

SECOND~~THIRD~~ AMENDED AND RESTATED REVENUE SHARING AGREEMENT
By and ~~Between~~Among
CITY OF CHULA VISTA ~~AND~~, SAN DIEGO UNIFIED PORT DISTRICT,
and
CHULA VISTA BAYFRONT FACILITIES FINANCING AUTHORITY
**(Chula Vista ~~Bayfront~~ Resort Hotel ~~and~~, Convention Center and ~~Related~~ Public Infrastructure
Improvements)**

This ~~Second~~Third Amended and Restated Revenue Sharing Agreement (“Agreement”), dated _____, ~~2020 (“Effective Date”)~~, 2021, is entered into by and ~~between~~among the City of Chula Vista, a chartered municipal corporation (“City”) ~~and~~), the San Diego Unified Port District, a public corporation (“District”), ~~and the Chula Vista Bayfront Facilities Financing Authority, a California joint exercise of powers authority (“Authority”).~~ The City, Authority, and District may be individually referred to herein as, a “Party”, and collectively as, the “Parties”.

RECITALS

~~WHEREAS, the City and District are parties to that develop certain Amended and Restated portions of the Chula Vista Bayfront Master Plan Financing Agreement dated June 20, 2017, by and between the City and the District and filed in the Office of the District Clerk as Document No. 67068 (the “Financing Agreement”); and~~

~~WHEREAS, all initially capitalized terms used herein without definition have the meanings set forth in the Financing Agreement; and~~

~~WHEREAS, the City and District are parties to that certain Disposition and Development Agreement (the “DDA”) dated May 7, 2018 and filed in the Office (“CVB”) for the benefit of the District Clerk as Document No. 68398 with RIDA Chula Vista, LLC, residents, tenants, and visitors of the CVB, the City and the District formed the Authority to fund a Delaware limited liability company (“RIDA”) which contemplates the development of a resort hotel and portion of the costs of a convention center (the “RHCC Project”) and related (“Convention Center”) to be located on the CVB and a portion of the costs of certain public infrastructure improvements; in the CVB to be constructed during the initial phase of development of the CVB (such public infrastructure improvements being herein referred to as the “Phase 1A Infrastructure Improvements”); and~~

~~WHEREAS, it is expected that as part of the closing of the obligations contemplated under the DDA (“Close of Escrow”), the City and the District, through the the Authority will fund such costs through issuance of the Chula Vista Bayfront Facilities Financing Authority (the “Authority”), will issue the Revenue Bonds to support the financing of the (Chula Vista Bayfront Convention Center) Series 2021A (Federally Taxable) (the “2021A Bonds”) and the RHCC Public Improvements; and~~

~~WHEREAS, it is expected that the City and the District will contribute certain amounts pursuant to a future plan of finance (“Plan of Finance”) to support the Chula Vista Bayfront Facilities Financing Authority Revenue Bonds, as contemplated in the Financing Agreement and the Parties are currently negotiating such agreement; and~~

~~WHEREAS, Section 4.7(e) of the DDA provides that the District and the City shall reimburse RIDA in cash for any and all funds expended prior to the Close of Escrow (as defined in the DDA) by RIDA in connection with the design, architectural work, and engineering work for the Developer's Phase 1A Infrastructure Improvements (as defined in the DDA) as set forth in Scope of Development (as defined in the DDA), prior to the Close of Escrow (as defined in the DDA) in accordance with, to the extent applicable, Chula Vista Municipal Code 2.56.160.H, including the reimbursement procedure set forth therein, and any applicable agreements implementing (Chula Vista Municipal Code 2.56.160.H ("Pre Close Design Services Bayfront Convention Center) Series 2021B (Tax-Exempt) (the "2021B Bonds" and, together with the 2021A Bonds, the "Authority 2021 Bonds"); and~~

~~WHEREAS, the City has agreed Authority 2021 Bonds will be issued pursuant to a mechanism to reimburse RIDA for the Pre Close Design Services; terms of an indenture of trust ("Indenture") by and~~

~~WHEREAS, between the City has negotiated Authority and anticipates entering into a Reimbursement Agreement with RIDA that complies with Section 4.7(e) of the DDA corporate trustee identified therein (the "Trustee"); and sets forth the mechanism to reimburse RIDA for the Pre Close Design Services ("Pre Close Design Services Reimbursement Agreement"); and~~

~~WHEREAS, it expected that RIDA Chula Vista, LLC ("RIDA") will finance the construction of a resort hotel ("Hotel") to be located on the CVB; and~~

~~WHEREAS, it is expected that the RHCC Project RIDA will generate certain revenues from make payments to the operation of District with respect to the RHCC Project Hotel; and~~

~~WHEREAS, it is expected that RIDA will share with the Parties; and make payments to the City, or its assignee, with respect to the Convention Center; and~~

