

THIS PAYMENT GUARANTY (“**Guaranty**”), is made as of \_\_\_\_\_, by \_\_\_\_\_ (“**Guarantor**”), to and for the benefit of the City of Chula Vista, a chartered municipal corporation (the “**City**”).

### **RECITALS**

A. RIDA Chula Vista, LLC, a Delaware limited liability company (together with any successors and assigns, “**RIDA**”), is party to that certain Agreement for Deferral of Development Impact and Sewer Capacity Fees [Bayfront Resort and Convention Center], dated [ ● ], 2022, by and between the City and RIDA (as amended, amended and restated, supplemented or otherwise modified from time to time, the “**Deferral Agreement**”). In connection with the Deferral Agreement, RIDA has entered into a promissory note, dated as of [ ● ], 2022, in favor of the City (as amended, amended and restated, supplemented or otherwise modified from time to time, the “**Note**” and, together with the Deferral Agreement, the “**Deferral Documents**”).

B. The Deferral Agreement provides for, among other things, the deferral of the “Net Development Fee Obligation” owed by RIDA with respect to the “Project” (as defined therein).

C. As a condition to the deferral of the Net Development Fee Obligation, the Deferral Agreement requires the Guarantor to enter into this Guaranty in favor of the City.

D. Guarantor is [an affiliate of RIDA] and thus will benefit from the deferral of the Net Development Fee Obligation in accordance with the Deferral Agreement.

E. The City has relied on the statements and agreements contained herein in agreeing to enter into the Deferral Agreement.

### **GUARANTY**

NOW, THEREFORE, intending to be legally bound, Guarantor in consideration of the matters described in the foregoing Recitals, which Recitals are incorporated herein and made a part hereof, hereby covenants and agrees for the benefit of the City and its successors and assigns as follows:

1.1 **Guaranty**. Guarantor hereby warrants and guarantees to the City RIDA’s obligation to pay the Net Development Fee Obligation, together with all unpaid but accrued interest thereon, to the City in accordance with the Deferral Agreement (the “**Guaranteed Obligations**”).

1.2 **Consideration**. Guarantor acknowledges that it has made this Guaranty to induce the City to enter into the Deferral Agreement, and the City is entering into the Deferral Agreement in reliance upon this Guaranty, and the City would not have agreed to enter into the Deferral Agreement without the Guarantor’s execution and delivery of this Guaranty.

1.3 **Obligations of Guarantor Upon Default**. In the event RIDA fails to pay any part of the Guaranteed Obligations when due, after any and all cure periods applicable to RIDA, Guarantor shall, upon demand of the City: (i) promptly cure such failure to pay the applicable part of the Guaranteed Obligations by paying or causing the payment of such obligation; and (ii) pay to the City all reasonable costs and expenses, including reasonable attorneys’ fees and expenses, that the City incurs in enforcing the payment of the Guaranteed Obligations. In the event RIDA defaults in the performance of its obligations under any Deferral Document, provided Guarantor undertakes to cure

such defaults, the City agrees to accept the performance by Guarantor of such obligations under such Deferral Document, and accord Guarantor all of the rights and benefits due to RIDA under such Deferral Document to the extent necessary for the Guarantor to fully satisfy its obligations hereunder.

## 2. CHARACTER OF GUARANTY.

2.1 **Guarantee of Payment.** This Guaranty is not a guarantee of collection, but rather of payment. Guarantor hereby covenants and agrees that Guarantor is liable for the Guaranteed Obligations as primary obligor.

