
FISCAL AGENT AGREEMENT

by and between the

CITY OF OAKLAND

and

**WILMINGTON TRUST, NATIONAL ASSOCIATION,
as Fiscal Agent**

Dated as of August 1, 2024

Relating to:

**\$ _____
City of Oakland
Community Facilities District No. 2023-1
(Brooklyn Basin Facilities and Services)
Special Tax Bonds, Series 2024**

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FISCAL AGENT AGREEMENT

THIS FISCAL AGENT AGREEMENT (the “Agreement”) is made, entered into and dated as of August 1, 2024, by and between the CITY OF OAKLAND, a municipal corporation and charter city organized and existing under the Constitution of the State of California (the “City”) for and on behalf of the "City of Oakland Community Facilities District No. 2023-1 (Brooklyn Basin Facilities and Services)" (the “CFD”), and Wilmington Trust, National Association, a national banking association duly organized and existing under the laws of the United States of America with a corporate trust office located in Costa Mesa, California, as fiscal agent (the “Fiscal Agent”).

WITNESSETH:

WHEREAS, the City Council of the City has formed the CFD, under the provisions of the Mello-Roos Community Facilities Act of 1982, as amended (section 53311 *et seq.* of the California Government Code) (the “Act”); and

WHEREAS, the City Council is authorized under the Act to levy special taxes to pay for the costs of facilities and to authorize the issuance of bonds secured by said special taxes under the Act; and

WHEREAS, pursuant to Section 219 of the City Charter, on _____, 2024, the City Council adopted Ordinance No. _____ C.M.S. (the “2024 Bond Ordinance”) authorizing the issuance of special tax bonds (the “2024 Bonds”) on behalf of the CFD; and

WHEREAS, on _____, 2024, the City Council adopted Resolution No. _____ C.M.S. (the “Resolution”) authorizing the issuance of special tax bonds (the “2024 Bonds”) on behalf of the CFD; and

WHEREAS, the City and the Developer (defined herein) have entered into the Acquisition Agreement (defined herein) pursuant to which the City may use proceeds of bonds issued by the City for the CFD and special taxes to pay the purchase price for the facilities constructed by the Developer; and

WHEREAS, it is in the public interest and for the benefit of the City, the CFD and the persons responsible for the payment of special taxes that the City enter into this Agreement to provide for the issuance of the Bonds (as defined below) hereunder to finance the acquisition and construction of facilities for the City and to provide for the disbursement of proceeds of the Bonds, the disposition of the special taxes securing the Bonds and the administration and payment of the Bonds; and

WHEREAS, the City has determined that all things necessary to cause the 2024 Bonds, when authenticated by the Fiscal Agent and issued as provided in the Act, the 2024 Bond Ordinance, the Resolution and this Agreement, to be legal, valid, binding and limited obligations in accordance with their terms, and all things necessary to cause the creation, authorization, execution and delivery of this Agreement and the creation, authorization, execution and issuance of the 2024 Bonds, subject to the terms hereof, have in all respects been duly authorized.

NOW, THEREFORE, in consideration of the covenants and provisions herein set forth and for other valuable consideration the receipt and sufficiency of which is hereby acknowledged, the parties hereto do hereby agree as follows:

ARTICLE I

AUTHORITY AND DEFINITIONS

Section 1.01. Authority for this Agreement. This Agreement is entered into pursuant to the Act (as herein defined), the 2024 Bond Ordinance and the Resolution.

Section 1.02. Agreement for Benefit of Owners of the Bonds. The provisions, covenants and agreements herein set forth to be performed by or on behalf of the City shall be for the equal benefit, protection and security of the Owners of the Bonds. All of the Bonds, without regard to the time or times of their issuance or maturity, shall be of equal rank without preference, priority or distinction of any of the Bonds over any other thereof, except as expressly provided in or permitted by this Agreement.

Section 1.03. Definitions. Unless the context otherwise requires, the terms defined in this Section 1.03 shall, for all purposes of this Agreement, of any Supplemental Agreement, and of any certificate, opinion or other document herein mentioned, have the meanings herein specified. All references herein to “Articles,” “Sections” and other subdivisions are to the corresponding Articles, Sections or subdivisions of this Agreement, and the words “herein,” “hereof,” “hereunder” and other words of similar import refer to this Agreement as a whole and not to any particular Article, Section or subdivision hereof.

“Acquisition Agreement” means that certain Acquisition Agreement Relating to: City of Oakland Community Facilities District No. 2023-1 (Brooklyn Basin Facilities and Services), dated as of February 1, 2024, by and between the City and Zarsion-OHP I, LLC, a California limited liability company.

“Act” means the Mello-Roos Community Facilities Act of 1982, as amended, being sections 53311 *et seq.* of the California Government Code.