~~WHEREAS, the District will contribute funds to the repayment of the Authority 2021 Bonds pursuant to a Support Agreement between the Authority and the District (the "Support Agreement") and the City will contribute funds to repayment of the Authority 2021 Bonds pursuant to a Facility Lease between the Authority and the City; and~~

~~WHEREAS, the Bayfront Project Special Tax Financing District ("Special Tax District") will contribute funds to the repayment of the Authority 2021 Bonds pursuant to a loan agreement between the Special Tax District and the Authority (the "Loan Agreement"); and~~

~~WHEREAS, the City and the District entered into that certain Revenue Sharing Agreement dated April 24, 2018 and filed in the Office of the District Clerk as Document No. 68392 (the "Original RSA"); and~~

~~WHEREAS, the City and District entered into that certain Amended and Restated Revenue Sharing Agreement dated November 19, 2019 and filed in the Office of the District Clerk as Document No. 70911 (the "Amended RSA") that amended and restated in its totality entirety the Original RSA; and~~

~~WHEREAS, the Parties City and District entered into that certain Second Amended and Restated Revenue Sharing Agreement dated September 15, 2020 and filed in the Office of the District~~

Clerk as Document No. 71855 (the “Second Amended RSA”) that amended and restated in its entirety the Amended RSA; and

WHEREAS, the City and the District desire to amend and restate in its ~~totality~~entirety the Second Amended RSA as set forth herein to add the Authority as a Party to this Agreement and to describe the funds to be contributed and distributed pursuant to this Agreement.

NOW THEREFORE, in consideration of One Dollar and the mutual promises set forth herein, and other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. Recitals. The Recitals are incorporated herein by reference.
2. Term. The term of ~~the~~is Agreement commenced on the effective date of the Original RSA, May 7, 2018. Amendment and restatement of the Second Amended RSA as set forth herein shall ~~terminate concurrent with the DDA if the DDA is terminated prior to Close of Escrow~~take effect on the date first set forth above. If ~~Close of Escrow occurs~~the Authority 2021 Bonds are issued, this Agreement shall terminate on the later to occur of the following ~~two~~ dates, which shall be referred to herein as the “Agreement Termination Date”: (i) the ~~expiration of the original~~first date on which no Authority 2021 Bonds remain Outstanding (as ~~such~~ term of the Revenue Bonds, regardless of whetheris defined in the Revenue Bonds are paid prior to the maturity date;Indenture); or (ii) thirty-eight (38) years from the date the RevenueAuthority 2021 Bonds are issued.~~In (the “Closing Date”), provided however that in~~ no event shall the term of this Agreement exceed sixty-six (66) years. ~~Prior to the Closing Date, the Parties may, by mutual agreement, terminate this Agreement at any time. If the Authority 2021 Bonds are not issued on or prior to June 30, 2025, then this Agreement shall terminate on July 1, 2025 unless extended or terminated by mutual agreement of the Parties prior thereto.~~
3. Agreements. This Agreement amends, restates, and supersedes in its entirety the Second Amended RSA. ~~The Parties~~As their interests may appear, the City, the District and the Authority hereby agree as follows:

3.1 RevenuesFunds and Existing Revenues.—“RevenuesFunds. “Funds” means, collectively, moneys in an amount equivalent to each of the following sources of revenuefunds actually received by the City or the District on a yearly basis commencing July 1, 2018:

A. District

- (i) all funds derived from the following items (a) – (b) (collectively, “Ground Lease Revenues ~~derived from:~~”):
 - (a) ~~the~~those real estate agreements set forth in Exhibit 1 (collectively, the “Other Ground Leases;”); provided, however, if one or more of the Other Ground Leases are renewed, replaced, or amended in such a way as to change the size or configuration of the original premises to include premises outside of the original premises boundaries of all the Other

Ground Leases (each a “Modified Boundary Lease”), then, for purposes of this ~~s~~Section, the Ground Lease Revenues derived from each Modified Boundary Lease shall be calculated by multiplying the total amount of Ground Lease Revenues generated by such Modified Boundary Lease by a fraction, the numerator of which shall be an amount equal to the Modified Boundary Lease premises still within the original premises boundary, and the denominator of which shall be the total premises area of the Modified Boundary Lease as modified. The City and the Port District acknowledge and agree that a Modified Boundary Lease shall not include the modification of the RV Park Lease (listed on and as defined in Exhibit 1) to include some or all of parcel S-3 or a replacement of the RV Park TUOP (listed on and as defined in Exhibit 1) where RIDA is the tenant. For example, if the original premises of an Other Ground Lease encompasses 5.0 acres, and the Modified Boundary Lease includes 4.0 acres of the original premises, and adds 6.0 acres of premises outside the original premises, then forty percent (40%) of the ~~revenues/lease payments~~ paid to the District under the Modified Boundary Lease shall be included as Other Ground Leases ~~revenues/lease payments~~ under this ~~s~~Section (collectively, the “Other Ground Leases Revenues”); to the extent District enters into any revenue generating agreement other than a Ground Lease with respect to operations on all or any portion of the Other Ground Leases premises, such revenue, net any related out-of-pocket operating costs paid by District to third parties, shall also be included as Other Ground Leases Revenues under this ~~s~~Section;