2.2 **Other Guaranties; Joint and Several Obligations.** For purposes of this Guaranty, “**Net Worth**” shall mean, with respect to any Person, such Person’s total assets less the amount of such Person’s total liabilities, determined in accordance with the Guarantor’s standard accounting principles, as presented in the form attached hereto as Exhibit A. For purposes of this Guaranty, “**Liquidity**” shall mean, with respect to any Person, such Person’s (a) assets that are specified in clauses (1) through (10) of the definition of Permitted Investments set forth in the Indenture of Trust dated as of [ ● ], 2022 between the Authority and Wilmington Trust, National Association, without giving effect to the introductory clause of such definition and (b) without duplication of (a), publicly traded securities. The Guarantor and the City acknowledge and agree that a guaranty of the Guaranteed Obligations (an “**Other Guaranty**”) may be provided to the City by any other guarantor (“**Other Guarantors**”) in accordance with the terms of this Guaranty. If at any time the Guarantor (which may include an Other Guarantor) has a Net Worth (“**Guarantor Net Worth**”), when taken together with the Net Worth of each Other Guarantor at such time (collectively, “**Other Guarantor Net Worth**”), of less than \$75,000,000 or the Guarantor has a Liquidity (“**Guarantor Liquidity**”), when taken together with the Liquidity of each Other Guarantor at such time (collectively, “**Other Guarantor Liquidity**”), of less than \$15,000,000, then the Guarantor shall promptly notify the City thereof and shall do one or more of the following to achieve a Minimum Net Worth and Minimum Liquidity for the Guarantor, no later than 60 days after the date that the Guarantor notifies the City thereof, (a) (i) increase the Guarantor Net Worth so that the increased Guarantor Net Worth, when taken together with the Other Guarantor Net Worth at such time, shall be equal to or be greater than \$75,000,000 (the “**Minimum Net Worth**”) and/or (ii) increase the Guarantor Liquidity so that the increased Guarantor Liquidity, when taken together with the Other Guarantor Liquidity at such time, shall be equal to or be greater than \$15,000,000 (the “**Minimum Liquidity**”), or (b) cause a Qualified Guarantor to execute an Other Guaranty substantially and materially in the form of this Guaranty; provided, however, that there shall be no more than three Other Guaranties outstanding at any time. Should any Other Guaranty be provided to the City by any Other Guarantor, Guarantor and the Other Guarantors agree that the liability of the Guarantor and Other Guarantors hereunder shall be joint and several and that each provision hereof shall apply to the Guarantor and each Other Guarantor individually and to Guarantor and all Other Guarantors collectively, and the City may seek to enforce this Guaranty against Guarantor or the Other Guarantors (and less than all of the Guarantor and Other Guarantors) without impairing the rights of the City against Guarantor or any of the Other Guarantors.

2.3 **Continuing Guaranty.** This is a continuing guaranty, and shall apply to all of the Guaranteed Obligations and all renewals and extensions thereof, and the fact that at any time, and from time to time, such Guaranteed Obligations may be paid in full or RIDA shall no longer be party to one or more of the Deferral Documents, shall not affect the obligations of the Guarantor hereunder which arise thereafter.

2.4 **Independent Obligation.** The obligations of Guarantor hereunder are independent of the obligations of RIDA, and Other Guarantor(s) or any other Person (as hereinafter defined), and the City may enforce any of its rights hereunder independently of any other right or remedy that the City may at any time hold with respect to the Guaranteed Obligations.

2.5 **Unsecured Obligation.** Except as otherwise provided in this Guaranty, this Guaranty is not secured.

**3. RELATIONSHIP OF PARTIES.** Guarantor hereby represents and warrants as of the date hereof that: (a) this Guaranty is executed at the request of the City; (b) Guarantor has reviewed all the terms and provisions of the Deferral Documents; and (c) Guarantor has established adequate means of obtaining from RIDA and from other sources, on a continuing basis, financial and other information pertaining to RIDA's financial condition, and the status of RIDA's performance of its obligations under the Deferral Documents. Guarantor hereby covenants for the term of this Guaranty that: (i) Guarantor is and shall continue to be a Person which is not a Prohibited Person (as defined below), which has, in the aggregate with the Other Guarantor Net Worth, a Guarantor Net Worth of at least the Minimum Net Worth and which, in the aggregate with the Other Guarantor Liquidity, a Guarantor Liquidity of at least the Minimum Liquidity ("**Qualified Guarantor**"); and (ii) Guarantor has not and will not, without the prior written consent of the City in its sole and absolute discretion, sell, lease, assign, encumber, hypothecate, transfer or otherwise dispose of any of Guarantor's assets, whether in one transaction or a series of transactions, which will result in Guarantor having a Guarantor Net Worth, together with the Other Guarantor Net Worth, of less than the Minimum Net Worth or Guarantor having a Guarantor Liquidity, together with the Other Guarantor Liquidity, of less than the Minimum Liquidity. For purposes of this Guaranty, "**Prohibited Person**" shall have the same meaning as set forth in that certain ground lease, dated as of [ ● ], 2022, by and between San Diego Unified Port District and RIDA (as amended, amended and restated, supplemented or otherwise modified from time to time, the "**Hotel Ground Lease**").

