
LOAN AGREEMENT

Between

BAYFRONT PROJECT SPECIAL TAX FINANCING DISTRICT

and

CHULA VISTA BAYFRONT FACILITIES FINANCING AUTHORITY

and

**WILMINGTON TRUST, NATIONAL ASSOCIATION,
in its capacity as trustee**

**[AMOUNT]
BAYFRONT PROJECT SPECIAL TAX FINANCING DISTRICT
PUBLIC INFRASTRUCTURE LOAN**

Dated as of [Dated Date]

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LOAN AGREEMENT

THIS LOAN AGREEMENT dated as of [Dated Date] (the “Agreement”), is made and entered into by Bayfront Project Special Tax Financing District (as further defined herein, the “District”) for the benefit of the Chula Vista Bayfront Facilities Financing Authority, a California joint exercise of powers authority (as further defined herein, the “Authority”) and Wilmington Trust, National Association, a national banking association organized and existing under the laws of the United States of America, in its capacity as Trustee under the Authority Indenture (defined herein) (as further defined herein, the “Authority Trustee”), and governs the terms of the loan (the “Loan”) being made to the District in accordance with this Agreement.

RECITALS:

WHEREAS, the City Council (the “City Council”) of the City of Chula Vista (the “City”), has previously undertaken proceedings to create and did establish the District pursuant to Chapter 3.61 of the Chula Vista Municipal Code (“Chapter 3.61”) to finance certain public improvements; and

WHEREAS, on _____, 2021, the City Council, acting as the legislative body of the District, duly adopted its Resolution No. ____ (the “District Resolution”) authorizing the execution and delivery of this Agreement; and

WHEREAS, on _____, 2021, the Board of Directors of the Authority, duly adopted its Resolution No. ____ (the “Authority Resolution”) authorizing the execution and delivery of this Agreement; and

WHEREAS, the Authority was established by the San Diego Unified Port District, a public corporation (the “Port”) and the City which now exists pursuant to an Amended and Restated Joint Exercise of Powers Agreement, dated and effective as of July 25, 2019 (as it may be amended, amended and restated, supplemented or otherwise modified from time to time, the “JEPA Agreement”); and

WHEREAS, the Authority, the Port and the City have determined it to be beneficial, for the Authority to acquire a leasehold interest in certain real property described in Exhibit B hereto (together with all improvements located thereon as of the Closing Date, the “Site”) upon which an approximately 275,000 net usable square foot convention center (the “Convention Center”) to be owned by the Authority will be constructed and operated; and

WHEREAS, RIDA Chula Vista, LLC, a Delaware limited liability company (together with its permitted successors and assigns as the tenant under the Sublease (as defined herein), “RIDA”) holds a leasehold interest in certain real property which is immediately adjacent to the Site (the “Ground Lease Property”) described in and pursuant to a Lease, entered into as of _____, 202_ (as amended, amended and restated, supplemented or otherwise modified from time to time, the “Ground Lease”), by and between the Port, as landlord, and RIDA, as tenant on which RIDA will be constructing a resort hotel (the “Hotel”) in accordance with the requirements of the Ground Lease; and

WHEREAS, given the proximity of the proposed Hotel to the Site, the Authority, the Port and the City have determined it to be beneficial to have RIDA construct the Convention Center on behalf of the Authority and operate the Convention Center; and

WHEREAS, the Port and the City have agreed to cause the Authority to provide financing for a portion of the costs of the Convention Center and the Phase 1A Infrastructure Improvements (defined herein) benefiting the Hotel and the Convention Center; and

WHEREAS, such financing will be accomplished through the issuance by the Authority of its Chula Vista Bayfront Facilities Financing Authority Revenue Bonds (Chula Vista Bayfront Convention Center) Series 2021A (Federally Taxable) (the “2021A Bonds”), in the initial aggregate principal amount of \$_____, and its Chula Vista Bayfront Facilities Financing Authority Revenue Bonds (Chula Vista Bayfront Phase 1A Infrastructure Improvements) Series 2021B (Tax-Exempt) (the “2021B Bonds”; and, together with the 2021A Bonds, the “2021 Bonds”) in the initial aggregate principal amount of \$_____ which are being issued pursuant to the terms of the Authority Indenture; and which will be payable, in part, from the repayment by the District of the Loan (defined herein); and

WHEREAS, to better secure the rights of the Owners of the Authority Bonds (defined herein), the Authority will assign certain of its rights under this Agreement to the Authority Trustee; and

WHEREAS, it is in the public interest and for the benefit of the District, the persons responsible for the payment of Special Taxes (defined herein) and the owners of the Authority Bonds that the District enter into this Agreement to provide for the terms of the Loan, the disbursement of proceeds of the Loan, the disposition of the Special Taxes securing the Loan, and the administration and payment of the Loan; and

WHEREAS, all things necessary to cause this Agreement, to be a legal, valid and binding and limited obligation in accordance with its terms, and all things necessary to cause the creation, authorization, execution and delivery of this Agreement have in all respects been duly authorized;

NOW, THEREFORE, in order to establish the terms and conditions upon and subject to which the Loan is to be made, and in consideration of the premises and of the mutual covenants contained herein and of the making of the Loan hereunder, and for other valuable consideration, the receipt of which is hereby acknowledged, the District does hereby covenant and agree, for the benefit of the Authority, the Authority Trustee as party hereto and as assignee of the Authority and the Owners of the Authority Bonds as follows:

ARTICLE I

DEFINITIONS

Section 1.1. Definitions. Capitalized terms used herein and not defined herein shall have the meanings ascribed to them in the Authority Indenture (as defined below). Unless the context otherwise requires, the following terms shall have the following meanings:

“Act” means Articles 1 through 4 (commencing with Section 6500) of Chapter 5, Division 7, Title 1 of the Government Code of the State, as it may hereafter be amended from time to time.

“Administrative Expenses” means the following actual or reasonably estimated costs directly related to the administration of the District: the costs of computing the Special Taxes and preparing the annual Special Tax collection schedules (whether by the City or designee thereof or both); the costs of collecting the Special Taxes (whether by the City, the County or otherwise); the costs of the Authority Trustee (including its legal counsel) in the discharge of the duties required of it under this Agreement; the costs to the Authority, the City, the District or any designee thereof of complying with arbitrage rebate requirements, including paying to the Authority Trustee any amounts required to be deposited into the Rebate Fund established under the Authority Indenture; the costs to the Authority, the City, the District or any designee thereof of complying with disclosure requirements under applicable federal and state securities laws and Chapter 3.61; the costs associated with preparing Special Tax disclosure statements and responding to public inquiries regarding the Special Taxes; the costs of the City, the County, the District, the Port or any designee thereof related to an appeal of any Special Tax levy; and the City’s annual administration fees and third party expenses. Administrative Expenses shall also include amounts estimated by an Authorized Representative of the District or advanced by the City or the District for any other administrative purposes of the District, including attorney’s fees and other costs related to commencing and pursuing to completion any foreclosure action to collect delinquent Special Taxes.

“Administrative Expense Cap” means \$_____ for Fiscal Year 2021-22, increasing at a rate of 2% per Fiscal Year thereafter.

“Administrative Expense Fund” means the Bayfront Project Special Tax Financing District Administrative Expense Fund created and established and held by the District in accordance with Section 3.1(a)(2) hereof.

“Agreement” means this Loan Agreement, together with any Supplemental Agreement approved pursuant to Article 6 hereof.

“Authority” means the Chula Vista Bayfront Facilities Financing Authority, a California joint exercise of powers authority established and existing pursuant to the JEPA Agreement.

“Authority Bonds” means the 2021 Bonds and any additional bonds outstanding under the Authority Indenture, which are secured, in part, by payments made on the Loan.

“Authority Indenture” means that certain Indenture of Trust, dated as of [Dated Date], by and between the Authority and the Authority Trustee, as originally executed or as it may from time to time be supplemented, modified or amended in accordance with its terms.

“Authority Reserve Fund” means the fund by that name established by the Authority Indenture.

“Authority Reserve Requirement” means the amount required to be on deposit in the Reserve Fund established under the Authority Indenture.

“Authority Trustee” means Wilmington Trust, National Association, in its capacity as Trustee under the Authority Indenture, or any successor thereto appointed pursuant to the Authority Indenture.

“Authorized Representative of the District” means the Chair of the legislative body of the District, the City Manager, the Director of Finance of the City or any other person or persons designated by the legislative body of the District or the City Manager by a written certificate signed by one of such officers and containing the specimen signature of each such person.

“Bond Counsel” means an attorney at law or a firm of attorneys selected by the District of nationally recognized standing in matters pertaining to the tax-exempt nature of interest on obligations issued by states and their political subdivisions duly admitted to the practice of law before the highest court of any state of the United States of America or the District of Columbia.

“Bond Law” means the Marks-Roos Local Bond Pooling Act of 1985, constituting Article 4 of the Act (commencing with Section 6584), as it may hereafter be amended from time to time.

“Bondowner” or “Owner” means the person or persons in whose name or names any Authority Bond is registered.

“Business Day” means a day which is not a Saturday or Sunday or a day of the year on which banks or trust companies in New York, New York, Wilmington, Delaware, Los Angeles, California, or the city where the Principal Office of the Authority Trustee is located, are not required or authorized by law, regulation or executive order to remain closed.

“Certificate of an Authorized Representative” means a written certificate or warrant request executed by an Authorized Representative of the District.

“Chapter 3.61” means Chapter 3.61 of the Chula Vista Municipal Code, as amended from time to time.

“City Treasurer” means the Treasurer of the City, or an authorized delegate thereof.

“Code” means the Internal Revenue Code of 1986, as amended, and any Regulations, rulings, judicial decisions, and notices, announcements, and other releases of the United States Treasury Department or Internal Revenue Service interpreting and construing it.

“Construction Fund” means the fund by that name created and established pursuant to Section 3.10 of the Authority Indenture.

“Convention Center” has the meaning set forth in the recitals above.

“County” means the County of San Diego and any successor thereto.

“Delivery Date” means, the date on which the Authority Bonds are issued and delivered to the initial purchaser thereof pursuant to the Authority Indenture.

“Deferred Payments” has the meaning set forth in Section 3.4 hereof.

“Developer’s Phase 1A Infrastructure Improvements” means the public improvements set forth in Exhibit C attached to the Project Implementation Agreement.

“District” means the Bayfront Project Special Tax Financing District established pursuant to the Chapter 3.61 and the Resolution of Formation.

“Federal Securities” means any of the following: (a) non-callable direct obligations of the United States of America (“Treasuries”), (b) evidences of ownership of proportionate interests in future interest and principal payments on Treasuries held by a bank or trust company as custodian, under which the owner of the investment is the real party in interest and has the right to proceed directly and individually against the obligor and the underlying Treasuries are not available to any person claiming through the custodian or to whom the custodian may be obligated, (c) pre-refunded municipal obligations rated “AAA” and “Aaa” by S&P and Moody’s, respectively, and (d) other securities eligible for “AAA” defeasance under then existing criteria of S&P.