~~(b) — the Tidelands Use and Occupancy Permit for the current RV Park (“RV Park TUOP”); and~~

~~(c) — a replacement RV Park on parcel S1 (“Replacement RV Park”);~~

~~(d)~~(b) less \$3,283,970, which is the actual amount of the ~~existing RV Park~~ buyout payment paid solely by the District to Chula Vista Marina ~~RV Park, Ltd. (, LP, dba Chula Vista Marina (“RV Park Lessee”)~~ to terminate the lease between the RV Park Lessee and the existing RV Park lessee District (“Net RV Park Buyout Credit”), such amount to be amortized over a period of eight years commencing on July 1, 2018 pursuant to the schedule of credits provided in Exhibit ~~12~~, attached hereto and incorporated herein by reference (“Net RV Park Buyout Credit Schedule”), as such Net RV Park Buyout Credit Schedule and its contents may be administratively modified from time to time with the mutual consent of the City Manager of the City ~~(the “City Manager”)~~ and the Executive Director of the District ~~(the “Executive Director”)~~, without further approval of the Board of

Port Commissioners of the District (“District Board”) or City Council of the City (“City Council”); and

- (ii) the annual payments to be made by the District (the “District Support Payments”) ~~for repayment of pursuant to the Revenue Bonds according to the schedule set forth in Section 4 of the Conceptual Outline of Joint Exercise of Powers Authority Plan of Finance attached to the DDA as Attachment No. 4 (the “Conceptual Plan of Finance”);~~ Support Agreement; and
- (iii) ~~any revenues any funds in addition to those specified in (i) and (ii) above committed by the District on or after the Effective Date of this Agreement to the RHCC Project, the RHCC Public Convention Center or the Phase 1A Infrastructure Improvements, the RHCC Project Public Investment, the CVBMP Project, or the CVBMP (together, the “CVB Public Improvements through a resolution or ordinance of the District Board acknowledging that such revenues are committed to the RHCC Project, the RHCC Public Improvements, the RHCC Project Public Investment, the CVBMP Project, or the CVBMP Public Improvements;”)~~ to be applied as Revenues Funds in accordance with the terms of this Agreement with the approval of the City Manager and the Executive Director, without further approval of the District Board or the City Council.

B. City

- (i) ~~the TOT~~ transient occupancy taxes levied pursuant to Chula Vista Municipal Code Chapter 3.40, attributable to the RHCC Project Convention Center, the Hotel, the RV Park TUOP, (listed on and the Replacement as defined in Exhibit 1), and the RV Park; Lease (listed on and as defined in Exhibit 1) (such transient occupancy taxes, the “TOT”);
- ~~(ii) the Sales Tax;~~
- (ii) that portion of use and sales taxes levied pursuant to the Bradley-Burns Uniform Local Use and Sales Tax Law (California Revenue and Taxation Code Section 7000, et seq.) and allocated to the City pursuant to applicable law attributable to the RV Park Lease, the Convention Center and the Hotel, exclusive of any amount so levied and allocated to the City pursuant to voter approval by the electors of the City, which portion is currently one percent (1%) of taxable transactions (the “Sales Tax”);
- (iii) incremental ad valorem property tax (including property tax in-lieu of motor vehicle license fees) generated by the RHCC Project Convention Center and Hotel parcels, which is that amount in excess of any ad valorem property tax levied in the fiscal year in which the Authority 2021 Bonds are issued;

- ~~(iv) PMSA Revenues, excluding any increase in PMSA Revenues above the amounts described in the PMSA as may be negotiated by the Parties in future municipal service agreements until the Agreement Termination Date;~~
- (iv) an amount equal to \$986,625.00, increasing 3% on July 1 of each year, commencing July 1, 2017, which amount is based on the payment made by the District to the City in fiscal year 2016 pursuant to that certain Municipal Services Agreement No. 88-2012 between the District and the City for the provision of Police, Fire and Emergency Medical Services;
- (v) special tax proceeds (“Special Tax Revenues”) of the ~~Bayfront Project Special Tax Financing District (“Special Tax District”), pursuant to Section 4.2.2(d) of the Financing Agreement,~~ equal to the annual amount used to repay the Revenue Authority under the Loan Agreement or any other indebtedness of the Special Tax District related to the Authority 2021 Bonds; and
- (vi) any ~~revenues~~funds in addition to those specified in (i) through (v) ~~above~~ committed by the City ~~on or after the Effective Date of this Agreement to the RHCC Project, the RHCC to the CVB Public Improvements, the RHCC Project Public Investment, the CVBMP Project, or the CVBMP Public Improvements through a resolution or ordinance of the City Council acknowledging that such revenues are committed to the RHCC Project, the RHCC Public Improvements, the RHCC Project Public Investment, the CVBMP Project, or the CVBMP Public Improvements,~~ to be applied as Revenues Funds in accordance with the terms of this Agreement, with the approval of the City Manager and the Executive Director, without further approval of the City Council or the District Board.