#### **4. CERTAIN AGREEMENTS AND WAIVERS BY GUARANTOR.**

4.1 Guarantor agrees that neither the rights or remedies of the City nor any of Guarantor's obligations under the terms of this Guaranty, including without limitation, the Guaranteed Obligations, shall be released, diminished, impaired, reduced or affected by any one or more of the following events, actions, facts, or circumstances; Guarantor waives any rights, claims or defenses arising from any such events, actions, facts, or circumstances; and the liability of Guarantor under this Guaranty shall be absolute, unconditional and irrevocable irrespective of:

(a) any limitation on the liability of, or recourse against, any other person or entity (collectively, "**Person**") under the Deferral Documents or arising under any applicable law, statute, ordinance or regulation (collectively, "**Laws**");

(b) any claim or defense that this Guaranty was made without consideration or is not supported by adequate consideration or that the obligations of Guarantor hereunder exceed or are more burdensome than those of RIDA under the Deferral Documents;

(c) the release or taking or accepting of any other security or guaranty for, or right of recourse with respect to, any or all of the Guaranteed Obligations;

(d) the operation of any statutes of limitations (unless the City had written notice of a claim and failed to pursue its remedies in the legally prescribed time periods) or other Laws regarding the limitation of actions, all of which are hereby waived as a defense to any action or proceeding brought by the City against Guarantor, to the fullest extent permitted by Laws;

(e) any homestead exemption or any other exemption under any Laws;

(f) any release, surrender, abandonment, exchange, alteration, sale or other disposition, subordination, deterioration, waste, failure to protect or preserve, impairment, or loss of, or any failure to create or perfect any lien or security interest with respect to, or any other dealings with, any collateral or security at any time existing or purported, believed or expected to exist in connection with any or all of the Guaranteed Obligations, or any impairment of Guarantor's recourse against any Person or collateral;

(g) whether express or by operation of Laws, any partial release of the liability of Guarantor hereunder (except to the extent expressly so released) or any complete or partial release of RIDA or any other Person liable, directly or indirectly, for the payment of any or all of the Guaranteed Obligations;

(h) the death, insolvency, bankruptcy, disability, incapacity, dissolution, liquidation, termination, receivership, reorganization, merger, consolidation, change of form, structure or ownership, sale of all assets, or lack of corporate, partnership or other power of RIDA or any other Person at any time liable for the payment of any or all of the Guaranteed Obligations;

(i) either with or without notice to or consent of Guarantor, any renewal, extension, modification, supplement, subordination or rearrangement of the terms of any or all of the Guaranteed Obligations and/or the Deferral Documents, including material alterations of the terms of payment or performance or any other terms thereof, or any waiver, termination, or release of, or consent to departure from any of the Deferral Documents or any other guaranty of any or all of the Guaranteed Obligations, or any adjustment, indulgence, forbearance, or compromise that may be granted from time to time by the City to RIDA or any other Person at any time liable for the performance of any or all of the Guaranteed Obligations;

(j) any neglect, lack of diligence, delay, omission, failure, or refusal of the City to take or prosecute (or in taking or prosecuting) any action for the collection or enforcement of any of the Guaranteed Obligations, or to exercise (or in exercising) any other right or power with respect to any security therefor, or to take or prosecute (or in taking or prosecuting) any action in connection with the Deferral Documents, or any failure to sell or otherwise dispose of in a commercially reasonable manner any collateral securing any or all of the Guaranteed Obligations;

