center) Series 2008A in an aggregate principal amount of \$90,000,000 (the “Series 2008A Bonds”), its Variable Rate Demand Revenue Bonds (Orange County Performing Arts Center) Series 2008B in an aggregate principal amount of \$90,000,000 (the “Series 2008B Bonds”), and its Variable Rate Demand Revenue Bonds (Orange County Performing Arts Center) Series 2008C in an aggregate principal amount of \$60,000,000, (the “Series 2008C Bonds”) pursuant to an Indenture, dated as of July 1, 2008 (the “Original Indenture”), between the Issuer and Union Bank, N.A. (formerly known as Union Bank of California, N.A.), as trustee (the “Trustee”) and loaned the proceeds of such Series 2008A Bonds, Series 2008B Bonds, and Series 2008C Bonds to The Orange County Performing Arts Center, a California nonprofit public benefit corporation now doing business as Segerstrom Center for the Arts (the “Corporation”), pursuant to a Loan Agreement, dated as of July 1, 2008 (the “Original Loan Agreement”), between the Corporation and the Issuer, for the purpose of refunding certain bonds previously issued by the Bank to finance costs of the construction, equipping and furnishing of certain improvements to the Orange County Performing Arts Center consisting of a concert hall named the René and Henry Segerstrom Concert Hall, with a capacity of approximately 2000 seats; a multi-purpose theater named the Samueli Theater, with a capacity of approximately 500 seats; an education center; a public restaurant; a private donor room; rehearsal spaces; artist accommodations; a pedestrian plaza; and related and appurtenant facilities all located in the City of Costa Mesa, California, and certain costs of issuance in connection therewith; and

**WHEREAS**, pursuant to its Resolution No. 11-03, adopted on March 1, 2011, the Issuer previously approved the refunding of the Series 2008C Bonds and the related issuance of its Revenue Bonds (Orange County Performing Arts Center) Series 2011A; and

**WHEREAS**, principal, purchase price and interest payments (i) with respect to the Series 2008A Bonds are currently secured by a letter of credit provided by Bank of America, N.A., (ii) with respect to the Series 2008B Bonds are currently secured by a letter of credit provided by Wells Fargo Bank, National Association, and (iii) with respect to the Series 2008C Bonds are currently secured by a letter of credit provided by Allied Irish Banks, p.l.c., acting through its New York Branch; and

**WHEREAS**, the Corporation desires to have the Original Indenture amended to include an additional interest rate calculation method (the "Index Rate") for the Series 2008A Bonds, the Series 2008B Bonds, and any Series 2008C Bonds remaining outstanding as of the effective date of such amendment (collectively, the "Bonds") to be based on either of the London Interbank Offered Rate index or the Securities Industry and Financial Markets Association Municipal Swap Index; to have the interest rate on a portion of the Bonds adjusted to bear interest at an Index Rate and to permit the Bonds to be held by a qualified institutional buyer as described in Section 144A promulgated pursuant to the Securities Act of 1933, as amended (a "Qualified Institutional Buyer"); to eliminate the requirement for a Credit Facility when any Bonds are held by a Qualified Institutional Buyer; and to permit the designation of additional series or subseries of the Bonds; all in anticipation of the remarketing of a portion of the Bonds bearing an Index Rate of interest to Wells Fargo Bank, National Association and Union Bank, N.A., each of which is a Qualified Institutional Buyer; and

**WHEREAS**, the Corporation has requested that the Issuer and the Trustee amend and restate the Original Indenture and the Original Loan Agreement to provide for the aforementioned changes; and

**WHEREAS**, Section 9.01(k) of the Original Indenture, provides that the Issuer and the Trustee may enter into amendments of the type contemplated herein to the Original Indenture and the Trustee may consent to amendments of the type contemplated herein to the Original Loan Agreement, without the consent of any Bondholders, but with the prior written consent of the Corporation and the consent of each of the Current Credit Providers (the "Amendment Consents"), if the effective date of such amendments (the "Effective Date") is a date on which all Bonds affected thereby are subject to mandatory tender for purchase or if Notice by Mail of the proposed amendments is given to Holders of the Bonds at least fifteen (15) days before the Effective Date and, on or before the Effective Date, such Bondholders have the right to demand purchase of their Bonds; and