“Fiscal Year” means the period beginning on July 1 of each year and ending on the next following June 30.

“Fund” means any fund created pursuant to this Agreement.

“Gross Taxes” means the amount of all Special Taxes received by the District from the applicable taxpayers within the District, together with all payments made with respect to tax-defaulted parcels (including all delinquent and prepayment penalties, fees and costs) and the proceeds collected from the sale of property pursuant to the foreclosure provisions of this Agreement, but excluding any payment of Special Taxes on tax-defaulted parcels, including all delinquency and prepayment penalties, fees and costs and the proceeds collected from the sale of property pursuant to the foreclosure provisions of this Agreement in the event that the Special Taxes are paid to the District by the County pursuant to the Teeter Plan established by the County pursuant to California Revenue and Taxation Code Sections 4701 *et seq.*, or paid by another party when due in exchange for such party’s right to collect all delinquency and prepayment penalties, fees and costs for the tax-defaulted parcels.

“Ground Lease Property” has the meaning set forth in the Recitals above.

“Improvements” means the Convention Center and the Phase 1A Infrastructure Improvements, including all costs of the acquisition, construction, engineering, planning and design services and other incidental expenses related to such facilities and improvements.

“Independent Accountant” means any accountant or firm of such accountants appointed and paid by the Authority, and who, or each of whom:

(a) is in fact independent and not under domination of the Authority, the City or the District;

(b) does not have any substantial interest, direct or indirect, in the Authority, the City or the District; and

(c) is not an officer or employee of the Authority, the City or the District, but who may be regularly retained to make annual or other audits of the books of or reports to the Authority, the City or the District.

“Independent Financial Consultant” means a financial consultant or firm of such consultants generally recognized to be well qualified in the financial consulting field, appointed and paid by the District, who, or each of whom:

(1) is in fact independent and not under the domination of the District, the Authority or the City;

(2) does not have any substantial interest, direct or indirect, in the District, the Authority or the City; and

(3) is not connected with the District, the Authority or the City as a member, officer or employee of the District, the Authority or the City, but who may be regularly retained to make annual or other reports to the District, the Authority or the City.

“Loan” means the loan made by the Authority to the District pursuant to the terms of this Agreement from proceeds of the 2021 Bonds.

“Loan Proceeds” means the proceeds of the Loan payable to the District which shall be deposited by the Authority Trustee in and be disbursed from certain of the funds and accounts established under the Authority Indenture as set forth in Section 3.6 hereof.

“Loan Year” means the twelve-month period ending on June 30 of each year; provided, however, that the first Loan Year shall begin on the Delivery Date and end on June 30, 20__.

“Maximum Special Tax” has the meaning ascribed to it in the Rate and Method of Apportionment.

“Moody’s” means Moody’s Investors Service, Inc., its successors and assigns.

“Net Taxes” means Gross Taxes minus amounts set aside to pay Administrative Expenses.

“Ordinance” means Ordinance No. 3481 adopted by the legislative body of the District on February 25, 2020, as amended from time to time.

“Outstanding” or “Outstanding Authority Bonds” means all Authority Bonds theretofore issued by the Authority and outstanding under the terms of the Authority Indenture.

“Parity Loans” means any loan, bond or other securities entered into or issued by the District in accordance with the terms of Section 9.2 hereof and secured by a lien on the Net Taxes which is on parity with the lien thereon securing the Loan.

“Payment Date” means each date on which any Scheduled Payments are due and owing on the Loan as set forth in Exhibit A hereto and on any Parity Loans as set forth in a Supplemental Agreement and with respect to any Deferred Payment the first day of any month on which Net Taxes are available to make such payment in accordance with Section 3.4 herein.

“Permitted Investments” means any of the following that at the time of investment are legal investments under the laws of the State for the moneys proposed to be invested therein (provided that the Authority Trustee may rely upon investment direction of the District as a determination that such investment is a legal investment):

1. Cash.
2. United States Treasury bills, notes, loan or certificates of indebtedness, for which the full faith and credit of the United States are pledged for the payment of principal and interest.
3. Obligations, participations, or other instruments of, or issued by, a federal agency or a United States government-sponsored enterprise.
4. Eligible commercial paper shall be of “prime quality” and of the highest of ranking or of the highest letter and number rating as provided by a Rating Agency, except that split ratings (i.e., A2/P1) shall not be allowed. The commercial paper shall not exceed 270 days’ maturity and the entity that issues the commercial paper shall meet all of the following conditions in either paragraph (a) or paragraph (b):
 - (a) Has total assets in excess of five hundred million dollars (\$500,000,000) , is organized and operating within the United States as a general corporation, and has debt other than commercial paper, if any, that is rated “A” or higher by a Rating Agency.
 - (b) Is organized in the united States as a special purpose corporation, trust, or limited liability company, has program-wide credit enhancements including, but not limited to overcollateralization, letters of credit or a surety bond, has commercial paper that is rated “A-1” or higher, or the equivalent, by a Rating Agency.
5. Negotiable certificates of deposit issued by a U.S. national or state-chartered bank, savings bank, saving and loan association, or credit union in this state or state or federal association (as defined by Section 5102 of the California Financial Code) or by a state-licensed branch of a foreign bank. Issuing banks must have a short-term rating of not less than A1/P1 and a long-term rating of not less than a “A” from a Rating Agency, if any.
6. Investments in repurchase agreements which comply with the requirements of California Government Code Section 53601(j) pursuant to which the seller will repurchase the securities on or before a specified date and for a specified amount and will deliver the underlying securities to the Authority Trustee by book entry, physical delivery, or by third party custodial agreement. The terms of a repurchase agreement shall not exceed one year. The term “securities,” for the purpose of repurchase agreements, means securities of the same issuer, description, issue date and maturity.

To participate in repurchase agreements, a master repurchase agreement must be completed and signed by all parties involved. Repurchase agreements are required to be collateralized by securities or cash authorized under California Government Code Section 53601(j)(2) as described below:

(a) To anticipate market changes and provide a level of security for all repurchase agreement transactions, the market value of securities that underlie a repurchase agreement shall be valued at 102% or greater of the funds borrowed against those securities and the value shall be adjusted no less frequently than weekly. Since the market value of the underlying securities is subject to daily market fluctuations, the investments in repurchase agreements shall be in compliance if the value of the underlying securities is brought back up to 102% no later than the next business day.

(b) Collateral will be limited to U.S. Treasury securities listed in paragraph (2) above and U.S. Government Agency securities listed in paragraph (3) above. Collateral will be held by an independent third party with whom the Authority Trustee has a current custodial agreement. A clearly marked evidence of ownership (safekeeping/custody receipt) must be supplied to the Authority Trustee and retained. The Authority Trustee retains the right to substitute or grant substitutions of collateral.

7. Bankers acceptances, also known as time drafts (bills of exchange) that are drawn on and accepted by a commercial bank. Purchases of bankers' acceptances shall not exceed 180 days maturity. Issuing banks must be rated by each Rating Agency and have a short-term rating of at least A1/P1 and a long-term rating of not less than "A" from a Rating Agency, if any.

8. Shares of beneficial interest issued by diversified management companies that are mutual funds registered with the Securities and Exchange Commission under the Investment Company Chapter 3.61 of 1940 (15 U.S.C. Sec. 80a-1, et. seq.), which only invest in direct obligations in U.S. Treasury bills, notes and loan, U.S. Government Agency securities and repurchase agreements with a weighted average maturity of 60 days or less. At a minimum, approved mutual funds shall have met either of the following criteria:

(a) Attained the highest ranking or the highest letter or numerical rating provided by each Rating Agency.

(b) Retained an investment advisor registered or exempt from registration with the Securities and Exchange Commission with not less than five years' experience managing money market mutual funds with assets under management in excess of \$500,000,000.

9. Municipal debt instruments issued by a local or state agency, including:

(a) Loans payable solely out of revenues from a revenue-producing property owned, controlled, or operated by the local agency or by a department, board, agency or authority of the local agency.

(b) Registered state warrants or treasury notes or loans, including loans payable solely out of the revenues from a revenue-producing property owned, controlled or operated by the state or a department, board, agency or authority of the state.

(c) Loans, notes, warrants or other evidences of indebtedness of any local agency within a state, including loans payable solely out of revenues from a revenue-producing property owned, controlled or operated by the local agency, or by a department, board, agency, or authority of the local agency.

Issuing municipalities must have a short-term rating of not less than A1/P1 and a long-term rating of not less than an “A” from a Rating Agency, if any. Municipal debt issued by the County is exempt from this credit requirement.

10. Medium-term notes consisting of corporate and depository institution debt securities with a maximum remaining maturity of not more than 397 days for any short-term pools such as money market funds and five years for any longer-term pools such as an extended fund. Medium-terms notes must be issued by corporations organized and operating within the United States or by depository institutions licensed by the United States or any state and operating within the United States. Notes eligible for investment shall be rated not less than “A” or its equivalent from each Rating Agency.

11. The San Diego County Investment Pool.

12. The Local Agency Investment Fund of the State of California

The value of the above investments in (1) through (12) above, which shall be determined as of the end of each month, means that the value of any investments shall be calculated as follows:

1. for the purpose of determining the amount in any fund, all Permitted Investments credited to such fund shall be valued at fair market value. The Authority Trustee shall determine the fair market value based on accepted industry standards and from accepted industry providers;

2. as to certificates of deposit and bankers acceptances; the face amount thereof, plus accrued interest;

3. as to any investment not specified above: the value thereof established by prior agreement between the District and the Authority Trustee; and

4. as to any investment in (11) and (12), in the manner required by State Law.

“Phase 1A Infrastructure Improvements” means (a) the Developer’s Phase 1A Infrastructure Improvements and (b) the Remaining Phase 1A Infrastructure Improvements.

“Principal Office of the Authority Trustee” means the principal corporate trust office of the Authority Trustee as set forth in the Authority Indenture.

“Project Implementation Agreement” means that certain Project Implementation Agreement dated as of _____, 2021, by and among the City, the Port, the Authority, the District and RIDA as such agreement may be amended, amended and restated, supplemented or otherwise modified from time to time.

“Rate and Method of Apportionment” means that certain Rate and Method of Apportionment of Special Tax approved pursuant to the Resolution of Formation, as it may be further amended from time to time in accordance with Chapter 3.61 and this Agreement.

“Rating Agency” means Moody’s and Standard & Poor’s, or both, as the context requires.

“Regulations” means the regulations adopted or proposed by the Department of Treasury from time to time with respect to obligations issued pursuant to Section 103 of the Code.

“Remaining Phase 1A Infrastructure Improvements” means the public improvements set forth in Exhibit D to the Project Implementation Agreement.

“Repayment Fund” means the Bayfront Project Special Tax Financing District Repayment Fund created and established pursuant to Section 3.1 hereof.