C. As used herein, “Existing Revenues Funds” means, collectively, moneys in an amount equivalent to each of the following sources of Revenue funds actually received by ~~each Party~~the District or the City, as applicable, from and after July 1, 2018:

- (i) ~~all the~~ Ground Lease Revenues derived from:
 - ~~(a) the Other Ground Leases Revenues;~~
 - ~~(b) the RV Park TUOP; and~~
 - ~~(c) the Replacement RV Park,~~
 - ~~(d) less from the total of (a) through (c) above, the amount of the Net RV Park Buyout Credit that shall be deducted in accordance with the Net RV Park Buyout Credit Schedule;~~

(ii) the TOT attributable to the RV Park TUOP and the ~~Replacement~~ RV Park Lease; and

~~(iii) the PMSA Revenues.~~

(iii) Any amounts described in Section 3.1(B)(iv).

The City and the District shall remit any Existing Revenues not already remitted to the Authority shall be remitted Funds remaining after any expenditure permitted by Section 3.2 to the Authority by no later than the date the Preliminary Official Statement for the Revenue Authority 2021 Bonds is posted on the Municipal Securities Rulemaking Board's Electronic Municipal Market Access website (the "Contribution Date"). No interest will accrue with respect to the Existing Revenues Funds contributed by the City or the District prior to the Contribution Date. The Existing Funds to be contributed by the City and by the District shall not include interest earned by the City or the District on such funds prior to the Contribution Date. Should either Party the City or the District elect to retain the Existing Revenues Funds for the period from and after July 1, 2018 to the Contribution Date, such Existing Revenues Funds shall be reported as restricted in the audited financial statements included in each Party's Comprehensive Annual Financial Report ("CAFR"), commencing with each Party's CAFR for the fiscal year ended June 30, 2020. Funds received by the Authority on the Contribution Date shall be transferred by the Authority to the Trustee on or prior to the Closing Date as provided in Section 3.3.

3.2 *Use of Existing Revenues Funds Prior to ~~Close of Escrow~~ the Contribution Date.* Existing Revenues Funds may be expended by the ~~Parties~~ City and the District prior to the Contribution Date pursuant to the following terms:

A. The City may deduct ~~the Pre-Close Design Services paid by the City~~ amounts reimbursed to RIDA pursuant to ~~the that certain~~ Pre-Close Design Services Reimbursement Agreement, dated September 15, 2020, entered into between the City and RIDA.

B. The City may deduct plan review, permitting, and inspection fees in the amount that would have been incurred by RIDA to process the work for the ~~Developer's~~ Phase 1A Infrastructure Improvements (as defined in the DDA) based on current schedules of fees adopted by the City for such plan review, permitting, and inspection; ~~and~~

~~C. The Parties~~ The City and the District may deduct design, plan review, permitting, project/construction management, and inspection costs incurred by the City and the District, respectively, for Phase 1A Infrastructure Improvements, memorialized in one or more operating memoranda of the City and the District executed by the City Manager and the Executive Director, without further approval of the City Council or the District Board;

D. The District or the City may deduct the cost of any Phase 1A Infrastructure Improvements constructed by or at the direction of RIDA pursuant to that certain Chula Vista Bayfront Project Phase 1A Early Work Implementation and Right of Entry License Agreement, to be entered into among the City, the District, the Authority and RIDA, including without limitation, any cost increases and delay damages, up to the amount of the budget approved by such parties;

C.E. The City and the District may deduct such amounts necessary for the payment of existing or future obligations of the Authority, including without limitation, administrative fees, consultant and attorneys' fees, and other staff reimbursements and fees (collectively, the "Pre-Close Authority Expenses"), as such Pre-Close Authority Expenses are memorialized in one or more operating memoranda of the Parties City and the District executed by the City Manager of the City and the Executive Director of the District, without further approval of the City Council or the District Board or City Council;