(k) any failure of the City to notify Guarantor of any creation, renewal, extension, rearrangement, modification, supplement, subordination, or assignment of the Guaranteed Obligations or any part thereof, or of any Deferral Document, or of any release of or change in any security, or of the occurrence or existence of any default or event of default under any Deferral Document (each, an “**Event of Default**”), or of any other action taken or refrained from being taken by the City against RIDA or any security or other recourse, or of any new agreement between the City and RIDA, it being understood that the City shall not be required to give Guarantor any notice of any kind under any circumstances with respect to or in connection with the Guaranteed Obligations, any and all rights to notice Guarantor may have otherwise had being hereby waived by Guarantor, and

Guarantor shall be responsible for obtaining for itself information regarding RIDA and any collateral, including any changes in the business or financial condition of RIDA or any collateral, and Guarantor acknowledges and agrees that the City shall have no duty to notify Guarantor of any information which the City may have concerning RIDA, the Deferred Obligations (as defined in the Deferral Agreement), the Deferral Documents, or any collateral;

(l) the existence of any claim, counterclaim, setoff or other right that Guarantor may at any time have against RIDA, the City, or any other Person, whether or not arising in connection with this Guaranty or any Deferral Document;

(m) any order, ruling or plan of reorganization emanating from proceedings under Title 11 of the United States Code with respect to RIDA or any other Person, including any extension, reduction, composition, or other alteration of the Guaranteed Obligations, whether or not consented to by the City, or any action taken or omitted by the City in any such proceedings, including any election to have the City's claim allowed as being secured, partially secured or unsecured, any extension of credit by the City in any such proceedings or the taking and holding by the City of any security for any such extension of credit;

(n) any other condition, event, omission, action or inaction that would in the absence of this Section 4.1(n) result in the release or discharge of Guarantor from the performance or observance of any obligation, covenant or agreement contained in this Guaranty or any other agreement;

(o) any exercise of remedies, including, but not limited to foreclosure (or transfer-in-lieu thereof) or the appointment of receiver, by any Permitted Lender (as defined in the Hotel Ground Lease); or

(p) enforcement or forbearance by the City from enforcement of the Guaranteed Obligations on a net or gross basis.

4.2 [Reserved.]

4.3 In the event any payment by RIDA or any other Person to the City that is made to satisfy any of the Guaranteed Obligations is held to constitute a preference, fraudulent transfer or other voidable payment under any bankruptcy, insolvency or similar Law, or if for any other reason the City is required to refund such payment or pay the amount thereof to any other party, such payment by RIDA or any other party to the City shall not constitute a release of Guarantor from any liability hereunder, and this Guaranty shall continue to be effective or shall be reinstated (notwithstanding any prior release, surrender or discharge by the City of this Guaranty or of Guarantor), as the case may be, with respect to, and this Guaranty shall apply to, any and all amounts that were so paid by RIDA or any other Person to satisfy any of the Guaranteed Obligations and so refunded by the City or paid by the City to another Person (which amounts shall constitute part of the Guaranteed Obligations), and any interest paid by the City and any attorneys' fees, costs and expenses paid or incurred by the City in connection with any such event.

4.4 It is the intent of Guarantor and the City that the obligations and liabilities of Guarantor hereunder are absolute, irrevocable and unconditional under any and all circumstances and that until the Guaranteed Obligations are fully and finally paid and performed, and not subject to refund or disgorgement, but except as set forth in Section 4.9, the obligations and liabilities of Guarantor

hereunder shall not be discharged or released in whole or in part, by any act or occurrence that might, but for the provisions of this Guaranty, be deemed a legal or equitable discharge or release of a guarantor.

4.5 [Reserved.]

4.6 Guarantor waives notice of acceptance of this Guaranty, any rights, defenses and benefits that may be derived from Sections 2787 to 2855, inclusive, of the California Civil Code or comparable provisions of the Laws of any other jurisdiction, and all other suretyship defenses Guarantor would otherwise have under the Laws of California or any other jurisdiction.

4.7 No provision or waiver in this Guaranty shall be construed as limiting the generality of any other provision or waiver contained in this Guaranty. All of the waivers contained herein are irrevocable and unconditional and are intentionally and freely made by Guarantor.