“Reserve Replenishment Amount” means the amount drawn upon the Authority Reserve Fund as a result of a failure of the District to pay the Scheduled Payments on the Loan or any Parity Loan.

“Resolution of Formation” means, collectively, Resolution No. 2019-220 adopted by the City Council of the City on November 19, 2019, pursuant to which the City formed the District and Resolution No. _____ adopted by the City Council of the City on _____, pursuant to which the Rate and Method of Apportionment was changed.

“Scheduled Payments” has the meaning set forth in Section 3.4 hereof.

“Special Tax Fund A” means the Bayfront Project Special Tax Financing District Special Tax Fund A created and established and held by the District in accordance with Section 3.1 hereof.

“Special Taxes” means the taxes authorized to be levied by the legislative body of the District in accordance with Chapter 3.61 and the Ordinance on (i) the Assessor’s Parcels comprising the Ground Lease Property, (ii) the Assessor’s Parcels comprising that property included in the Lease between the Port and Sun Chula Vista Bayfront RV LLC for property located at 825 E Street in Chula Vista (Costa Vista RV Park) which lease is on file in the Office of the Port District Clerk as Document No. 70407, and (iii) Assessor’s Parcel No. 5670213800.

“Standard & Poor’s” means S&P Global Ratings, a Standard & Poor’s Financial Services LLC business, its successors and assigns.

“Supplemental Agreement” means any supplement to this Agreement amending or supplementing this Agreement.

“Surplus Fund” means the Bayfront Project Special Tax Financing District Surplus Fund created and established pursuant to Section 3.1 hereof.

“Taxable Property” has the meaning ascribed to it in the Rate and Method of Apportionment.

“Tax-Exempt Bonds” means the 2021B Bonds and any other series of additional bonds issued under the Authority Indenture, the interest on which is excluded from gross income for federal income tax purposes.

ARTICLE II

GENERAL AUTHORIZATION AND LOAN TERMS

Section 2.1. Amount, Issuance, Purpose and Nature of Loan and Parity Loans. Under and pursuant to the Bond Law the Authority will make the Loan in the aggregate principal amount of [AMOUNT] to the District from certain proceeds of the Authority Bonds as set forth in Section 3.6 herein for the purpose of financing the Improvements and in accordance with the provisions of Chapter 3.61 the District will enter into this Agreement and accept the Loan. Parity Loans may be entered into from time to time in accordance with the provisions of Section 9.2 hereof for the purpose of refunding the Loan or other Parity Loans.

Section 2.2. Type and Nature of the Loan and Parity Loans. Neither the faith and credit nor the taxing power of the City, the State of California or any political subdivision thereof other than the District is pledged to the payment of the Loan or any Parity Loans. Except for the Net Taxes, no other taxes are pledged to the payment of the Loan and Parity Loans. The Loan and any Parity Loans are not general or special obligations of the City or general obligations of the District, but are limited obligations of the District payable solely from the Net Taxes and other amounts on deposit in the Repayment Fund and the Net Taxes on deposit in Special Tax Fund A, as more fully described herein. The District's limited obligation to pay the principal of, premium, if any, and interest on the Loan and any Parity Loans from amounts in the Repayment Fund and Net Taxes on deposit in Special Tax Fund A is absolute and unconditional, free of deductions and without any abatement, offset, recoupment, diminution or set-off whatsoever. Neither the Authority nor the Authority Trustee as its assignee with respect to the Loan or the holder of any Parity Loans may compel the exercise of the taxing power by the District (except as pertains to the Special Taxes) or the City or the forfeiture of any of their property. The principal of and interest on the Loan and any Parity Loans are not a debt of the City, the State of California or any of its political subdivisions within the meaning of any constitutional or statutory limitation or restriction. The Loan and any Parity Loans are not a legal or equitable pledge, charge, lien, or encumbrance upon any of the District's property, or upon any of its income, receipts or revenues, except the Net Taxes and other amounts in the Repayment Fund and the Net Taxes on deposit in Special Tax Fund A which are, under the terms of this Agreement and Chapter 3.61, set aside for the payment of the Loan and any Parity Loans and interest thereon and neither the members of the legislative body of the District or the City Council are liable personally on the Loan or any Parity Loans by reason of their issuance.

Notwithstanding anything to the contrary contained in this Agreement, the District shall not be required to advance any money derived from any source of income other than the Net Taxes for the payment of the interest and principal due on the Loan or any Parity Loans, or for the performance of any covenants contained herein. The District may, however, advance funds for any such purpose, provided that such funds are derived from a source legally available for such purpose.

Section 2.3. Equality of Loan and Parity Loans and Pledge of Net Taxes. Subject only to the provisions of this Agreement permitting the application thereof for the purposes and on the terms and conditions set forth herein, in order to secure the payment of the principal of and interest on the Loan and any Parity Loans in accordance with their terms, the provisions of this Agreement and Chapter 3.61, the District hereby pledges to the Authority, and grants thereto a lien on and a security interest in, all of the Net Taxes held in Special Tax Fund A and all amounts held in the Repayment Fund. This pledge shall constitute a first lien on and security interest in such assets, which shall immediately attach to such assets and be effective, binding and enforceable against the

District, its successors, purchasers of any of such assets, creditors and all others asserting rights therein, to the extent set forth in, and in accordance with, this Agreement, irrespective of whether those parties have notice of the pledge of, lien on and security interest in such assets and without the need for any physical delivery, recordation, filing or further act. Pursuant to Chapter 3.61 and this Agreement, the Loan and any Parity Loans shall be secured by and equally payable from the Net Taxes and other amounts in Special Tax Fund A and the Repayment Fund, without priority for the date of the making of the Loan or Parity Loans, and the payment of the interest on and principal of the Loan and any Parity Loans shall be exclusively paid from the Net Taxes and other amounts in Special Tax Fund A and the Repayment Fund, which are hereby pledged to the payment of the Loan and any Parity Loans. Net Taxes in Special Tax Fund A and amounts in the Repayment Fund shall constitute a trust fund held for the benefit of the Authority to be applied to the payment of the interest on and principal of the Loan and any Parity Loans and so long as any of the Loan and any Parity Loans or interest thereon remain Outstanding shall not be used for any other purpose, except as permitted by this Agreement or any Supplemental Agreement. Notwithstanding any provision contained in this Agreement to the contrary, Net Taxes deposited in the Surplus Fund shall no longer be considered to be pledged to the Loan or any Parity Loans, and neither the Surplus Fund nor the Administrative Expense Fund shall be construed as a trust fund held for the benefit of the Authority, the Authority Trustee or the Owners of the Authority Bonds for the repayment of the Loan.

Nothing in this Agreement or any Supplemental Agreement shall preclude; (a) subject to the limitations herein, the payment of the Loan or Parity Loans from any source of lawfully available funds including proceeds of refunding bonds issued under Chapter 3.61 as the same now exists or as hereafter amended, or under any other law of the State of California; or (b) the issuance, subject to the limitations contained in Section 9.2 hereof, of Parity Loans which shall be payable from Net Taxes.

Section 2.4. Terms of the Loan. The Loan shall be made in the principal amount of \$_____ on the Delivery Date, shall mature on _____ and shall accrue interest at the rate of _____ percent (___%) per annum. Interest due on the Loan shall be calculated on the basis of a 360-day year comprised of twelve 30-day months. The Scheduled Payments on the Loan are set forth in Exhibit A hereto. [Any provision in this Agreement to the contrary notwithstanding, in the event that the Authority Bonds are no longer Outstanding under the Authority Indenture, then all remaining Scheduled Payments and Deferred Payments shall be forgiven and no longer be due and owing by the District and this Agreement shall terminate on the date that Authority Bonds ceased to be Outstanding under the Indenture.]

Section 2.5. Place and Form of Payment. The Loan and Parity Loans shall be payable both as to principal and interest in lawful money of the United States of America. The principal of and interest on the Loan and Parity Loans shall be payable to the Authority Trustee as assignee of the Authority.

Section 2.6. Execution and Authentication. This Agreement and any Supplemental Agreement shall be signed on behalf of the District by the Chair of the legislative body of the District and countersigned by the Clerk of the legislative body of the District, or any duly appointed deputy Clerk, in their capacity as officers of the District. This Agreement and any Supplemental Agreement shall be signed on behalf of the Authority and the Authority Trustee by a duly authorized representative of such entity.

Section 2.7. Validity of Agreement, the Loan and Parity Loans. The validity of this Agreement, Loan and any Parity Loans shall not be affected in any way by any defect in any proceedings taken by the District to authorize the execution and delivery of this Agreement and the making of the Loan and any Parity Loans, and the recital contained herein or in any Parity Loans that are issued pursuant to Chapter 3.61 and other applicable laws of the State shall be conclusive evidence of their validity and enforceability against the District.

ARTICLE III

CREATION OF FUNDS AND APPLICATION OF LOAN PROCEEDS

Section 3.1. Creation of Funds.

(a) There is hereby created and established and shall be maintained by the District the following funds:

(1) The Bayfront Project Special Tax Financing District Special Tax Fund A (the “Special Tax Fund A”); and

(2) The Bayfront Project Special Tax Financing District Administrative Expense Fund (the “Administrative Expense Fund”).

(b) There is hereby created and established and shall be maintained by the Authority Trustee the following funds:

(1) The Bayfront Project Special Tax Financing District Repayment Fund (the “Repayment Fund”); and

(2) The Bayfront Project Special Tax Financing District Surplus Fund (the “Surplus Fund”).

The amounts on deposit in the funds created and established pursuant to Section 3.1(b) shall be held by the Authority Trustee, as assignee of the Authority as set forth in Section 3.6 below, on behalf of the District and shall be invested and disbursed in accordance with the provisions of this Article 3. The investment earnings thereon shall be disbursed in accordance with the provisions of Section 3.7 hereof.

Section 3.2. Deposits to and Transfers from Special Tax Fund A.

(a) The District covenants and agrees that within 30 days of the end of each month it will deposit all Special Taxes received in such month into Special Tax Fund A to be held by it in trust as security for the repayment of the Loan and any Parity Loans and for the payment of Administrative Expenses. The District further covenants and agrees to transfer from Special Tax Fund A to the Authority Trustee for deposit to the Repayment Fund at least five Business Days prior to each Payment Date on the Loan and any Parity Loans an amount sufficient to cause the balance therein to equal the sum of the Scheduled Payments due on the Loan and any Parity Loans on such upcoming Payment Date plus any Deferred Payments remaining unpaid. Subject to the limitations in Section 3.5, the District may also transfer to the Authority Trustee from time to time from amounts in Special Tax Fund A amounts to be deposited to the Surplus Fund. The District shall accompany each transfer of funds to the Authority Trustee with a Certificate of an Authorized Representative stating

the amount of the transfer and the amount to be deposited to the Repayment Fund and the Surplus Fund, as applicable.

(b) At the maturity of all of the Loan and Parity Loans and after all principal and interest then due on the Loan and Parity Loans has been paid or provided for, moneys in Special Tax Fund A and any accounts therein may be used by the District for any lawful purpose.