D.F. Prior to the deduction of any amounts by the City or by the District pursuant to Section 3.2(A) through Section 3.2(E), the Party desiring to deduct such amount shall submit an accounting of such amounts to the other Parties and the other Parties shall review the accounting in good faith and approve or reject such accounting within thirty (30) days. If the accounting is approved, such amount shall be deducted from the Existing Funds to be delivered by such Party prior to the Contribution Date. Should Close of Escrow the Closing Date for the Authority 2021 Bonds not occur within the timeframes as provided in the DDA Section 2, and such time frames are date is not extended or otherwise tolled by mutual agreement of the Parties in accordance with Section 2 of this Agreement, the Parties City and the District shall each prepare an accounting of amounts deducted and approved by such Party from the Existing Revenues Funds pursuant to Sections 3.2(A) through (C) Section 3.2(E) above to the extent that pre-closing expenses have been approved by both parties as set forth in the agreed upon administrative procedures (the "Pre-Close Expenses"). Should the Pre-Close Expenses of one Party the City exceed the Pre-Close Expenses of the other Party District, or in the alternative, the Pre-Close Expenses of the District exceed the Pre-Close Expenses of the City, then the Party with the lower Pre-Close Expenses shall make a reimbursement sufficient to equalize the Pre-Close Expenses between the Parties City and the District (e.g., if the City has expended \$2.0 million and the District has expended \$1.0 million, then the combined Pre-Close Expenses total \$3.0 million, with a fair-share expense of \$1.5 million per Party, and a reimbursement due from the District to the City in the amount of \$0.5 million, the "Pre-Close Expense Reimbursement"). The Pre-Close Expense Reimbursement shall be made within thirty (30) days of the Parties' District and City's mutual agreement as to the amount of such payment; and

~~3.3 Use of Existing Revenues at Close of Escrow. Any Existing Revenues that are not expended or deducted as permitted by this Agreement shall be applied at the Close of Escrow pursuant to the Plan of Finance.~~

UseG. This Section 3.2 shall survive the termination of this Agreement.

3.3 Use of Existing Funds Subsequent to the Contribution Date. Any Existing Funds collected by the City and the District subsequent to the transfer of funds on the Contribution Date shall be paid by such Parties to the Authority, for transfer by the Authority to the Trustee on or prior to the Closing Date for application in accordance with the provisions of the Indenture.

3.4 Distribution of Revenues Funds Post Close of Escrow. After the Close of Escrow, the Parties will contribute the Revenues to the Authority Closing Date. On and after the Closing Date until the Agreement Termination Date, pursuant to the Plan of Finance. For each bond year of the Revenue Bonds, the Authority shall apply all of the Revenues to the payment of debt service that is due and payable on the Revenue Bonds and any required debt service reserve of the Revenue Bonds. After such debt service has been paid, any Revenues remaining amounts disbursed by the Trustee to the Authority pursuant to the provisions of the Indenture (the "Residual Revenues"), together with the RIDA Lease Payments (as such term is defined below) received by the Authority, shall be applied in the following order of priority:

1. To reimburse the District for the cumulative amount of District Support Payments actually contributed by the District and not previously reimbursed to the District by the Authority; then

2. To reimburse the City and the District pari passu for any amounts either Party actually paid or contributed to the County of San Diego ("County") pursuant to the Chula Vista Bayfront Project Funding Agreement ("Funding Agreement") by and among the County, the City, the District and the Chula Vista Bayfront Facilities Financing Authority ("Funding Agreement"); then

3.2. To reimburse the City an amount equivalent to the actual funds expended by the Special Tax District for the construction of the Parking Garage (as defined in Section 3.8), not otherwise reimbursed to the City by the District as further described in Section 3.8 below; then

4.3. To reimburse the City for 73.6% of the cumulative actual, direct costs incurred by the City to provide fire service within the CVBMP Project Area, which is the proportionate share of such costs attributable to the RHCC Project and not previously reimbursed to the City (provided that such CVB, which 73.6% reflects amounts for which the City is entitled to reimbursement in addition to any payments the City receives under the PMSA for fire pursuant to any municipal services, as agreement between the City and the PMSA may be amended by District in effect at the Parties; time such reimbursement to the City under this paragraph shall not be reduced by is being made and which is the proportionate share of costs attributable to the amount of PMSA Revenues received by Convention Center and the Hotel and not previously reimbursed to the City); or paid through Special Tax Revenues; then

5.4. To reimburse the City and the District on a proportionate, pro-rata basis, for each Party's contribution of the Existing Revenues Funds, as of Close of Escrow the Closing Date; then

- ~~6.5.~~ To reimburse the City and the District on a proportionate, pro-rata basis, for each Party's contribution of Existing ~~RevenuesFunds~~ after the ~~Close~~ of ~~Eserow~~ Closing Date, continuing to the Agreement Termination Date; then
- ~~7.6.~~ To fund an additional reserve fund or reserve fund insurance policy in the amount of one year's debt service for the ~~Revenue~~ Authority 2021 Bonds; and finally
- ~~8.7.~~ Any ~~RevenuesFunds~~ remaining after the payments described in ~~Items~~ numbered items (1) through ~~(76)~~ above will be equally distributed between the City and the District.