“Administrative Expenses” means costs directly related to the administration of the CFD consisting of: all costs and expenses of the City in any way related to the establishment or administration of the CFD; the actual costs of computing the Special Taxes and preparing the annual Special Tax collection schedules (whether by a City employee or consultant or both) and the actual costs of collecting the Special Taxes (whether by the County or otherwise); the actual costs of remitting the Special Taxes to the Fiscal Agent; actual costs of the Fiscal Agent (including its legal counsel) in the discharge of its duties under this Agreement; the actual costs of the City or its designee of complying with the disclosure provisions of the Act and this Agreement, including those related to public inquiries regarding the Special Tax and disclosures to Owners of the Bonds and the Original Purchaser; costs of the dissemination agent, whether for the City or another party that has undertaken to provide continuing disclosure; the actual costs of the City or its designee related to an appeal of the Special Tax; the actual costs incurred by the City to comply with arbitrage rebate requirements; any amounts required to be rebated to the federal government; the actual costs incurred by the City in connection with a Qualified Reserve Account Credit Instrument; an allocable share of the salaries of the City staff directly related to the foregoing and a proportionate amount of City general administrative overhead related thereto, and any other costs that are considered Administrative Expenses under the Rate and Method. Administrative Expenses shall also include amounts advanced by the City for any administrative purpose of the CFD, including costs related to prepayments of Special Taxes, recordings related

to such prepayments and satisfaction of Special Taxes, amounts advanced to ensure maintenance of tax exemption, and the costs of prosecuting foreclosure of delinquent Special Taxes, which amounts advanced are subject to reimbursement from other sources, including proceeds of foreclosure.

“Administrative Expense Fund” means the account of that name in the Special Tax Fund established and administered under Section 4.08.

“Agreement” means this Fiscal Agent Agreement, as it may be amended or supplemented from time to time by any Supplemental Agreement adopted pursuant to the provisions hereof.

“Annual Debt Service” means, for each Bond Year, the Debt Service due in such Bond Year.

“Auditor” means the auditor/controller of the County, or such other official at the County who is responsible for preparing property tax bills.

“Authorized Officer” means the Mayor, City Administrator, Assistant City Administrator, Treasury Administrator, Assistant Treasury Administrator, Director of Finance, City Clerk or any other officer or employee authorized by the City Council of the City or by an Authorized Officer to undertake the action referenced in this Agreement as required to be undertaken by an Authorized Officer.

“Bond” or “Bonds” means the 2024 Bonds and, if the context requires, any Parity Bonds, at any time Outstanding under this Agreement or any Supplemental Agreement.

“Bond Counsel” means Jones Hall, A Professional Law Corporation or any other attorney or firm of attorneys acceptable to the City and nationally recognized for expertise in rendering opinions as to the legality and tax-exempt status of securities issued by public entities.

“Bond Fund” means the fund of that name established and administered under Section 4.04.

“Bond Proceeds Account” means the account of that name within the Improvement Fund to be established and administered by the Fiscal Agent under Section 4.07.

“Bond Year” means the one-year period beginning on September 2 in each year and ending on September 1 in the following year, except that the first Bond Year shall begin on the Closing Date and shall end on September 1, 2024.

“Business Day” means any day other than (i) a Saturday or a Sunday or (ii) a day on which banking institutions or trust companies in New York, New York, Wilmington, Delaware, or the state in which the Fiscal Agent has its principal corporate trust office are authorized or obligated by law, regulation or executive order to be closed.

“CDIAC” means the California Debt and Investment Advisory Commission of the Office of the State Treasurer, or any successor agency, board or commission.

“CFD” means the "City of Oakland Community Facilities District No. 2023-1 (Brooklyn Basin Facilities and Services)" formed under the Resolution of Formation.

“CFD Value” means the assessed or market value, as of the date of the appraisal described below and/or the date of the most recent County real property tax roll, as applicable, of all parcels of real property in the CFD subject to the levy of the Special Taxes and not delinquent in the payment of any Special Taxes then due and owing, including with respect to such nondelinquent parcels the value of the then existing improvements and any facilities to be constructed or acquired with any amounts then on deposit in the Improvement Fund and with the proceeds of any proposed series of Parity Bonds, as determined with respect to any parcel or group of parcels by reference to:

(i) an appraisal performed within 6 months of the date of issuance of any proposed Parity Bonds by an MAI appraiser (the “Appraiser”) selected by the City, or

(ii) in the alternative, the assessed value of all such nondelinquent parcels and improvements thereon as shown on the then current County real property tax roll available to the Director of Finance.

It is expressly acknowledged that, in determining the CFD Value, the City may rely on an appraisal to determine the value of some or all of the parcels in the CFD and/or the most recent County real property tax roll as to the value of some or all of the parcels in the CFD. Neither the City nor the Director of Finance shall be liable to the Owners, the Original Purchaser or any other person or entity in respect of any appraisal provided for purposes of this definition or by reason of any exercise of discretion made by any Appraiser pursuant to this definition.