(c) Subject to the limitations set forth in Section 3.3, the District may also transfer from Special Tax Fund A to the Administrative Expense Fund amounts needed to pay Administrative Expenses.

Section 3.3. Administrative Expense Fund.

(a) The District covenants and agrees that it shall not transfer or disburse from Special Tax Fund A to the Administrative Expense Fund in any Loan Year any amount in excess of the Administrative Expenses Cap until such time as there has been deposited to the Repayment Fund an amount, together with any amounts already on deposit therein, that is sufficient to pay the Scheduled Payments on the Loan and all Parity Loans due in such Loan Year and any Deferred Payments on the Loan and all Parity Loans. Notwithstanding the foregoing, upon receipt of a Certificate of an Authorized Representative of the District, amounts may be disbursed from Special Tax Fund A or transferred from Special Tax Fund A to the Administrative Expense Fund prior to the transfers to the Repayment Fund to the extent necessary to collect delinquent Special Taxes. Following the required deposit to the Repayment Fund of amounts sufficient to pay the interest and principal on the Loan and all Parity Loans due in a Loan Year and any past due and unpaid interest and principal payments on the Loan and all Parity Loans, the District may make additional transfers to the Administrative Expense Fund. The amounts in the Administrative Expense Fund are not pledged to the repayment of the Loan or the Parity Loans and may be used by the District to pay Administrative Expenses and for any other lawful purpose.

(b) Amounts for Administrative Expenses shall be disbursed by the Authority Trustee to the District from the Surplus Fund as specified in a Request for Disbursement of Administrative Expenses, substantially in the form of Exhibit C attached hereto, which must be submitted by an Authorized Representative of the District to the Authority Trustee in connection with each requested disbursement. The Authority Trustee may conclusively rely upon such Certificate of an Authorized Representative in making any such disbursement.

Section 3.4. Repayment Fund; Terms of Repayment.

(a) The Authority Trustee shall deposit all Net Taxes and any other amounts transferred to it by the District for deposit to the Repayment Fund to pay the scheduled principal of and interest on the Loan in the amounts and on the dates set forth in Exhibit A hereto and to pay the scheduled principal of and interest on any Parity Loans in accordance with their terms on the dates specified therein (together, the "Scheduled Payments"). In the event that all Net Taxes have been collected and transferred by the District as required by Section 3.2 above and the amount in the Repayment Fund is insufficient to pay the Scheduled Payments when due, then any portion of the Scheduled Payments not paid (the "Deferred Payments") shall be deferred and shall be paid on each successive Payment Date to the extent that any Net Taxes remain in the Repayment Fund after the payment of the Scheduled Payments due on such Payment Date until the Deferred Payments have been repaid in full. So long as the District has diligently performed its obligation under the Rate and

Method of Apportionment to levy the Special Taxes, the failure to pay the Scheduled Payments when due as a result of insufficient Net Taxes in the Repayment Fund shall not be an event of default hereunder. No additional interest shall accrue on any Deferred Payments. The Authority Trustee shall maintain a record of the Deferred Payments including each date on which a Deferred Payment occurs and each date a Deferred Payment is made and shall provide a copy of such record to the District and the Authority.

(b) On each Payment Date on which a Scheduled Payment is due on the Loan and any Parity Loan and on each Payment Date that Net Taxes are available in the Repayment Fund to make a Deferred Payment, the Authority Trustee shall transfer the amount due from the Repayment Fund to the Revenue Fund established under the Authority Indenture. All or a portion of the amounts remaining on the deposit in the Repayment Fund after the transfer to the Authority Trustee of all amounts due on the Loan and any Parity Loans in a Loan Year may be transferred to the Surplus Fund upon receipt by the Authority Trustee of a Certificate of an Authorized Representative stating that (i) all Scheduled Payments due in such Loan Year, all Deferred Payments and all amounts due on any Parity Loan in such Loan Year have been paid, and (ii) the amount to be transferred to the Surplus Fund.

(c) Moneys in the Repayment Fund may be held uninvested or be invested in any Permitted Investments.

Section 3.5. Surplus Fund. The District covenants and agrees that it shall not transfer or disburse from Special Tax Fund A to the Surplus Fund in any Loan Year any amount until such time as there has been deposited to the Repayment Fund an amount, together with any amounts already on deposit therein, that is sufficient to pay the Scheduled Payments on the Loan and all Parity Loans due in such Loan Year and any Deferred Payments on the Loan and all Parity Loans. Moneys deposited in the Surplus Fund will be transferred by the Authority Trustee as directed in a Certificate of an Authorized Representative of the District (i) to the Repayment Fund for application in accordance with Section 3.4 above, (ii) to the Authority Reserve Fund to pay any Reserve Replenishment Amount, (iii) to the Administrative Expense Fund to pay Administrative Expenses, (iv) to the Authority Surplus Fund established under the Authority Indenture, or (v) for any other lawful purpose of the District.

The amounts in the Surplus Fund are not pledged to the repayment of the Loan or the Parity Loans and may be used by the District for any purpose stated in this Section 3.5. In the event that the District reasonably expects to use any portion of the moneys in the Surplus Fund to pay debt service on the Loan or Parity Loans, the District will notify the Authority Trustee in a Certificate of an Authorized Representative and the Authority Trustee will segregate such amount into a separate subaccount and the moneys on deposit in such subaccount of the Surplus Fund shall be invested at the written direction of the District in Permitted Investments the interest on which is excludable from gross income under Section 103 of the Code (other than bonds the interest on which is a tax preference item for purposes of computing the alternative minimum tax of individuals under the Code) or in Permitted Investments at a yield not in excess of the yield on the issue of the Authority Bonds or Parity Loans to which such amounts are to be applied, unless, an opinion of Bond Counsel is delivered to the Authority Trustee stating that investment at a higher yield will not adversely affect the exclusion from gross income for federal income tax purposes of interest on the Tax-Exempt Bonds or any Parity Loans which were issued on a tax-exempt basis for federal income tax purposes.

Section 3.6. Loan Amount; Assignment of Rights; Application of Loan Proceeds.

(a) In consideration of the District's promise to repay the Loan as described herein, the Authority agrees to loan \$_____ to the District and further agrees to, and hereby does, irrevocably assign to the Authority Trustee all right title and interest of the Authority to the Scheduled Payments, Deferred Payments and any other amounts due with respect to the Loan and any Parity Loan as security for the repayment of the Authority Bonds, and further assigns to the Authority Trustee the right to enforce all covenants and obligations of the District hereunder.

(b) On the Closing Date, the proceeds of the Loan shall be disbursed to the Authority Trustee on behalf of the District and be deposited to the following funds and accounts under the Authority Indenture and shall be applied in accordance with the terms of the Authority Indenture:

(1) \$_____ shall be deposited in the 2021A Account of the Costs of Issuance Fund and \$_____ shall be deposited in the 2021B Account of the Costs of Issuance Fund for the payment of Costs of Issuance (as defined in the Authority Indenture) in accordance with Section 3.4 of the Authority Indenture.

(2) \$_____ shall be deposited in the 2021A Capitalized Interest Subaccount of the Interest Account of the Revenue Fund established pursuant to Section 3.3 of the Authority Indenture.

(3) \$_____ shall be deposited in the 2021A Account of the Authority Reserve Fund established pursuant to Section 3.6 of the Authority Indenture and \$_____ shall be deposited in the 2021B Account of the Authority Reserve Fund established pursuant to Section 3.6 of the Authority Indenture.

(4) \$_____ shall be deposited in the 2021A Account of the Construction Fund for the payment of Convention Center Costs in accordance with Section 3.10 of the Authority Indenture and \$_____ shall be deposited in the 2021B Account of the Construction Fund for the payment of Phase 1A Infrastructure Improvements Costs in accordance with Section 3.10 of the Authority Indenture .

Section 3.7. Investments. Moneys held in any of the Funds under this Agreement shall be invested by the Authority Trustee or the District, as applicable, in accordance with the limitations set forth below only in Permitted Investments which shall be deemed at all times to be a part of such Funds. Any investment earnings or loss resulting from such Permitted Investments shall be credited or charged to the Fund from which such investment was made and any investment earnings shall be deposited in those respective Funds. Moneys in the Funds held under this Agreement may be invested by the Authority Trustee as directed in writing by the District, from time to time, in Permitted Investments subject to the following restrictions:

(a) Moneys in the Repayment Fund shall be invested only in Permitted Investments which will by their terms mature, or are available for withdrawal without penalty, on such dates so as to ensure the payment of principal of, premium, if any, and interest on the Loan and any Parity Loans as the same become due.

(b) In the absence of written directions from the District, the Authority Trustee shall invest such moneys solely in Permitted Investments specified in clause (8) of the definition thereof.

The District or the Authority Trustee, as applicable, shall sell, or present for prepayment, any Permitted Investment whenever it may be necessary to do so in order to provide moneys to meet any payment or transfer to or from a Fund to which such Permitted Investment is credited. Notwithstanding anything herein to the contrary, (i) the Authority Trustee, as applicable, shall not be responsible for any loss from investments, sales or transfers undertaken in accordance with the provisions of this Agreement provided it has followed the written directions from the District, or if none were available, complied with Section 3.7(b); and (ii) the District shall not be responsible for any loss from investments, sales or transfers undertaken in accordance with the provisions of this Agreement so long as it has only directed that amounts be invested in Permitted Investments.

The Authority Trustee or the District, as applicable, may act as principal or agent in the making or disposing of any investment. For investment purposes, the Authority Trustee or the District, as applicable, may commingle the funds and accounts established hereunder, but shall account for each separately. The Authority Trustee is hereby authorized, in making or disposing of any investment permitted by this Section, to deal with itself (in its individual capacity) or with any one or more of its affiliates, whether it or such affiliate is acting as an agent of the Authority Trustee or for any third person or dealing as principal for its own account. The parties hereto acknowledge that the Authority Trustee is not providing investment supervision, recommendations, or advice.

The District acknowledges that, to the extent regulations of the Comptroller of the Currency or other applicable regulatory entity grant the District the right to receive brokerage confirmations of security transactions effected by the Authority Trustee as they occur, the District specifically waives receipt of such confirmations to the extent permitted by law. The District further understands that trade confirmations for securities transactions effected by the Authority Trustee will be available upon request and at no additional cost and other trade confirmations may be obtained from the applicable broker. The Authority Trustee will furnish the District periodic cash transaction statements which shall include detail for all investment transactions made by the Authority Trustee hereunder or brokers selected by the District. Upon the District's election, such statements will be delivered via the Authority Trustee's online service and upon electing such service, paper statements will be provided only upon request. The Authority Trustee and its affiliates may act as sponsor, advisor, depository, principal or agent in the holding, acquisition or disposition of any investment.