No interest will accrue with respect to unreimbursed ~~RevenuesFunds~~ contributed by the City or the District.

- 3.5 *RIDA Lease Payments.* Pursuant to ~~thea~~ ground lease between the District and RIDA for the ~~RHC~~ Hotel (the "Hotel Ground Lease") and a sublease between the City and RIDA for the Convention Center (the "Convention Center Sublease"), each to be executed at the ~~Close~~ Closing Date, RIDA will be obligated to pay to the District and to the City, respectively, certain payments, which payments, exclusive of ~~Eserow~~ the RIDA Parking Payments (as such term is defined in ~~the DDA~~) (the "Ground Lease"); RIDA is expected to pay Minimum Annual Rent to the District together with Section 3.8 of this Agreement) and any ~~and all amounts payable by RIDA to the District under the Ground Lease, including but not limited to, Additional~~ Advance Rent (as such term is defined in the ~~Ground Lease~~) and ~~Convention Center Sublease~~) are collectively referred to herein as the Assignment Participation Fee (as defined in the ~~Ground Lease~~); ~~but excluding any amounts paid for parking ("RIDA Lease Payments"). The~~ Each of the District and City shall remit ~~all to the Authority any~~ RIDA Lease Payments such Party actually receiveds from RIDA ~~under the Ground Lease to the Authority~~ within thirty (30) days following the District's or City's receipt of such RIDA Lease Payments. The District's ~~and City's~~ obligation to remit the RIDA Lease Payments to the Authority shall cease on the Agreement Termination Date. For purposes of this Agreement, the RIDA Lease Payments shall not be considered Funds.
- 3.6 *Parks.* ~~Section 4.2.2(g) of the Finance Agreement provides that the~~ The District and the City ~~will have agreed to~~ cooperate in good faith and use their respective best efforts to negotiate an agreement ("Park Agreement") which grants the City a nonexclusive, joint-use right or other interest in the areas designated for public park use within the ~~CVBMP Project Area~~ CVB (the "Park Areas"). The Park Agreement is anticipated to provide ~~that as follows:~~ as and when the City collects Parkland Acquisition and Development (~~"PAD Fees"~~), ~~fees~~, or other such park related impact fees as may be adopted in the future, from developments in the ~~CVBMP Project Area~~ CVB (collectively, the "PAD Fees"), the City will pay the acquisition component of such PAD Fees to the District, or an amount equivalent to the acquisition component of the PAD Fees, as rent under the Park Agreement (such amount being referred to as the "Park Rent"). To the extent that the City pays Park Rent to the District ~~Park Rent~~, the District shall contribute the Park Rent actually received to the Authority and the Authority shall use the Park Rent to reimburse the ~~Parties~~ City and the District for O&M Costs actually paid by each of the ~~Parties~~ City and the District, subject to ~~the Plan~~ terms

of ~~Finance~~ any future implementing agreements entered into by the City, the District and/or the Authority.

3.7 Operations & Maintenance Costs—~~and Transit Plan.~~

A. The City and District agree to generally split the operation and maintenance costs (“O&M Costs”) for the ~~RHCC Public Improvements-CVB not otherwise maintained by a third party.~~ The District will be responsible for the O&M Costs of the parks and all related public infrastructure located within the parks. The City will be responsible for the O&M Costs of the streets and sanitary sewers.

B. The City and District will split the O&M Costs payable pursuant to that certain Chula Vista Bayfront Master Plan Natural Resources Management Plan filed June 6, 2016 in the Office of the District Clerk as Document No. 65065 that are not the responsibility of a third party (“NRMP Costs”). The NRMP Costs shall be shared equally by the District and the City ~~and shall not exceed \$300,000 a year for each year of the term of this Agreement (“NRMP Cap”); provided, however, the NRMP Cap shall not limit the obligations of the City or the District pursuant to any other agreement to which the City or the District is a party. The City will be responsible for funding the Transit Plan and operational costs of shuttle services as set forth in Section 7.2 of the Financing Agreement in accordance with the Plan of Finance.~~

~~To the extent that the Special Tax District generates Special Tax Revenues in excess of the annual amount used to repay the Revenue Bonds, the Special Tax District shall reimburse the Parties for O&M Costs actually paid by each of the Parties in accordance with the Plan of Finance.~~
C. The City will be responsible for funding a transit plan for the Chula Vista Bayfront Shuttle as defined in the Chula Vista Bayfront Master Plan Public Access Program, filed in the Office of the District Clerk as Document No. 59408, as such document may be amended from time to time (the “Shuttle Transit Plan”). The City will cooperate with the District in good faith to coordinate implementation of the Shuttle Transit Plan with any other transit plan needed for the CVB. The City will also be responsible for funding the implementation of the Shuttle Transit Plan, including capital costs and operational costs of the Chula Vista Bayfront Shuttle, until such time as such operational costs are borne by other applicable transportation providers or the City and District mutually agree that the Chula Vista Bayfront Shuttle is no longer required.