4.8 This Guaranty may be replaced by a guaranty that is substantially and materially in the same form as this Guaranty, covers all of the same terms and Guaranteed Obligations as this Guaranty whether arising prior to, on or after the date it becomes effective, and is executed by a Person (such Person, a “**Replacement Guarantor**”) that (a) holds, directly or indirectly, not less than ten percent (10%) of the membership interests in RIDA, (b) when taken together with (i) each Other Guarantor under an Other Guaranty that is not being replaced and (ii) each new Other Guarantor under a new Other Guaranty, has a Guarantor Net Worth of at least the Minimum Net Worth, (c) when taken together with (i) each Other Guarantor under an Other Guaranty that is not being replaced and (ii) each new Other Guarantor under a new Other Guaranty, has a Guarantor Liquidity of at least the Minimum Liquidity, (d) is not a Prohibited Person, (e) assumes any liabilities that exist or may exist under the Guaranty (including without limitation those arising under Sections 1.3 and 6, unless such liabilities are discharged prior to the effectiveness of the Replacement Guaranty), and (f) is acceptable to the City in its reasonable discretion (collectively, the “**Replacement Guaranty**”). If (x) all of the conditions and requirements set forth in this Section 4.8, including without limitation, clauses (a) through (f) above are satisfied to the reasonable satisfaction of the City, and (y) the proposed replacement Guarantor is reputable (which shall mean the absence of reputations for dishonesty, criminal conduct or association with criminal elements – “**reputable**” shall not mean “**prestigious**”, nor shall the determination of whether one is reputable involve considerations of personal taste or preference), and has no reputation for, either discriminatory employment practices which violate any Laws or non-compliance with applicable Environmental Laws (as defined in the Hotel Ground Lease), then the City shall administratively grant consent to any such proposed Replacement Guarantor. If Guarantor requests in writing that the City consent to a Replacement Guarantor, and after receipt of all information set forth in this Section 4.8, the City does not within forty-five (45) days after such request provide a response consenting to the request, then such consent will be deemed rejected and upon request, the City shall provide a reasonably detailed explanation of the reason for rejecting such request. Guarantor’s request to the City to consent to a Replacement Guaranty shall include financial statements with respect to such prospective Replacement Guarantor and a certification by such prospective Replacement Guarantor (with any supporting documentation reasonably requested by the City) that: (1) such proposed Replacement Guarantor holds, directly or indirectly, not less than ten percent (10%) of the membership interests in RIDA, (2) such proposed Replacement Guarantor, when taken together with (i) each Other Guarantor under an Other Guaranty, if any, that is not being replaced and (ii) each new Other Guarantor, if any, under a new Other Guaranty, has a Guarantor Net Worth of at least the Minimum Net Worth, (3) such proposed Replacement Guarantor, when taken together with (i) each Other Guarantor under an Other Guaranty, if any, that is not being replaced and (ii) each new

Other Guarantor, if any, under a new Other Guaranty, has a Guarantor Liquidity of at least the Minimum Liquidity and (4) such proposed Replacement Guarantor is not a Prohibited Person.

4.9 Provided that the Guarantor does not have any amounts owing to the City under this Guaranty, the liability of Guarantor in respect of the Guaranteed Obligations shall automatically terminate and Guarantor shall be automatically released from its obligations under this Guaranty and this Guaranty shall automatically terminate upon the earliest of the following dates: (i) the date that is six (6) months after the payment of the Guaranteed Obligations, and (ii) the effective date of a Replacement Guaranty pursuant to and in accordance with Section 4.8 hereof where the Replacement Guarantor has replaced the Guarantor and assumed all of Guaranteed Obligations. Provided that the necessary conditions under this Section 4.9 have been satisfied, the City shall execute an acknowledgement that this Guaranty has terminated promptly after the receipt by the City of a written request therefore from Guarantor.

**5. REPRESENTATIONS AND WARRANTIES.** Guarantor represents and warrants to the City that:

5.1 **Authority; Execution, Delivery and Performance of Guaranty.** Guarantor has all requisite power and authority to execute, deliver and perform all of its obligations under this Guaranty. The execution, delivery and performance by Guarantor of all of the obligations under this Guaranty has been duly authorized by all necessary action and do not and will not:

- (a) result in or require the creation or imposition of any lien, right of others, or other encumbrance of any nature (other than under this Guaranty) upon or with respect to any property now owned or leased or hereafter acquired by the Guarantor; or
- (b) violate any provision of any Laws; or
- (c) result in a breach of, constitute a default under, or cause or permit the acceleration of any obligation owed under any agreement or instrument to which Guarantor is a party or by which Guarantor or any of its property is bound or affected; or
- (d) require any consent or approval not heretofore obtained; or
- (e) violate any provision of, or require any consent under, any operating agreement, certificate of formation, partnership agreement, articles of incorporation, by-laws or any other governing document or charter applicable to Guarantor.