ARTICLE IV

[RESERVED]

ARTICLE V

COVENANTS AND WARRANTY

Section 5.1. Warranty. The District warrants that it shall preserve and protect the security pledged hereunder to the Loan and any Parity Loans against all claims and demands of all persons; provided, however, that such warranty does not require the District to expend any funds or moneys other than the Special Taxes and other amounts deposited to Special Tax Fund A and the Repayment Fund or, as and to the extent provided herein, in the Administrative Expense Fund and the Surplus Fund.

Section 5.2. Covenants. So long as any of the Loan or Parity Loans issued hereunder are unpaid, the District makes the following covenants with the Authority and with the Authority Trustee

on behalf of the Owners of the Authority Bonds under the provisions of Chapter 3.61 and this Agreement (to be performed by the District or its proper officers, agents or employees), which covenants are necessary and desirable to secure the Loan and Parity Loans; provided, however, that said covenants do not require the District to expend any funds or moneys other than the Special Taxes and other amounts deposited to Special Tax Fund A and the Repayment Fund or, as and to the extent provided herein, in the Administrative Expense Fund and the Surplus Fund:

(a) Punctual Payment; Against Encumbrances. The District covenants that it will receive all Special Taxes in trust for application in accordance with the terms of this Agreement and will instruct the City Treasurer to deposit all Special Taxes in Special Tax Fund A which the District covenants to establish solely for the purpose of holding the Special Taxes immediately upon their apportionment to the District. Except for the amounts held by the City Treasurer in Special Tax Fund A that are transferred by the District to the Administrative Expense Fund in accordance with Section 3.3, all amounts in such fund shall be subject to the lien and pledge set forth in Section 2.3 above for the benefit of the Authority, the Authority Trustee, and the Owners of the Loan and Parity Loans. From Special Taxes deposited by the City Treasurer in Special Tax Fund A in each Fiscal Year, the District may retain up to an amount equal to the Administrative Expenses Cap for such Fiscal Year for the purpose of paying Administrative Expenses and as and to the extent permitted by Section 3.3 above. The District further covenants that it will instruct the City Treasurer to transfer Net Taxes held in Special Tax Fund A to the Authority Trustee for deposit to the Repayment Fund to satisfy the provisions of Section 3.4 above and such Net Taxes shall be disbursed, allocated and applied solely to the uses and purposes set forth herein and in accordance with the Authority Indenture, and shall be accounted for separately and apart from all other money, funds, accounts or other resources of the District.

The District covenants that it will duly and punctually pay or cause to be paid the principal of and interest on the Loan and any Parity Loans, together with the premium, if any, thereon on the date, at the place and in the manner set forth in the Loan and the Parity Loans and in accordance with this Agreement to the extent that Net Taxes and other amounts pledged hereunder are available therefor from Special Tax Fund A or the Repayment Fund, and that the payments into the Funds created hereunder will be made, all in strict conformity with the terms of this Agreement and any Parity Loans, and that it will faithfully observe and perform all of the conditions, covenants and requirements of this Agreement and all Supplemental Agreements and of the Loan and any Parity Loans issued hereunder.

The District will not mortgage or otherwise encumber, pledge or place any charge upon any of the Net Taxes except as provided in this Agreement, and will not issue any obligation or security having a lien, charge, pledge or encumbrance upon the Net Taxes senior or superior to the Loan or Parity Loans or on a parity with the Loan, other than Parity Loans. Nothing herein shall prevent the District from issuing or incurring indebtedness which is payable from a pledge of Net Taxes which is subordinate in all respects to the pledge of Net Taxes to repay the Loan and the Parity Loans.

(b) Levy of Special Taxes. So long as any Loan or Parity Loans issued under this Agreement are unpaid, the legislative body of the District covenants to levy the Special Taxes in accordance with the Rate and Method of Apportionment, to deposit all proceeds of the Special Tax collections into Special Tax Fund A and to apply the Special Taxes only in a manner consistent with the provisions of this Agreement.

(c) Commence Foreclosure Proceedings. The District covenants for the benefit of the Owners of the Authority Bonds that it will commence judicial foreclosure proceedings against parcels with delinquent Special Taxes in excess of \$ 50,000 by the October 1 following the close of each Fiscal Year in which such Special Taxes were placed on the tax roll and will diligently pursue such foreclosure proceedings to completion or the earlier payment of the delinquent Special Taxes. The District covenants to place on the tax roll in each Fiscal Year all Special Taxes which remain delinquent and unpaid from the prior Fiscal Year.

The District covenants that it will deposit to Special Tax Fund A any Gross Taxes received in connection with a foreclosure that remain after the payment of Administrative Expenses related to such foreclosure and such Gross Taxes shall be applied in accordance with Section 3.4 hereof.

(d) Payment of Claims. The District will pay and discharge any and all lawful claims for labor, materials or supplies which, if unpaid, might become a lien or charge upon the Net Taxes or other funds in Special Tax Fund A or the Repayment Fund, or which might impair the security of the Loan or any Parity Loans then Outstanding; provided that nothing herein contained shall require the District to make any such payments so long as the District in good faith shall contest the validity of any such claims and there is no impairment of the security of the Loan or any Parity Loan.

(e) Books and Accounts. The District will keep proper books of records and accounts, separate from all other records and accounts of the District, in which complete and correct entries shall be made of all transactions relating to the levy of the Special Tax and the deposits to Special Tax Fund A and the other Funds listed in Section 3.1 hereof. Such books of records and accounts shall at all times during business hours be subject to the inspection by the Authority and the Authority Trustee (who shall have no duty or obligation to inspect) or any duly authorized representative of the Authority Trustee.

(f) Federal Tax Covenants. Notwithstanding any other provision of this Agreement, absent an opinion of Bond Counsel that the exclusion from gross income of interest on the Tax-Exempt Bonds or any Parity Loans issued on a tax-exempt basis for federal income tax purposes will not be adversely affected for federal income tax purposes, the District covenants to comply with all applicable requirements of the Code necessary to preserve such exclusion from gross income and specifically covenants, without limiting the generality of the foregoing, as follows:

(1) Private Activity. The District will take no action or refrain from taking any action or make any use of the proceeds of the Loan or any Parity Loans or of any other moneys or property which would cause any Tax-Exempt Bonds or any Parity Loans issued on a tax-exempt basis for federal income tax purposes to be “private activity bond” within the meaning of Section 141 of the Code;

(2) Arbitrage. The District will make no use of the proceeds of the Loan or any Parity Loans or of any other amounts or property, regardless of the source, or take any action or refrain from taking any action which will cause any Tax-Exempt Bonds or any Parity Loans issued on a tax-exempt basis for federal income tax purposes to be “arbitrage bond” within the meaning of Section 148 of the Code;

(3) Federal Guaranty. The District will make no use of the proceeds of the Loan or any Parity Loans or take or omit to take any action that would cause any Tax-Exempt

Bonds or any Parity Loans issued on a tax-exempt basis for federal income tax purposes to be “federally guaranteed” within the meaning of Section 149(b) of the Code;

(4) Hedge Bond. The District will make no use of the proceeds of the Loan or any Parity Loans or any other amounts or property, regardless of the source, or take any action or refrain from taking any action that would cause any Tax-Exempt Bonds or any Parity Loans issued on a tax-exempt basis for federal income tax purposes to be considered “hedge bond” within the meaning of Section 149(g) of the Code unless the District takes all necessary action to assure compliance with the requirements of Section 149(g) of the Code to maintain the exclusion from gross income for federal income tax purposes of interest on any Tax-Exempt Bonds or any Parity Loans issued on a tax-exempt basis for federal income tax purposes; and

(5) Other Tax Exempt Issues. The District will not use proceeds of other tax exempt securities to prepay the Loan or any Parity Loans without first obtaining the written opinion of Bond Counsel that doing so will not impair the exclusion from gross income for federal income tax purposes of interest on any Tax-Exempt Bonds or any Parity Loans issued on a tax-exempt basis.

(g) Reduction of Maximum Special Taxes. The District hereby finds and determines that the Loan is being issued based on the express assumption that the Special Taxes will be levied and collected at the maximum rate permitted by the Rate and Method of Apportionment until the Loan is repaid in full. For this reason, the District hereby determines that a reduction in the maximum Special Tax rates authorized to be levied on parcels in the District below the levels provided in this Section 5.2(g) would interfere with the timely retirement of the Loan and any Parity Loans. The District determines it to be necessary in order to preserve the security for the Loan and any Parity Loans to covenant, and, to the maximum extent that the law permits it to do so, the District hereby does covenant, that it will not initiate proceedings to reduce the maximum Special Tax rates for the District.

(h) Covenants to Defend. The District covenants that, in the event that any initiative is adopted by the qualified electors in the District which purports to reduce the maximum Special Tax below the levels specified in Section 5.2(g) above or to limit the power of the District to levy the Special Taxes for the purposes set forth in Section 5.2(b) above, it will commence and pursue legal action in order to preserve its ability to comply with such covenants.

(i) Further Assurances. The District shall make, execute and deliver any and all such further agreements, instruments and assurances as may be reasonably necessary or proper to carry out the intention or to facilitate the performance of this Agreement and for the better assuring and confirming unto the Authority, Authority Trustee and the Owners of the Authority Bonds or other holder of the Loan and any Parity Loans of the rights and benefits provided in this Agreement.

(j) Pledged Net Taxes. The District represents it has not heretofore made a pledge of, granted a lien on or security interest in, or made an assignment or sale of the Net Taxes that ranks on a parity with or prior to the pledge granted under this Agreement. The District shall not hereafter make any pledge or assignment of, lien on, or security interest in the Net Taxes payable senior to the pledge of Net Taxes established under this Agreement and, except for Parity Loans, on a parity to the pledge of Net Taxes hereunder.

ARTICLE VI

AMENDMENTS TO AGREEMENT

Section 6.1. Supplemental Agreements or Orders Not Requiring Consent. The District, the Authority and the Authority Trustee may from time to time, and at any time, without notice to or consent of any of the Bondowners, amend this Agreement through the execution of a Supplemental Agreement for any of the following purposes:

(a) to cure any ambiguity, to correct or supplement any provisions herein which may be inconsistent with any other provision herein, or to make any other provision with respect to matters or questions arising under this Agreement or in any additional resolution or order, provided that such action is not materially adverse to the interests of the Bondowners or to the Authority or the Authority Trustee hereunder;

(b) to add to the covenants and agreements of and the limitations and the restrictions upon the District contained in this Agreement, other covenants, agreements, limitations and restrictions to be observed by the District which are not contrary to or inconsistent with this Agreement as theretofore in effect or which further secure payments on the Loan and any Parity Loans;

(c) to provide for the making of any Parity Loans, and to provide the terms and conditions under which such Parity Loans may be made, subject to and in accordance with the provisions of this Agreement; or

(d) to modify, alter, amend or supplement this Agreement in any other respect which is not materially adverse to the Bondowners or to the Authority or the Authority Trustee hereunder.