“City” means the City of Oakland, and any successor thereto.

“City Attorney” means any attorney or firm of attorneys employed by the City in the capacity of city attorney.

“City Council” means the City Council of the City.

“Closing Date” means the date upon which there is a physical delivery of the 2024 Bonds in exchange for the amount representing the purchase price of the 2024 Bonds by the Original Purchaser.

“Continuing Disclosure Certificate” means that certain Continuing Disclosure Certificate executed by the City and dated the date of issuance and delivery of the 2024 Bonds, as originally executed and as it may be amended from time to time in accordance with the terms thereof.

“Costs of Issuance” means items of expense payable or reimbursable directly or indirectly by the City and related to the authorization, sale, delivery and issuance of the Bonds, which items of expense shall include, but not be limited to, printing costs, costs of reproducing and binding documents, closing costs, appraisal costs, filing and recording fees, fees and expenses of counsel to the City, initial fees and charges of the Fiscal Agent including its first annual administration fees and its legal fees and charges, including the allocated costs of in-house attorneys, expenses incurred by the City in connection with the issuance of the Bonds, Bond (underwriter’s) discount, legal fees and charges, including bond counsel and disclosure counsel, and counsel to any financial consultant, fees and expenses of the municipal advisor to the City, financial consultant’s fees, charges for execution, authentication, transportation and safekeeping of the Bonds and other costs, charges and fees in connection with the foregoing.

“Costs of Issuance Fund” means the fund of that name established and administered under Section 4.02.

“County” means the County of Alameda, California.

“Dated Date” means the dated date of the 2024 Bonds, which is the Closing Date.

“Debt Service” means the scheduled amount of interest and amortization of principal (including any mandatory sinking fund payments) payable on the 2024 Bonds under Sections 2.02 and 2.03 and the scheduled amount of interest and amortization of principal payable on any Parity Bonds during the period of computation, in each case excluding amounts scheduled during such period which relate to principal which has been retired before the beginning of such period.

“Depository” means (a) initially, DTC, and (b) any other Securities Depository acting as Depository for book-entry under Section 2.10.

“Developers” means Zarsion-OHP I, LLC, a California limited liability company, and its successors and assigns.

“Director of Finance” means the Treasury Officer of the City, or such official's designee.

“DTC” means The Depository Trust Company, New York, New York, and its successors and assigns.

“Fair Market Value” means the price at which a willing buyer would purchase the investment from a willing seller in a bona fide, arm's length transaction (determined as of the date the contract to purchase or sell the investment becomes binding) if the investment is traded on an established securities market (within the meaning of section 1273 of the Tax Code) and, otherwise, the term "Fair Market Value" means the acquisition price in a bona fide arm's length transaction (as referenced above) if (i) the investment is a certificate of deposit that is acquired in accordance with applicable regulations under the Tax Code, (ii) the investment is an agreement with specifically negotiated withdrawal or reinvestment provisions and a specifically negotiated interest rate (for example, a guaranteed investment contract, a forward supply contract or other investment agreement) that is acquired in accordance with applicable regulations under the Code, (iii) the investment is a United States Treasury Security--State and Local Government Series that is acquired in accordance with applicable regulations of the United States Bureau of Public Debt, or (iv) any commingled investment fund in which the City and related parties do not own more than a 10% beneficial interest therein if the return paid by the fund is without regard to the source of the investment. To the extent required by the applicable regulations under the Tax Code, the term “investment” will include a hedge.

“Federal Securities” means: (a) any direct general obligations of the United States of America (including obligations issued or held in book entry form on the books of the Department of the Treasury of the United States of America), the payment of principal of and interest on which are unconditionally and fully guaranteed by the United States of America; and (b) any obligations the principal of and interest on which are unconditionally guaranteed by the United States of America.

“Fiscal Agent” means Wilmington Trust, National Association, the Fiscal Agent appointed by the City and acting as an independent fiscal agent with the duties and powers herein provided,

its successors and assigns, and any other corporation or association which may at any time be substituted in its place, as provided in Section 7.01.

“Fiscal Year” means the twelve-month period extending from July 1 in a calendar year to June 30 of the succeeding year, both dates inclusive.

“Improvement Fund” means the fund of that name established and administered under Section 4.07.

“Independent Financial Consultant” means any consultant or firm of such consultants appointed by the City or the Director of Finance, and who, or each of whom:

(i) is judged by the Director of Finance to have experience in matters relating to the issuance and/or administration of bonds under the Act;

(ii) is in fact independent and not under the domination of the City;

(iii) does not have any substantial interest, direct or indirect, with or in the City, or any owner of real property in the CFD, or any real property in the CFD; and

(iv) is not connected with the City as an officer or employee of the City, but who may be regularly retained to make reports to the City.