5.3 **Enforceability.** This Guaranty, when executed and delivered, shall constitute the valid and binding obligation of Guarantor, enforceable in accordance with its terms, subject to bankruptcy laws and other Laws and equitable principles affecting creditors rights generally if applicable to Guarantor.

5.4 **Financial Information.** The statement of financial condition made available to the City for review with respect to the Guarantor in connection with this Guaranty, and to demonstrate that Guarantor is a Qualified Guarantor to the City, is a true, complete, and correct copy of such statement, such statement has been prepared in accordance with the Guarantor's standard accounting principles, and fairly and accurately represents the financial condition of the Guarantor in accordance with such accounting principles, as of the date it was delivered to the City.

5.5 **No Default.** To the best of Guarantor's knowledge, there is no condition, event, act or omission that exists which, with the giving of notice or the passage of time, or both, would be an Event of Default under the Deferral Documents.

**6. REMEDIES.** If Guarantor shall fail to perform or satisfactorily commence performance of its obligations hereunder within fourteen (14) days of a demand by the City for performance thereof, the City shall have the following remedies, in addition to and cumulative of any other remedies it may have hereunder, under the Deferral Documents or at law or in equity:

(a) from time to time and without first requiring performance on the part of RIDA and without being required to exhaust any or all security held by the City, to look to and require performance by Guarantor of any obligation on the part of Guarantor to be performed pursuant to the terms of this Guaranty by action at law or in equity, or both.

**7. NOTICE OF CERTAIN EVENTS.** Guarantor shall give written notice to the City promptly (and in any event within five (5) days) after Guarantor learns of the institution of any litigation or legal or administrative proceeding or investigation which has a reasonable probability of being adjudicated adversely to RIDA, Guarantor, the Project or any of RIDA's or Guarantor's properties and which would reasonably be expected, if so adjudicated, to materially and adversely affect RIDA, Guarantor or the Project, or cause Guarantor to no longer be a Qualified Guarantor.

**8. REASONABLENESS AND EFFECT OF WAIVERS.** Guarantor warrants and agrees that each of the waivers set forth in this Guaranty is made with full knowledge of its significance and consequences and that, under the circumstances, the waivers are reasonable and not contrary to public policy or Laws. If any of such waivers are determined to be contrary to any applicable Laws or public policy, such waivers shall be effective only to the maximum extent permitted by Laws.

**9. MISCELLANEOUS PROVISIONS.**

9.1 **Costs of Enforcement.** The prevailing party in any legal proceedings concerning the enforcement of this Guaranty shall be entitled to recovery of its costs and attorneys' fees from the party that did not prevail.

9.2 **Binding Effect.** This Guaranty and all the terms, provisions and conditions hereof shall be binding upon the Guarantor and its heirs, legal representatives, successors and assigns, and this Guaranty shall inure to the benefit of the City and its successors and assigns and all subsequent holders of the Guaranteed Obligations.

9.3 **Financial Information.** Guarantor shall deliver to the City, as soon as available, but in no event later than one hundred twenty (120) days after the end of Guarantor's fiscal year-end, a copy of Guarantor's statement of financial condition, in the form attached hereto as Exhibit A, as of the end of such calendar year, together with a certification that such statement (1) is complete and correct to the best of Guarantor's knowledge, (2) presents the financial condition of the entity, (3) presents all liabilities that are required to be reflected, and those liabilities are presented at historical cost, and (4) is prepared in accordance with the Guarantor's standard accounting principles. Additionally, Guarantor shall make available for inspection (but not copying) by the City such other information regarding Guarantor's assets, liabilities and financial condition generally as (a) the City may from time to time reasonably request so that the City can verify the veracity of the certifications set forth in the preceding sentence and (b) exists (unless generation of such financial information will