Section 6.2. Supplemental Agreements or Orders Requiring Bondowner Consent. Exclusive of the Supplemental Agreements described in Section 6.1, the Authority and the Authority Trustee, with the consent or at the direction of the Bondowners of not less than a majority in aggregate principal amount of the Authority Bonds Outstanding, shall have the right to consent to and approve such Supplemental Agreements as shall be deemed necessary or desirable by the District, for the purpose of waiving, modifying, altering, amending, adding to or rescinding, in any particular, any of the terms or provisions contained in this Agreement; provided, however, that nothing herein shall permit, or be construed as permitting, (a) an amendment to the payment dates and amounts set forth in Exhibit A hereto, (b) a preference or priority of the Loan or any Parity Loan over the Loan or any Parity Loan, or (c) a reduction in the aggregate principal amount of the percentage of the Bondowners of which are required to direct or consent to such Supplemental Agreement, without the consent of the Bondowners of all Authority Bonds then Outstanding.

If at any time the District shall desire to adopt a Supplemental Agreement pursuant to the terms of this Section 6.2, the District shall so notify the Authority and the Authority Trustee and shall deliver to the Authority and the Authority Trustee a copy of the proposed Supplemental Agreement. The Authority Trustee shall, at the expense of the District, cause notice of the proposed Supplemental Agreement to be mailed, by first class mail, postage prepaid, or in such other manner as is permitted under the Authority Indenture, to all Bondowners at their addresses as they appear in the bond register established under the Authority Indenture. Such notice shall briefly set forth the nature of

the proposed Supplemental Agreement and shall state that a copy thereof is on file at the office of the Authority Trustee for inspection by all Bondowners. The failure of any Bondowners to receive such notice shall not affect the validity of such Supplemental Agreement when consented to and approved by the Bondowners of the applicable aggregate principal amount of the Authority Bonds Outstanding required by this Section. Whenever at any time within one year after the date of the first mailing or giving of such notice, the Authority Trustee shall receive an instrument or instruments purporting to be executed by the Bondowners of not less than the applicable aggregate principal amount of the Authority Bonds Outstanding, which instrument or instruments shall refer to the proposed Supplemental Agreement described in such notice, and shall specifically consent to and approve the adoption thereof by the District substantially in the form of the copy referred to in such notice as on file with the Authority Trustee, such proposed Supplemental Agreement, when duly executed by the District, the Authority and the Authority Trustee, shall thereafter become a part of the proceedings for the issuance of the Loan and any Parity Loans. In determining whether the Owners of a majority of the aggregate principal amount of the Authority Bonds have consented to the adoption of any Supplemental Agreement, Authority Bonds which are owned by the Authority or the District or by any person directly or indirectly controlling or controlled by or under the direct or indirect common control with the Authority or the District, shall be disregarded and shall be treated as though they were not Outstanding for the purpose of any such determination.

Upon the execution of any Supplemental Agreement and the receipt of consent to any such Supplemental Agreement from the Owners of the applicable aggregate principal amount of the Outstanding Authority Bonds, this Agreement shall be, and shall be deemed to be, modified and amended in accordance therewith, and the respective rights, duties and obligations under this Agreement of the District, the Authority and the Authority Trustee, as applicable, shall thereafter be determined, exercised and enforced hereunder, subject in all respects to such modifications and amendments.

The Authority Trustee may in its discretion, but shall not be obligated to, enter into any such Supplemental Agreement authorized by Sections 6.1 and 6.2 which affects the Authority Trustee's own rights, duties or immunities under this Agreement or otherwise.

ARTICLE VII

TRUSTEE

Section 7.1. Compensation of Authority Trustee. The District shall (i) pay and reimburse the Authority Trustee for its services, advances and expenditures, including, but not limited to, advances to and fees and expenses of independent accountants or counsel employed by it in the exercise and performance of its powers and duties hereunder, and (ii) indemnify and save the Authority Trustee, its officers, directors, employees and agents, harmless from and against costs, damages, claims, expenses and liabilities, including, without limitation, fees and expenses of its attorneys, not arising from its own negligence or willful misconduct which it may incur in the exercise and performance of its powers and duties hereunder. In no event shall the Authority Trustee be liable for any consequential, punitive, indirect, incidental or special damages or loss of any kind whatsoever (including, but not limited to, loss of profit) irrespective of whether the Authority Trustee has been advised of the likelihood of such loss or damage and regardless of the form of action. The foregoing obligations of the District to pay, reimburse and indemnify the Authority Trustee are payable only from the Special Taxes pledged hereunder and shall survive the removal or resignation

of the Authority Trustee, the discharge and payment or defeasance of the Loan, and the termination of this Agreement.

Section 7.2. Successor to Authority Trustee. In the event that the Authority Trustee is removed or replaced under the Authority Indenture, the successor thereto shall automatically assume all rights and obligations of the Authority Trustee hereunder.

Section 7.3. Liability of Authority Trustee. The Authority Trustee undertakes to perform such duties and only such duties as are specifically set forth in this Agreement. These duties shall be deemed purely ministerial in nature, and the Authority Trustee shall not be liable except for the performance of such duties, and no implied covenants or obligations shall be read into this Agreement against the Authority Trustee. The recitals of fact and all promises, covenants and agreements contained herein and in the Loan and any Parity Loans shall be taken as statements, promises, covenants and agreements of the District, and the Authority Trustee assumes no responsibility for the correctness of the same and makes no representations as to the validity or sufficiency of this Agreement, the Loan or any Parity Loans, and shall incur no responsibility in respect thereof, other than in connection with its duties or obligations specifically set forth herein, in the Loan and any Parity Loans, or in the certificate of authentication assigned to or imposed upon the Authority Trustee. The Authority Trustee shall be under no responsibility or duty with respect to the issuance of the Loan or any Parity Loans for value. The Authority Trustee shall not be liable in connection with the performance of its duties hereunder, except for its own negligence or willful misconduct.

The Authority Trustee shall be protected in acting upon any notice, direction, resolution, request, consent, opinion, order, certificate, report, affidavit, letter, telegram, facsimile, bond, debenture, note, other evidence of indebtedness (including any Loan or Parity Loan) or other paper or document believed by it to be genuine and to have been signed, sent, or presented by the proper person or persons, not only as to due execution, validity and effectiveness, but also as to the truth and accuracy of any information contained therein. The Authority Trustee may consult with and act upon the advice of counsel, which may be counsel to the District, concerning all matters of trust and its duty hereunder and may conclusively rely upon and shall be wholly protected in reliance upon the advice or opinion of such counsel in respect of any action taken or omitted by it in accordance therewith.

Whenever in the administration of its duties under this Agreement the Authority Trustee shall deem it necessary or desirable that a matter be proved or established prior to taking or suffering any action hereunder, such matter (unless other evidence in respect thereof be herein specifically prescribed) may be deemed to be conclusively proved and established and the Authority Trustee shall be fully protected in relying upon a written certificate of the District and/or opinion of counsel, and such certificate and/or opinion of counsel shall be full warrant to the Authority Trustee for any action taken, not taken or suffered under the provisions of this Agreement upon the faith thereof, but in its discretion the Authority Trustee may, in lieu thereof, accept other evidence of such matter or may require such additional evidence as to it may seem reasonable.

The Authority Trustee shall have no duty or obligation whatsoever to enforce the collection of Special Taxes or other funds to be deposited with it hereunder, or as to the correctness of any amounts received, but its liability shall be limited to the proper accounting for such funds as it shall actually receive. No provision in this Agreement shall require the Authority Trustee to expend or

risk its own funds or otherwise incur any financial liability in the performance of any of its duties hereunder, or in the exercise of its rights or powers.

The Authority Trustee shall not be deemed to have knowledge of any default or event of default until an officer at the Principal Office of the Authority Trustee responsible for the administration of its duties hereunder shall have actual knowledge thereof or the Authority Trustee shall have received written notice thereof at the Principal Office of the Authority Trustee.

The Authority Trustee shall not be considered in breach of or in default in its obligations hereunder or progress in respect thereto in the event of enforced delay (“unavoidable delay”) in the performance of such obligations due to unforeseeable causes beyond its control and without its fault or negligence, including, but not limited to, acts of God or of the public enemy or terrorists, acts of a government, acts of the other party, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, earthquakes, explosion, mob violence, riot, war, inability to procure or general sabotage or rationing of labor, equipment, facilities, sources of energy, material or supplies in the open market, loss or malfunctions of utilities, computer (hardware or software) or communications service, accidents, labor disputes, the unavailability of the Federal Reserve Bank wire or telex or other wire or communication facility, litigation or arbitration involving a party or others relating to zoning or other governmental action or inaction pertaining to the project, malicious mischief, condemnation, and unusually severe weather or delays of supplies or subcontractors due to such causes or any similar event and/or occurrences beyond the control of the Authority Trustee.

The Authority Trustee shall have no responsibility, opinion or liability with respect to any information, statement or recital in any offering memorandum, official statement, or other disclosure material prepared or distributed with respect to the making of the Loan or any Parity Loan.

The Authority Trustee shall be under no obligation to exercise any of the rights or powers assigned to it or vested in it by this Agreement at the request, order or direction of any of the Owners pursuant to the provisions of this Agreement unless such Owners shall have offered to the Authority Trustee security or indemnity satisfactory to it in its sole and exclusive discretion against the costs, expenses and liabilities which may be incurred therein or thereby.

The Authority Trustee, prior to the occurrence of an Event of Default and after the curing or waiver of all Events of Default which may have occurred, undertakes to perform such duties and only such duties as are specifically set forth in this Agreement. These duties shall be deemed purely ministerial in nature, and the Authority Trustee shall not be liable except for the performance of such duties, and no implied covenants or obligations shall be read into this Agreement against the Authority Trustee. In case an Event of Default has occurred (which has not been cured or waived) the Authority Trustee may exercise such of the rights and powers vested in it by this Agreement, and shall use the same degree of care and skill in their exercise, as a prudent person would exercise or use under the circumstances in the conduct of that person’s own affairs.

The Authority Trustee shall be entitled to request and receive written instructions from the District and shall have no responsibility or liability for any losses or damages of any nature that may arise from any action taken or not taken by the Authority Trustee in accordance with the written direction thereof. The Authority Trustee agrees to accept and act upon facsimile or electronic transmission of written instructions and/or directions pursuant to this Agreement; provided, however, that: (a) such originally executed instructions and/or directions shall be signed by a person as may be designated and authorized to sign for the party signing such instructions and/or directions, and (b) the

Authority Trustee shall have received a current incumbency certificate containing the specimen signature of such designated person. Any such instructions and directions furnished by electronic transmission shall be in the form of attachments in PDF format.

Section 7.4. Merger or Consolidation. Any company into which the Authority Trustee may be merged or converted or with which it may be consolidated or any company resulting from any merger, conversion or consolidation to which it shall be a party or any company to which the Authority Trustee may sell or transfer all or substantially all of its corporate trust business, shall be the successor to the Authority Trustee without the execution or filing of any paper or further act, anything herein to the contrary notwithstanding.

ARTICLE VIII

EVENTS OF DEFAULT; REMEDIES

Section 8.1. Events of Default.

