RESOLUTION NO. 16-16

RESOLUTION OF THE CALIFORNIA INFRASTRUCTURE AND ECONOMIC DEVELOPMENT BANK BOARD OF DIRECTORS PROVIDING FINAL APPROVAL OF AN INFRASTRUCTURE STATE REVOLVING FUND PROGRAM FINANCING IN AN AMOUNT NOT TO EXCEED $25,500,000 FOR THE CITY OF SAN DIEGO AND THE SAN DIEGO CONVENTION CENTER CORPORATION, INC., AS JOINTLY AND SEVERALLY LIABLE CO-BORROWERS

WHEREAS, the California Infrastructure and Economic Development Bank ("IBank") established and existing pursuant to the Bergeson-Peace Infrastructure and Economic Development Bank Act (California Government Code Section 63000 and following) (the "IBank Act"), for the purpose of, among other things, providing financial assistance to eligible projects; and

WHEREAS, the City of San Diego, a municipal corporation (the "City") and the San Diego Convention Center Corporation, Inc., a California nonprofit corporation ("SDCCC" and, together with the City, the "Borrowers"), as jointly and severally liable co-borrowers, are seeking financing under the Infrastructure State Revolving Fund Program (the "ISRF Program") requesting $25,500,000 for financing eligible project costs of the San Diego Convention Center Facility Infrastructure Replacement and Upgrades Project, as more fully described in Attachment A hereto (the "Project"); and

WHEREAS, the Borrowers and the Project meet all applicable eligibility requirements for infrastructure projects mandated by the IBank Act and by the Criteria, Priorities, and Guidelines for the Selection of Projects for Financing under the Infrastructure State Revolving Fund (ISRF) Program, dated February 23, 2016 (the "Criteria"), except that:

(i) Exhibit A to the Criteria, the Credit Underwriting Guidelines and Procedures require that a CLTA or ALTA title insurance policy be procured for the assets to be leased (the "Title Insurance Criteria") in a lease secured financing. Due to the nature of the contemplated leased assets, title insurance is not commercially available for the ISRF Financing (defined below). The leased assets will be secured by a UCC-1 filing and appropriate covenants;

(ii) Section IV.C of the Criteria requires that the term of ISRF Program financings not exceed the useful life of the financed project (the "Useful Life Criteria"). The Project consists of four separate components, the useful life of which ranges from 30 years to 15 years. The term of the ISRF Financing will be 25 years. The weighted average useful life of the Project components is approximately 28 years, which substantially meets the intent of the Useful Life Criteria; and

(iii) Section II.A.4 of the Criteria requires that recipients of ISRF Program financing above $2,000,000 pre-qualify contractors for the financed project using the model pre-qualification questionnaire (the "Model

Questionnaire") approved by the Department of Industrial Relations (the "Model Questionnaire Criteria"). SDCCC will be the party to award the Project construction contracts and it did not pre-qualify contractors using the Model Questionnaire. Instead SDCCC used its own required pre-qualification questionnaire, which substantially meets the intent of the Model Questionnaire Criteria; and

WHEREAS, pursuant to the Criteria the IBank Board of Directors (the "Board") holds the authority to waive Criteria requirements as necessary to accommodate complex or unusual transactions and, in order to accommodate IBank's financing of the Project, intends to waive compliance with:

(i) the Title Insurance Criteria;
(ii) the Useful Life Criteria; and
(iii) the Model Questionnaire Criteria; and

WHEREAS, pursuant to the provisions of the Internal Revenue Code of 1986, as amended, and those U.S. Treasury Regulations implementing such provisions (collectively, "Federal Tax Law"), any funds incurred or expended by the Borrower for the purpose of financing costs associated with the Project on a long-term basis using proceeds of tax-exempt bonds or other tax exempt obligations may be reimbursed from the proceeds of the ISRF Financing (as defined below) provided that the applicable requirements of Federal Tax Law are met (the "Reimbursable Expenditures").

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 this resolution (this "Resolution"), the Board authorizes and approves providing a financing under the ISRF Program in a principal amount not to exceed $25,500,000 to the Borrowers for the costs of the Project (the "ISRF Financing"), subject to the execution of a financing agreement between IBank and the Borrowers and associated loan documentation (collectively, the "Financing Agreement"). Such Financing Agreement shall reflect the Board-approved financing terms and conditions as set forth in Attachment B hereto.

Section 3. All actions heretofore taken by the officers and employees of IBank with respect to the consideration and approval of the ISRF Financing are hereby approved, confirmed and ratified. IBank's Executive Director (the "Executive Director") or the Executive Director's assignees each acting alone, is hereby authorized and directed, jointly and severally, to perform their duties, provide funding, take actions and execute and deliver the Financing Agreement and any and all other financing documents and instruments which they may deem necessary or desirable in order to (i) effect the financing of the Project; (ii) facilitate the transactions contemplated by the ISRF Financing; and (iii) to otherwise to effectuate the purposes of this Resolution.

Section 4. This Resolution shall not be construed as an unconditional commitment to finance the Project, but rather IBank's approval pursuant to this Resolution is conditioned upon

entry by IBank and the Borrowers into the Financing Agreement, in form and substance satisfactory to IBank, within 180 days from the date of its adoption. Such satisfaction is conclusively evidenced by IBank's execution and delivery of same.