**WHEREAS**, Section 10.4 of the Original Loan Agreement, provides that amendments to the Original Loan Agreement may be made in accordance with the Original Indenture; and

**WHEREAS**, in its Resolution No. 08-19, adopted on June 24, 2008, and pursuant to which Issuer approved the issuance of the Series 2008A Bonds, Series 2008B Bonds, and Series 2008C Bonds, the Board of Directors of the Issuer found and determined that the Corporation was capable of meeting its obligations under the Original Loan Agreement based on

the requirement that the bonds issued in connection therewith would be supported by one or more direct-pay letters of credit and would be rated in one of the three highest rating categories of Moody's Investors Service, Fitch, Inc. or Standard & Poor's Corporation; and

**WHEREAS**, the amendment and restatement of the Original Loan Agreement will change the Corporation's obligations thereunder, including the addition of an obligation to pay amounts required to pay the purchase price of Bonds bearing interest at an Index Rate upon the tender thereof; and

**WHEREAS**, consistent with the Issuer's policies, the Corporation has represented that (a) Bonds bearing interest at an Index Rate will be sold only to purchasers ("Direct Purchasers") that certify that they are Qualified Institutional Buyers and will be subject to transfer restrictions that limit the transfer of such Bonds to other Qualified Institutional Buyers until such Bonds are rated consistently with the rating policy of the Board of Directors of the Issuer and (b) such Direct Purchasers will be required to make "sophisticated investor" representations acceptable to the Issuer; and

**WHEREAS**, the amendments of the Original Indenture and Original Loan Agreement and the remarketing of the Bonds bearing interest at a newly authorized Index Rate creates a substantial change in the terms of the Bonds, which change causes the Bonds to be treated as reissued for federal tax purposes and will require a new tax certificate and agreement to be entered into between the Corporation and the Issuer; and

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

- 1) A proposed form of an amended and restated indenture, to be entered into between the Issuer and the Trustee;
- 2) A proposed form of an amended and restated loan agreement, to be entered into between the Issuer and the Corporation; and
- 3) A proposed form of a tax certificate and agreement.

**NOW, THEREFORE, BE IT RESOLVED** by the Board, as follows:

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

**Section 2.** The proposed form of amended and restated indenture on file with the Secretary is hereby approved, and the Chair of the Board, the Chair's designee and the Executive Director of the Issuer (the "Executive Director") or whomever he or she shall assign (the "Executive Director's assignee"), each acting alone, is hereby authorized and directed, for and on behalf and in the name of the Issuer, to execute and deliver an amended and restated indenture to the Trustee 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 the Issuer's counsel, may require or approve, such requirement or approval to be conclusively evidenced by the delivery thereof (as so executed, the "Amended and Restated Indenture"); provided, however, that the Amended and

Restated Indenture shall provide for replacement Bonds with terms that are consistent with this resolution and shall permit such Bonds to be remarketed without a credit rating that meets the Issuer's current credit rating policy only if such Bonds are remarketed to Qualified Institutional Buyers, each of which provides confirmation of its status and willingness to comply with the resale restrictions of the Amended and Restated Indenture, which certifications have been approved by Issuer's counsel. The Secretary is authorized to attest to the Issuer's execution of the Amended and Restated Indenture.

**Section 3.** The proposed form of the amended and restated loan agreement on file with the Secretary is hereby approved, and the Chair of the Board, the Chair's designee, the Executive Director and the Executive Director's assignee, each acting alone, is hereby authorized and directed, for and on behalf and in the name of the Issuer, to execute and deliver an amended and restated loan agreement in substantially said form, with such changes thereto, 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 the Issuer's counsel, may require or approve, such requirement or approval to be conclusively evidenced by the delivery thereof (as so executed, the "Amended and Restated Loan Agreement"). The Secretary is authorized to attest to the Issuer's execution of the Amended and Restated Loan Agreement.