Any one or more of the following events shall constitute an “Event of Default” hereunder:

(a) Any failure by the District to comply with the provisions of Section 3.2(a), the first sentence of Section 3.5 and Section 5.2(b) hereof:

(b) Except as described in Section 8.1(a) above, any failure by the District to comply with any of the agreements, conditions or covenants on its part contained in this Agreement or any Supplemental Agreement, which continues for a period of 30 days after the District shall have been given notice in writing of such failure by the Authority Trustee or the Owners of a majority in aggregate principal amount of the Outstanding Authority Bonds; provided, however, that if in the reasonable opinion of the District the failure to comply stated in the notice can be corrected, but not within such thirty (30) day period, and corrective action is instituted by the District, within such thirty (30) day period and diligently pursued in good faith until the failure to comply is corrected, such failure to comply shall not be an Event of Default hereunder.

(c) The Authority Trustee agrees to give notice to the Owners within 30 days of the Authority Trustee’s knowledge of an Event of Default.

Section 8.2. Remedies upon an Event of Default. Upon the occurrence of an Event of Default, the Authority Trustee may pursue any available remedy at law or in equity to enforce the payment of the principal of and interest on the Loan and any Parity Loans, and to enforce any rights of the Authority and the Authority Trustee under or with respect to this Agreement, including:

(a) By mandamus or other suit or proceeding at law or in equity to enforce any rights against the District and any of the members, officers and employees of the District, and to compel the District or any such members, officers or employees to perform and carry out their duties under Chapter 3.61 and this Agreement;

(b) By suit in equity to enjoin any actions or things which are unlawful or violate the rights of the Owners; or

(c) By a suit in equity to require the District and its members, officers and employees to account as the trustee of an express trust.

If an Event of Default shall have occurred and be continuing and if requested so to do by the Owners of at least a majority in aggregate principal amount of Outstanding Authority Bonds and if indemnified to its satisfaction, the Authority Trustee shall be obligated to exercise one or more of the rights and powers conferred by this Article VIII, as the Authority Trustee, being advised by counsel, shall deem most expedient in the interests of the Owners of the Authority Bonds.

No remedy herein conferred upon or reserved to the Authority Trustee or to the Owners is intended to be exclusive of any other remedy. Every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing, at law or in equity or by statute or otherwise, and may be exercised without exhausting and without regard to any other remedy conferred by Chapter 3.61 or any other law.

The Loan and any Parity Loans are not subject to acceleration prior to maturity.

Section 8.3. Application of Revenues and Other Funds After Default. All amounts received by the Authority Trustee pursuant to any right given or action taken by the Authority Trustee under the provisions of this Agreement relating to the Loan and Parity Loans shall be applied by the Authority Trustee in the following order:

First, to the payment of the fees, costs and expenses of the Authority Trustee in declaring such Event of Default and in carrying out the provisions of this Article VIII, including reasonable compensation to its agents, attorneys and counsel, and to the payment of all other outstanding fees and expenses of the Authority Trustee; and

Second, to the payment of the whole amount of interest on and principal of the Loan and Parity Loans then due and unpaid; provided, however, that in the event such amounts shall be insufficient to pay in full the full amount of such interest and principal, then such amounts shall be applied in the following order of priority:

(a) first to the payment of all installments of interest on the Loan and Parity Loans then due and unpaid on a pro rata basis based on the total amount then due and owing, and

(b) second, to the payment of all installments of principal of the Loan and Parity Loans then due and unpaid on a pro rata basis based on the total amount then due and owing.

Section 8.4. Power of Authority Trustee to Control Proceedings. In the event that the Authority Trustee, upon the happening of an Event of Default, shall have taken any action, by judicial proceedings or otherwise, pursuant to its duties hereunder, whether upon its own discretion or upon the request of the Owners of a majority in aggregate principal amount of the Authority Bonds then Outstanding, it shall have full power, in the exercise of its discretion for the best interests of the Owners, with respect to the continuance, discontinuance, withdrawal, compromise, settlement or other disposal of such action; provided, however, that the Authority Trustee shall not, unless there no longer continues an Event of Default, discontinue, withdraw, compromise or settle, or otherwise dispose of any litigation pending at law or in equity, if at the time there has been filed with it a written request signed by the Owners of a majority in aggregate principal amount of the Outstanding Authority Bonds opposing such discontinuance, withdrawal, compromise, settlement or other such

litigation. Any suit, action or proceeding which any Owner shall have the right to bring to enforce any right or remedy hereunder may be brought by the Authority Trustee for the equal benefit and protection of all Owners similarly situated and the Authority Trustee is hereby appointed (and the successive respective Owners, by taking and holding the same, shall be conclusively deemed so to have appointed it) the true and lawful attorney in fact of the respective Owners of the Loan and Parity Loans for the purposes of bringing any such suit, action or proceeding and to do and perform any and all acts and things for and on behalf of the respective Owners of the Loan and Parity Loans as a class or classes, as may be necessary or advisable in the opinion of the Authority Trustee as such attorney-in-fact.

Section 8.5. Appointment of Receivers. Upon the occurrence of an Event of Default hereunder, and upon the filing of a suit or other commencement of judicial proceedings to enforce the rights of the Authority Trustee and of the Owners of the Authority Bonds under this Agreement, the Authority Trustee shall be entitled, as a matter of right, to the appointment of a receiver or receivers of the Net Taxes and other amounts pledged hereunder, pending such proceedings, with such powers as the court making such appointment shall confer.

Section 8.6. Non-Waiver. Nothing in this Article VIII or in any other provision of this Agreement, or in the Loan or the Parity Loans, shall affect or impair the obligation of the District, which is absolute and unconditional, to pay the interest on and principal of the Loan and Parity Loans in accordance with the terms of this Agreement and any Supplemental Agreement, as applicable, out of the Net Taxes and other moneys herein pledged for such payment.

A waiver of any default or breach of duty or contract by the Authority Trustee or any Owners shall not affect any subsequent default or breach of duty or contract, or impair any rights or remedies on any such subsequent default or breach. No delay or omission of the Authority Trustee or any Owner of any of the Authority Bonds to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver of any such default or an acquiescence therein; and every power and remedy conferred upon the Authority Trustee or the Owners by Chapter 3.61 or by this Article VIII may be enforced and exercised from time to time and as often as shall be deemed expedient by the Authority Trustee or the Owners, as the case may be.

Section 8.7. Limitations on Rights and Remedies of Owners. No Owner shall have the right to institute any suit, action or proceeding at law or in equity, for any remedy under or upon this Agreement, unless (a) such Owner shall have previously given to the Authority Trustee written notice of the occurrence of an Event of Default; (b) the Owners of a majority in aggregate principal amount of all Authority Bonds then Outstanding shall have made written request upon the Authority Trustee to exercise the powers hereinbefore granted or to institute such action, suit or proceeding in its own name; (c) said Owners shall have tendered to the Authority Trustee indemnity reasonably acceptable to the Authority Trustee against the costs, expenses and liabilities to be incurred in compliance with such request; and (d) the Authority Trustee shall have refused or omitted to comply with such request for a period of sixty (60) days after such written request shall have been received by, and said tender of indemnity shall have been made to, the Authority Trustee.

Such notification, request, tender of indemnity and refusal or omission are hereby declared, in every case, to be conditions precedent to the exercise by any Owner of the Authority Bonds of any remedy hereunder; it being understood and intended that no one or more Owners shall have any right in any manner whatever by his or their action to enforce any right under this Agreement, except in the manner herein provided, and that all proceedings at law or in equity to enforce any provision of

this Agreement shall be instituted, had and maintained in the manner herein provided and for the equal benefit of all Owners of the Outstanding Authority Bonds.

Section 8.8. Termination of Proceedings. In case the Authority Trustee shall have proceeded to enforce any right under this Agreement by the appointment of a receiver or otherwise, and such proceedings shall have been discontinued or abandoned for any reason, or shall have been determined adversely, then and in every such case, the District, the Authority, the Authority Trustee and the Owners shall be restored to their former positions and rights hereunder, respectively, with regard to the property subject to this Agreement, and all rights, remedies and powers of the Authority Trustee shall continue as if no such proceedings had been taken.

ARTICLE IX

DEFEASANCE AND PARITY LOANS

Section 9.1. Defeasance. If the District shall pay or cause to be paid, or there shall otherwise be paid, all of the principal and interest due on the Loan or a Parity Loan at the times and in the manner stipulated in this Agreement or any Supplemental Agreement, then the Authority Trustee shall cease to be entitled to the pledge of Net Taxes with respect to such Loan or Parity Loan, and, other than as set forth below, all covenants, agreements and other obligations of the District to the Authority Trustee under this Agreement and any Supplemental Agreement with respect to the Loan or such Parity Loan, as applicable, shall thereupon cease, terminate and become void and be discharged and satisfied.

The Loan and any Parity Loan shall be deemed to have been paid within the meaning expressed in the first paragraph of this Section 9.1 if such Loan or Parity Loan is paid in any one or more of the following ways:

(a) by paying or causing to be paid the principal of, premium, if any, and interest on such Loan or Parity Loan, as and when the same become due and payable;

(b) by depositing with the Authority Trustee, in trust, at or before maturity, money which, together with the amounts then on deposit in the Repayment Fund and available for such purpose, is fully sufficient to pay the principal of and interest on such Loan or Parity Loan, as and when the same shall become due and payable; or

(c) by depositing with the Authority Trustee or another escrow bank appointed by the District, in trust, Federal Securities, in which the District may lawfully invest its money, in such amount as will be sufficient, together with the interest to accrue thereon and moneys then on deposit in the Repayment Fund and available for such purpose, together with the interest to accrue thereon, to pay and discharge the principal of and interest on such Loan or Parity Loan, as and when the same shall become due and payable;

then, at the election of the District, and notwithstanding that the Loan and any Parity Loan shall not have been surrendered for payment, all obligations of the District under this Agreement and any Supplemental Agreement with respect to such Loan or Parity Loan shall cease and terminate, except for the obligation of the Authority Trustee to pay or cause to be paid the Loan and any Parity Loan not so surrendered and paid, all sums due thereon from the amounts described above and except for the covenants of the District contained in Section 5.2(f) or any covenants in a Supplemental

Agreement relating to compliance with the Code. Notice of such election shall be filed with the Authority Trustee not less than ten days prior to the proposed defeasance date, or such shorter period of time as may be acceptable to the Authority Trustee. In connection with a defeasance under (c) above, there shall be provided to the District and the Authority Trustee, a verification report from an Independent Accountant, stating its opinion as to the sufficiency of the moneys or securities deposited with the Authority Trustee or the escrow bank to pay and discharge the principal of and interest on the Loan and any Parity Loans to be defeased in accordance with this Section, as and when the same shall become due and payable.

The Loan and any Parity Loans shall be deemed unpaid under this Agreement unless and until they are in fact paid and retired or the above criteria are met.