Section 5. For purposes of assisting the Borrowers in seeking reimbursement for any Reimbursable Expenditures pursuant to Federal Tax Law, the Board hereby declares its reasonable official intent to use proceeds of tax-exempt bonds to reimburse the Borrowers for any such Reimbursable Expenditures. This declaration is made solely for purposes of establishing compliance with applicable requirements of Federal Tax Law. This declaration does not bind IBank to provide the ISRF Financing or to reimburse the Borrowers for any Project expenditures.

Section 6. The Board finds that waiver of the Title Insurance Criteria, the Useful Life Criteria, and the Model Questionnaire Criteria (collectively, the "Waived Criteria") is necessary and appropriate to accommodate the ISRF Financing and hereby waives compliance with the Waived Criteria.

Section 7. This Resolution shall take effect immediately upon its adoption.

PASSED, APPROVED, AND ADOPTED at a meeting of the Board of Directors of the California Infrastructure and Economic Development Bank on June 28, 2016, by the following vote:

AYES: GORDON, JERUE, JIMENEZ, LUCHETTI, AVDIS

NOES:

ABSENT:

ABSTAIN:

By: _____
Teveia R. Barnes, Executive Director

ATTEST

By: _____
Stefan R. Spich,
Secretary of the Board of Directors

ATTACHMENT A

Description of the Project

The Project consists of the following components, all to be constructed in the Phase I unencumbered portion of the San Diego Convention Center:

- Removal and replacement of the entire existing 113,600 square foot Sails Pavilion tensioned roof structure, including structural steel masts, structural support cables, and tensile membrane. Upgrades also include replacement of the concrete floor, fire cannon, roof top chillers, and tie-in of two (2) stand-alone roof top chillers into the chilled water system.
- Removal and replacement of the entire existing five (5) cooling towers and related devices necessary to deliver a complete system, including supports, flashings, pumps, and controls.
- Replacement and upgrade of the existing fire alarm system with a new Siemens/Cerebus XLS fire alarm system that is compatible with, and able to communicate via, an XNET data line, an existing MXL fire alarm system, and Desigo CC Fire Safety Management Station.
- Upgrade of escalators, including the upgrade of the following systems: truss isolation mounting, incline modules, step bands, comb plates, access covers, decks, balustrades, front plates, skirts, interior trim, handrails, controls, wiring, and safety devices.
- Other components necessary or desirable in connection with an infrastructure project of this type and that are consistent with the applicable requirements of the IBank Act and the Criteria.

ATTACHMENT B

Financing Terms

1. **Applicant/Borrower:** San Diego Convention Center Corporation, Inc. and City of San Diego jointly and severally
2. **Project:** San Diego Convention Center Facility Infrastructure Replacement & Upgrades
3. **Amount of Financing:** not to exceed $25,500,000
4. **Maturity:** 25 years
5. **Repayment/Security:** SDCCC Fund and City General Fund / lease-lease back financing, encumbering certain improvements in Phase I of the Convention Center (Leased Assets).
6. **Interest Rate:** 3.59%
7. **Fees:** Origination fee of 1.00% of the Financing amount, $254,975, and an annual fee of 0.30% of the outstanding principal balance.
8. **Not an Unconditional Commitment:** IBank's resolution shall not be construed as an unconditional commitment to finance the Project, but rather IBank's approval pursuant to the Resolution is conditioned upon entry by IBank and the Borrowers into a Financing Agreement, in form and substance satisfactory to IBank.
9. **Limited Time**: The Board's approval expires 180 days from the date of its adoption. Thus, the Borrowers and IBank must enter into the Financing Agreement no later than 180 days from such date. Once the approval has expired, there can be no assurances that IBank would be able to provide the Financing to the Borrowers or consider extending the approval period.
10. **Financing Agreement Covenants:** The Financing Agreement shall include, among other things, the following covenants:
    a. Borrowers to comply with all applicable requirements of ISRF Program Criteria, as well as all applicable laws, regulations and permitting requirements associated with public works projects.
        i. SDCCC to enter a fixed-price construction contract.
        ii. SDCCC to provide payment and performance bonds, builder's risk insurance, and liability and worker's compensation insurance.
    b. SDCCC would covenant to annually budget and appropriate Lease payments. The City would covenant to annually budget and appropriate sums necessary to make Lease payments. The City's and SDCCC's covenants would be included in the financing documents and in a certificate of the City and SDCCC executed at the closing of the financing.
    c. SDCCC and the City to report the full loan obligation in their respective annual financial statements as applicable under GAAP accounting procedures.
    d. Borrowers to procure and maintain rental interruption insurance for a period of at least six months beyond the time needed to reconstruct the Leased Assets.

e. Borrowers to covenant against future encumbrances against the Leased Assets.

f. Borrowers to provide to IBank within 240 days of the end of each fiscal year a copy of each of its audited financial statements, together with an annual certificate demonstrating compliance with the foregoing covenants, as well as other information as IBank may request from time to time.

11. **Waivers:** IBank requests the Board waive the following requirements of IBank's Criteria:

a. Borrowers' procurement of CLTA or ALTA title insurance policy.

b. Financing term will not exceed the lesser of project's useful life or 30 years.

c. Use of the contractor model pre-qualification questionnaire approved by the Department of Industrial Relations.