In no event shall either Party be reimbursed for any O&M Costs that have been previously reimbursed to such Party through Special Tax Revenues or Park Rent.

~~3.7 — Parking Garage. In the event that the District elects to construct a Parking Garage on Parcel H 3 that is intended principally to serve the convention center component of the RHCC (the “Parking Garage”), the District may elect to pay for the Parking Garage using some or all of the Special Tax Revenues in an amount not to exceed \$40,000,000. If the District elects to fund the Parking Garage using Special Tax Revenues, the District shall use such Special Tax Revenues in accordance with a separate agreement to be entered into by the Parties. The District shall designate any funds generated by the operation of the Parking Garage for the purpose of paying for the construction of~~

~~the Parking Garage or reimbursing the Special Tax District for such expense (the “Parking Garage Operating Revenue Offset”).~~

3.8 Parking Lease Payments. RIDA is expected to pay to the District a percentage of the gross revenues it receives for the use of parking spaces on the Hotel site and in the parking garage (collectively, the “RIDA Parking Payments”). The District shall deliver to the City fifty percent (50%) of all RIDA Parking Payments the District actually receives from RIDA under the Hotel Ground Lease within thirty (30) days following the District’s receipt of such RIDA Parking Payments. The District’s obligation to remit the RIDA Parking Payments to the City shall cease on the Agreement Termination Date. For purposes of this Agreement, the RIDA Parking Payments shall not be considered Revenues as such term is defined in the Indenture and shall not be considered Funds for purposes of this Agreement.

4. Operating Memoranda. To the extent the ~~Parties~~City and the District enter into any operating memoranda pursuant to the terms of this Agreement that requires any action(s) be taken by the Authority, the ~~Parties~~City and the District shall (i) specify in the operating memoranda any instructions that the Authority shall follow upon receipt of the operating memoranda; and (ii) promptly deliver the operating memoranda to the Treasurer of the Authority after the execution of the operating memoranda by the City Manager of the City and the Executive Director of the District. If the Authority is unable to comply with the instructions set forth in the operating memoranda for any reason ~~without the adoption of,~~ the Authority shall inform the District and the City promptly and to the extent compliance with the instructions requires the adoption of certain administrative rules or procedures or an amendment to the Amended and Restated Joint Exercise of Powers Agreement filed on August 7, 2019 in the Office of the District Clerk as Document No. 70245 (“Authority Incorporation Agreement”) or the Bylaws of the Authority (“Authority Bylaws”), the ~~Parties~~City and the District, as the sole members of the Authority, shall use good faith efforts to promptly adopt such administrative rules or procedures administratively or present any modifications to the Authority Bylaws or Authority Incorporation Agreement to the Authority Board of Directors for their consideration, as necessary.
5. Binding Agreement. The Parties agree that this Agreement is a binding agreement ~~between~~among the Parties. Notwithstanding the binding nature of this Agreement, the Parties contemplate that future implementing agreements between the City and the District or the Authority, between the District and the Authority and/or among the City, the District and the Authority may be needed to implement or clarify the terms of this Agreement. To that end, each of the Parties agree to meet and confer in good faith in response to a request by ~~either~~any other Party regarding the implementation or clarification of this Agreement.
6. Event of Default. An “Event of Default” will occur under this Agreement when: (a) there is a material breach of any material condition, covenant or promise set forth herein; (b) written notice thereof has been given to the Party in breach; and (c) such breach has not been cured within ten (10) business days after such notice was given to the Party in breach. In the event the breach cannot reasonably be cured within such ten (10) business day period, the Party in breach must commence cure of the breach within such ten (10) business day period and thereafter diligently proceed to cure such breach. A waiver by ~~either~~any Party of any such breach shall not be construed as a waiver of any succeeding breach of the same or other condition, covenant or promise. In the event of an Event of Default, the non-defaulting Parties

may, in their sole and absolute discretion, elect to either: (a) extend the time beyond the cure period set forth in this Section 6 for the defaulting Party to perform the applicable obligation(s) hereunder for a period of time acceptable to the non-defaulting Parties, or (b) proceed with an action or proceeding for specific performance.