Upon a defeasance, the Authority Trustee, upon request of the District, shall release its rights and the rights of the Owners hereunder with respect to the Loan and Parity Loans which have been defeased under this Agreement and any Supplemental Agreement and execute and deliver to the District all such instruments as may be desirable to evidence such release, discharge and satisfaction. In the case of a defeasance hereunder of all Loan and Parity Loans, the Authority Trustee shall pay over or deliver to the District any funds held by the Authority Trustee hereunder at the time of a defeasance, which are not required for the purpose of paying and discharging the principal of or interest on the Loan and Parity Loans when due. The Authority Trustee shall, at the written direction of the District, send a notice to the Bondowners, in the manner set forth in the Authority Indenture and in the form directed by the District, stating that the defeasance has occurred.

Section 9.2. Conditions for the Issuance of Parity Loans and Other Additional Indebtedness. The District may at any time after the issuance and delivery of the Loan hereunder issue Parity Loans payable from the Net Taxes in Special Tax Fund A and secured by a lien and charge upon such amounts equal to the lien and charge securing the Outstanding Loan and any other Parity Loans theretofore issued hereunder or under any Supplemental Agreement; provided, however, that a Parity Loan may only be used for the purpose of refunding all or a portion of the Loan or any Parity Loans then outstanding and unpaid hereunder and under any Supplemental Agreement. A Parity Loan may be issued subject to the following additional specific conditions, which are hereby made conditions precedent to the issuance of any such Parity Loan:

(a) The District shall be in compliance with all covenants set forth in this Agreement and any Supplemental Agreement then in effect and a certificate of the District to that effect shall have been filed with the Authority Trustee; provided, however, that a Parity Loan may be issued notwithstanding that the District is not in compliance with all such covenants so long as immediately following the issuance of such Parity Loan the District will be in compliance with all such covenants.

(b) The issuance of such Parity Loan shall have been duly authorized pursuant to Chapter 3.61 and all applicable laws, and the issuance of such Parity Loan shall have been provided for by a Supplemental Agreement duly adopted by the District which shall specify the following:

(1) The refunding purpose for which such Parity Loan is to be issued and the fund or funds into which the proceeds thereof are to be deposited, including payment of all costs incidental to or connected with such refunding;

(2) The authorized principal amount of such Parity Loan;

(3) The date and the maturity date of such Parity Loan;

(4) The debt service payment schedule for such Parity Loan; provided, however that the Loan and all Parity Loans shall have the same payment dates;

(5) The description of the Parity Loan, the place of payment thereof and the procedure for execution and authentication;

(6) The amount, if any, to be deposited from the proceeds of such Parity Loan in the Authority Reserve Fund to increase the amount therein to the Authority Reserve Requirement; and

(7) Such other provisions as are necessary or appropriate and not inconsistent with this Agreement.

(c) The District shall have received the following documents or money or securities, all of such documents dated or certified, as the case may be, as of the date of delivery of a Parity Loan by the Authority Trustee (unless the Authority Trustee shall accept any of such documents bearing a prior date):

(1) An executed copy of the Supplemental Agreement pursuant which such Parity Loan is issued;

(2) A written request of the District as to the delivery of such Parity Loan;

(3) An opinion of Bond Counsel and/or counsel to the District to the effect that (a) the District has the right and power under Chapter 3.61 to execute and deliver the Supplemental Agreement relating to such Parity Loan, and this Agreement and such Supplemental Agreement have been duly and lawfully executed and delivered by the District, are in full force and effect and are valid and binding upon the District and enforceable in accordance with their terms (except as enforcement may be limited by bankruptcy, insolvency, reorganization and other similar laws relating to the enforcement of creditors' rights); (b) this Agreement creates the valid pledge which it purports to create of the Net Taxes and other amounts as provided in this Agreement, subject to the application thereof to the purposes and on the conditions permitted by this Agreement; and (c) such Parity Loan is a valid and binding limited obligation of the District, enforceable in accordance with its terms (except as enforcement may be limited by bankruptcy, insolvency, reorganization and other similar laws relating to the enforcement of creditors' rights) and the terms of this Agreement and any Supplemental Agreements thereto and entitled to the benefits of this Agreement and all such Supplemental Agreements, and such Parity Loan has been duly and validly authorized and issued in accordance with Chapter 3.61 (or other applicable laws) and this Agreement and all such Supplemental Agreements; and a further opinion of Bond Counsel to the effect that, assuming compliance by the District with certain tax covenants, the issuance of the Parity Loan will not adversely affect the exclusion from gross income for federal income tax purposes of interest on the Tax-Exempt Bonds;

(4) A certificate of the District containing such statements as may be reasonably necessary to show compliance with the requirements of this Agreement;

(5) A certificate from one or more Independent Financial Consultants which, when taken together, certify that the annual principal and interest due on the Parity Loan is less than the annual principal and interest due on the Loan or Parity Loan being refunded, or in the case of a partial refunding on the portion of the Loan or a Parity Loan refunded with the proceeds of the Parity Loan; and

(6) Such further documents, money and securities as are required by the provisions of this Agreement and the Supplemental Agreement providing for the issuance of such Parity Loan.

ARTICLE X

MISCELLANEOUS

Section 10.1. Execution of Documents. Any request, direction, consent, revocation of consent, or other instrument in writing required or permitted by this Agreement to be signed or executed by the Owners may be given only in the manner provided by the Authority Indenture and the Authority Trustee shall apply the provisions of the Authority Indenture in determining whether any such action by the Owners is effective for purposes of this Agreement.

Any request or consent of the Owner of any Authority Bond shall bind every future Owner of the same Authority Bond in respect of anything done or suffered to be done by the Authority Trustee or the District under this Agreement in pursuance of such request or consent.

Section 10.2. Provisions Constitute Contract; Governing Law. The provisions of this Agreement shall constitute a contract between the parties hereto. This Agreement shall be construed and governed in accordance with the laws of the State of California, without regard to its conflicts of laws principles.

Section 10.3. Future Contracts. Nothing herein contained shall be deemed to restrict or prohibit the District from making contracts or creating bonded or other indebtedness payable from a pledge of the Net Taxes which is subordinate to the pledge hereunder, or which is payable from any source other than the Net Taxes and other amounts pledged hereunder.

Section 10.4. Further Assurances. The District will adopt, make, execute and deliver any and all such further resolutions, instruments and assurances as may be reasonably necessary or proper to carry out the intention or to facilitate the performance of this Agreement, and for the better assuring and confirming unto the Authority Trustee and the Owners of the Authority Bonds the rights and benefits provided in this Agreement.

Section 10.5. Severability. If any covenant, agreement or provision, or any portion thereof, contained in this Agreement, or the application thereof to any person or circumstance, is held to be unconstitutional, invalid or unenforceable, the remainder of this Agreement and the application of any such covenant, agreement or provision, or portion thereof, to other persons or circumstances, shall be deemed severable and shall not be affected thereby.

Section 10.6. Notices. All notices or other communications hereunder shall be in writing and shall be sufficiently given and shall be deemed given when delivered or, if mailed by first class mail, postage prepaid, on the third day after deposit in the U.S. Mail to each of the parties listed below at the addresses set forth below.

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

And

Executive Director
San Diego Unified Port District
Post Office Box 120488
San Diego, California 92112-0488

With copies to: City of Chula Vista
276 Fourth Avenue
Chula Vista, California 91910
Attention: Finance Director

Director, Real Estate Department
San Diego Unified Port District
Post Office Box 120488
San Diego, California 92112-0488

Port Attorney
San Diego Unified Port District
Post Office Box 120488
San Diego, California 92112-0488

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

With copy to: City of Chula Vista
276 Fourth Avenue
Chula Vista, California 91910
Attention: City Attorney

To the Authority
Trustee: Wilmington Trust, National Association
650 Town Center Drive, Suite 800,
Costa Mesa, California 92626
Attention: Corporate Trust Services
Fax No.: (714) 384-4151

To the Port: Executive Director
San Diego Unified Port District
Post Office Box 120488
San Diego, California 92112-0488

With a copy to: Director, Real Estate Department
San Diego Unified Port District
Post Office Box 120488
San Diego, California 92112-0488

Port Attorney
San Diego Unified Port District
Post Office Box 120488
San Diego, California 92112-0488

The Authority, the City, the Port and the Authority Trustee, by notice given hereunder, may designate different addresses to which subsequent notices or other communications will be sent.

IN WITNESS WHEREOF, the Bayfront Project Special Tax Financing District, the Chula Vista Bayfront Facilities Financing Authority and Wilmington Trust, National Association, each has caused this Loan Agreement to be signed in its corporate name by its duly authorized officer identified below, all as of the day and year first above written.

BAYFRONT PROJECT SPECIAL TAX
FINANCING DISTRICT

By: _____
Authorized Officer

CHULA VISTA BAYFRONT
FACILITIES FINANCING AUTHORITY,

By: _____
Executive Director

APPROVED AS TO FORM AND LEGALITY:

Co- Counsel, Thomas A. Russell, General
Counsel of the San Diego Unified Port District

Co-Counsel, Glen R. Googins, City Attorney
of the City of Chula Vista

WILMINGTON TRUST, NATIONAL
ASSOCIATION, as Authority Trustee

By: _____
Authorized Officer

EXHIBIT A

LOAN REPAYMENT SCHEDULE

[To be added on the Closing Date based on the pricing of the Bonds]

EXHIBIT B

LEGAL DESCRIPTION OF SITE

EXHIBIT C

FORM OF REQUISITION FROM SURPLUS FUND

To: Wilmington Trust, National Association, as Trustee

From: Bayfront Project Special Tax Financing District

Dated Date: _____

Re: [Amount]
Bayfront Project Special Tax Financing District
Public Infrastructure Loan

Requisition No. ____

The undersigned, an Authorized Officer of the Bayfront Project Special Tax Financing District (the "District"), hereby requests payment, from the Surplus Fund for deposit to the Administrative Expense Fund the amount of \$_____ [by wire/check/ACH (circle one)] pursuant to the Loan Agreement, dated as of _____ 1, 2021 (the "Agreement"), by and among the District, the Chula Vista Bayfront Facilities Financing District, and Wilmington Trust, National Association, as Trustee (the "Trustee").

If the payment is by wire or ACH, please fill in the following information:

Name, Address and Phone Number of Bank:

ABA#: _____

Account No.: _____

The undersigned hereby certifies as follows:

1. The amount requisitioned hereby is for the payment of Administrative Expenses chargeable to the Surplus Fund and has not been the subject of any previous requisition.
2. As of the date hereof, no event has occurred and is continuing which constitutes an Event of Default under the Agreement or would constitute an Event of Default but for the requirement that notice be given, or time elapse, or both.
3. The information contained herein is true and correct as of the date of this Requisition.

4. Capitalized terms will herein have the meanings assigned to such terms in the Agreement.

BAYFRONT PROJECT SPECIAL TAX
FINANCING DISTRICT

By: _____
Authorized Officer