not result in any material additional expense to the Guarantor, in which case the Guarantor will request that such financial information be generated and provided to the City), at the Project, RIDA's main business office, any of RIDA's Project hotel operators' business offices in San Diego County, California or at such other location in San Diego County, California as is reasonably acceptable to the City, upon the City's written notice, which shall specify in reasonable detail the financial information the City is requesting be made available for inspection and the date when such inspection will take place, which date shall not be less than ten business days after the date of such notice. Notwithstanding the foregoing, if the City is required to include any of the financial information shared by Guarantor in connection with its council meetings, Guarantor agrees to provide the City with a redacted version of such financial information at no cost to the City and a certification that, except for such redactions, such redacted version of financial information is a true, correct, and complete copy of the unredacted version of the financial information reviewed by the City.

9.4 **Governing Law.** This Guaranty shall be governed by, and construed in accordance with, the laws of the State of California.

9.5 **Notices.** All notices demands, approvals and other communications provided for herein shall be in writing and shall be delivered by overnight air courier, personal delivery or registered or certified U.S. mail with return receipt requested, postage prepaid, to the appropriate party at its address as follows:

If to City:

City of Chula Vista  
Attention: City Manager  
276 Fourth Avenue  
Chula Vista, California 91910

With a copy to:

City Attorney  
City of Chula Vista  
276 Fourth Avenue  
Chula Vista, California 91910

If to Guarantor:

RIDA Chula Vista, LLC  
1777 Walker Street, Suite 501  
Houston, Texas 77010  
Attention: Ira Mitzner

With copy to:

RIDA Chula Vista, LLC  
1777 Walker Street, Suite 501  
Houston, Texas 77010  
Attention: Luke Charlton

and

Latham & Watkins  
12670 High Bluff Drive  
San Diego, CA 92130  
Attention: Steven Levine

Addresses for notice may be changed from time to time by written notice to all other parties. Any communication given by mail will be effective upon the earlier of (a) three (3) business days following deposit in a post office or other official depository under the care and custody of the United States Postal Service or (b) actual receipt, as indicated by the return receipt; if given by telephonic facsimile, when sent; and if given by personal delivery or by overnight air courier, when delivered to the appropriate address set forth above.

9.6 **No Waiver.** Any failure by the City to insist, or any election by the City not to insist, upon strict performance by Guarantor of any of the terms, provisions or conditions of this Guaranty shall not be deemed to be a waiver of the same or of any other terms, provisions or conditions thereof.

9.7 **Severability.** If any provision of this Guaranty or the application thereof to any Person or circumstance shall be invalid or unenforceable, then, neither the remainder of this instrument nor the application of such provision to other persons or circumstances shall be affected thereby, but rather shall be enforced to the greatest extent permitted by Laws.

9.8 **Entire Agreement and Modification.** This Guaranty contains the entire agreement between the Guarantor and the City relating to the subject matter hereof, except for the Deferral Documents. This Guaranty may not be amended, revised, waived, discharged, released or terminated orally, but only by a written amendment, revision, waiver, discharge, release or termination. Any alleged amendment, revision, waiver, discharge, release or termination which is not so documented shall not be effective as to any party to this Guaranty.

9.9 **Further Assurances.** Each party shall do and perform, or cause to be done and performed, all such further acts and things, and shall execute and deliver all such other agreements, certificates, instruments and documents, as the other party may reasonably request in order to carry out the intent and accomplish the purposes of this Guaranty and the consummation of the transactions contemplated hereby.

*[Signature Page Follows.]*

IN WITNESS WHEREOF, Guarantor has executed this Guaranty as of the date first written above.

**GUARANTOR**

\_\_\_\_\_  
Print Name:

Print Title:

Accepted and agreed by:

**CITY OF CHULA VISTA**

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Print Name:

Print Title:

**RIDA CHULA VISTA, LLC**

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Print Name:

Print Title:

Approved as to Form:

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Glen R. Googins, City Attorney

**EXHIBIT A**

**FORM OF STATEMENT OF FINANCIAL CONDITION**

(to be attached prior to execution.)