7. Remedies. The occurrence of an Event of Default shall give the non-defaulting Parties the right to proceed with an action or proceeding for specific performance.
8. Notices. The notice addresses shall be the same as those set forth in the Financing Authority Incorporation Agreement and shall be sent by certified U.S. Mail (return receipt requested) and shall be deemed delivered three days after deposit in the U.S. Mail.
9. Entire Agreement. This Agreement constitutes the entire understanding and agreement of the Parties ~~with regard to the collection and priority of the Revenue sharing between the City and the District,~~ integrates all of the terms and conditions mentioned herein or incidental hereto, and supersedes all negotiations or previous agreements between the Parties ~~or their predecessors in interest with respect to the priority of the collection and priority of Revenue sharing between the City and the District, but shall not supersede, modify or amend the Financing Agreement or the DDA. City and the District with respect to the subject matter hereof.~~
10. Drafting Presumption; Review Standard. The Parties acknowledge that this Agreement has been agreed to by both the Parties, that ~~both City and District have~~ each Party has consulted with attorneys with respect to the terms of this Agreement and that no presumption shall be created against the drafting Party. Any deletion of language from this Agreement prior to its execution by City ~~and~~ District and Authority shall not be construed to raise any presumption, canon of construction or implication, including, without limitation, any implication that the Parties intended thereby to state the converse of the deleted language.
11. Governing Law. This Agreement and all of the rights and obligations of the Parties hereto and all of the terms and conditions hereof shall be construed, interpreted and applied in accordance with and governed by and enforced under the laws of the State of California.
12. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be the original and all of which shall constitute one and the same document.
13. Electronic Signatures. The words “execution”, “execute”, “signed”, “signature”, and words of like import in or related to any document signed or to be signed in connection with this Agreement and the transaction contemplated hereby shall be deemed to include electronic signatures, contract formations on electronic platforms approved by the Parties, or the keeping of such electronic signatures and electronic contracts in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature or the use of a paper-based recordkeeping system, as the case may be, to the extent and as provided for in any applicable law, including the Federal Electronic Signatures in Global and National Commerce Act, the California Uniform Electronic Transaction Act, or any other similar state laws based on the Uniform Electronic Transactions Act.

~~{Signatures appear on following page.}~~

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the day and the year first set forth above.

CITY:

CITY OF CHULA VISTA

By: _____
Mary Casillas Salas, Mayor

ATTEST:

Kerry K. Bigelow, City Clerk

APPROVED AS TO FORM:

Glen R. Googins, City Attorney

DISTRICT:

APPROVED AS TO FORM AND LEGALITY:
GENERAL COUNSEL

SAN DIEGO UNIFIED PORT DISTRICT,
a public corporation

By: _____
Thomas A. Russell

By: _____
Name: _____

Its: _____

AUTHORITY:

APPROVED AS TO FORM AND LEGALITY: CHULA VISTA BAYFRONT FACILITIES
CO-COUNSEL FINANCING AUTHORITY,
_____ a California joint exercise of powers authority

By: _____ By: _____
 Glen R. Googins
 City of Chula Vista City Attorney Name: _____

_____ Its: _____

By: _____
 Thomas A. Russell
 San Diego Unified Port District General
 General Counsel

Exhibit 1

Listing of Other Ground Leases

1. Amended, Restated and Combined Lease between the San Diego Unified Port District (the "District") and The Marine Group LLC for property at the North Side of G Street at the terminus of both Quay Avenues and Sandpiper Way in Chula Vista, which lease is on file in the Office of the District Clerk as Document No. 54509, as amended and may be amended from time to time.

2. Lease between the District and Chula Vista Marina, LP, dba Chula Vista Marina, for property located at 550 Marina Parkway in Chula Vista which lease is on file in the Office of the District Clerk as Document No. 14244, as amended and may be amended from time to time.

3. Lease between the District and California Yacht Marina-Chula Vista, LLC, for property located at 640 Marina Parkway in Chula Vista which lease is on file in the Office of the District Clerk as Document No. 23924, as amended and may be amended from time to time.

4. Lease between the District 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 District Clerk as Document No. 70407, as amended and may be amended from time to time ("RV Park Lease").

5. Tideland Use and Occupancy Permit between the District and Sun Chula Vista Existing Park RV LLC for property located at 460 Sandpiper Way in Chula Vista which tideland use and occupancy permit is on file in the Office of the District Clerk as Document No. 69412, as amended and may be amended from time to time ("RV Park TUOP").

Exhibit 2

Net RV Park Buyout Credit Schedule

Fiscal Year (FY)	RV Park Buyout Credit	Cumulative Credit
FY 19	\$410,500	\$410,500
FY 20	\$410,500	\$821,000
FY 21	\$410,500	\$1,231,500
FY 22	\$410,500	\$1,642,000
FY 23	\$410,500	\$2,052,500
FY 24	\$410,500	\$2,463,000
FY 25	\$410,500	\$2,873,500
FY 26	\$410,470	\$3,283,970

Note: The total rent credit was reduced from \$4,329,614 to \$3,283,970 based on a permitted rent credit applied to the Chula Vista Marina lease as partial payment of the RV Park Buyout. This therefore will reduce the Chula Vista Marina rent actually received by the District from the tenant by \$1,045,644 until November ~~3+30~~, 2021.