**Section 4.** The proposed form of the tax certificate and agreement on file with the Secretary is hereby approved, and the Chair of the Board, the Chair's designee, the Executive Director and the Executive Director's assignee, each acting alone, is hereby authorized and directed, for and on behalf and in the name of the Issuer, to execute and deliver a tax certificate and 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 the Issuer's counsel, may require or approve, such requirement or approval to be conclusively evidenced by the delivery thereof.

**Section 5.** The Executive Director, the Executive Director's assignee, the Chair of the Board and the Chair's designee, each acting alone, is hereby authorized and directed, for and in the name and on behalf of the Issuer, to execute replacement Bonds in an aggregate principal amount not to exceed the currently outstanding principal amount of Bonds, and with additional series or subseries designations, all in accordance with the terms of this resolution and the Amended and Restated Indenture and in the forms set forth in the Amended and Restated Indenture. The Bonds shall be subject to redemption as provided in the Indenture, including a mandatory redemption of bonds that are not remarketed after each period in which the Bonds bear interest at an Index Rate and provisions relating to purchase in lieu of redemption. The Bonds shall bear interest at a rate or rates to be determined in accordance with the Indenture, including the Index Rate, which rates, including the rates paid on Credit Provider Bonds (as defined in the Original Indenture) shall not exceed the lesser of twenty-five percent (25%) per annum or the maximum rate of interest on the Bonds permitted by the laws of the State. The Bonds shall be issued in denominations as provided in the Amended and Restated Indenture, which shall during any period in which the Bonds bear interest at an Index Rate and during which the Bonds are required to be held by Qualified Institutional Buyers, be \$500,000 and any integral multiple of \$5,000 in excess thereof. The replacement Bonds, when so executed, shall be delivered to the Trustee for authentication by the Trustee. The Trustee is hereby requested

and directed to authenticate and register the replacement Bonds so delivered by executing the appropriate certificate of authentication and registration appearing thereon, and to deliver the new Bonds, when duly executed, authenticated and registered.

**Section 6.** Based upon representations made by the Corporation, the Board of Directors of the Issuer hereby finds and determines that the Corporation is capable of meeting its payment obligations under the Amended and Restated Loan Agreement, as approved by this resolution, which finding is based in particular on the Corporation's ability to satisfy the requirements imposed by the Direct Purchasers.

**Section 7.** The Chair of the Board, the Chair's designee, the Executive Director and the Executive Director's assignee, each acting alone, is hereby authorized to execute all certificates and instruments (including without limitation letters of representations, certifications of authority and tax forms required by the Internal Revenue Service in connection with the reissuance of the Bonds) which they or counsel to the Issuer may deem necessary or advisable to effectuate the purpose of this resolution.

**Section 8.** The signatures of the Issuer to the Amended and Restated Indenture and Amended and Restated Loan Agreement authorized by this resolution shall be deemed effective no earlier than the Effective Date and not until the Loan Agreement Consents and Amendment Consents have been received by the Trustee.

**Section 9.** All actions heretofore taken by the officers, employees and agents of the Issuer with respect to the actions contemplated by this resolution are hereby approved, confirmed and ratified. The officers of the Issuer 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 Issuer, may deem necessary or advisable in order to effectuate the purposes of this resolution.

**Section 10.** This resolution shall take effect immediately upon its passage.

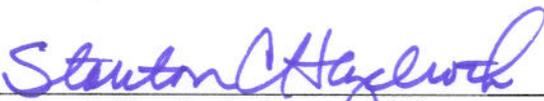
**PASSED, APPROVED, AND ADOPTED** at a meeting of the California Infrastructure and Economic Development Bank on May 24, 2011, by the following vote:

AYES: REYES, LUJANO, JIMENEZ, CABALLERO, RICE

NOES: NONE

ABSENT: NONE

ABSTAIN: NONE

By   
Stanton C. Hazelroth, Executive Director

Attest:

By   
Roma Cristia-Plant,  
Secretary of the Board