“Interest Payment Date” means each March 1 and September 1 of every calendar year, commencing with March 1, 2025.

“Maximum Annual Debt Service” means the largest Annual Debt Service for any Bond Year after the calculation is made through the final maturity date of any Outstanding Bonds.

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

“MSRB” means the Municipal Securities Rulemaking Board, through its EMMA system, and, in accordance with then current guidelines of the Securities and Exchange Commission, such other addresses and/or such services providing information with respect to called bonds as the City may designate in an Officer’s Certificate delivered to the Fiscal Agent.

“Officer’s Certificate” means a written certificate of the City signed by an Authorized Officer of the City.

“Original Purchaser” means Stifel, Nicolaus & Company, Incorporated, the first purchaser of the 2024 Bonds from the City.

“Outstanding” when used as of any particular time with reference to Bonds, means (subject to the provisions of Section 8.04) all Bonds except (i) Bonds theretofore canceled by the Fiscal Agent or surrendered to the Fiscal Agent for cancellation; (ii) Bonds paid or deemed to have been paid within the meaning of Section 9.03; and (iii) Bonds in lieu of or in substitution for which other Bonds shall have been authorized, executed, issued and delivered by the City under this Agreement or any Supplemental Agreement.

“Owner” or “Bondowner” means any person who shall be the registered owner of any Outstanding Bond.

“Parity Bonds” means additional bonds issued and payable on a parity with the Bonds under Section 3.06.

“Participating Underwriter” shall have the meaning ascribed thereto in the Continuing Disclosure Certificate.

“Permitted Investments” means the following, but only to the extent that the same are acquired at Fair Market Value:

(a) Federal Securities;

(b) any of the following direct or indirect obligations of the following agencies of the United States of America: (i) government sponsored enterprise (GSE) obligations, such as Fannie Mae, Freddie Mac and Federal Farm Credit System and Federal Home Loan Bank. ; (ii) certificates of beneficial ownership issued by the Farmers Home Administration; (iii) participation certificates issued by the General Services Administration; (iv) mortgage-backed bonds or pass-through obligations issued and guaranteed by the Government National Mortgage Association, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation or the Federal Housing Administration; (v) project notes issued by the United States Department of Housing and Urban Development; and (vi) public housing notes and bonds guaranteed by the United States of America;

(c) interest-bearing demand or time deposits (including certificates of deposit), including those placed by a third party pursuant to a separate agreement between the City and the Fiscal Agent, bank deposit products, trust funds, trust accounts, overnight bank deposits, interest bearing deposits, interest bearing money market accounts, other deposit products and overnight bank deposits, or deposit accounts in federal or state chartered savings and loan associations or in federal or State of California banks (including the Fiscal Agent, its parent, if any, and affiliates), provided that (i) the unsecured short-term obligations of such commercial bank or savings and loan association shall be rated in the highest short-term rating category by any Rating Agency, or (ii) such demand or time deposits shall be fully insured by the Federal Deposit Insurance Corporation;

(d) commercial paper rated at the time of purchase in the highest short-term rating category by any Rating Agency, issued by corporations which are organized and operating within the United States of America, and which matures not more than 180 days following the date of investment therein;

(e) bankers’ acceptances (including those of the Fiscal Agent or any of its affiliates), consisting of bills of exchange or time drafts drawn on and accepted by a commercial bank, including its parent (if any), affiliates and subsidiaries, whose short-term obligations are rated in the highest short-term rating category by any Rating Agency, or whose long-term obligations are rated A or better by any Rating Agency, which mature not more than 270 days following the date of investment therein;

(f) obligations the interest on which is excludable from gross income pursuant to Section 103 of the Tax Code and which are either (i) rated A or better

by any Rating Agency, or (ii) fully secured as to the payment of principal and interest by Federal Securities;

(g) obligations issued by any corporation organized and operating within the United States of America having assets in excess of \$500,000,000, which obligations are rated A or better by any Rating Agency;

(h) money market funds (including money market funds for which the Fiscal Agent, its affiliates or subsidiaries provide investment advisory, or other management services) which invest in Federal Securities or which are rated in the highest short-term rating category by any Rating Agency including those funds for which the Fiscal Agent or an affiliate receives and retains a fee for services provided to the fund, whether as a custodian, transfer agent, investment advisor or otherwise; and

(i) any investment agreement representing general unsecured obligations of a financial institution rated A or better by any Rating Agency, by the terms of which the Fiscal Agent is permitted to withdraw all amounts invested therein in the event any such rating falls below A.

(j) the Local Agency Investment Fund established pursuant to Section 16429.1 of the Government Code of the State of California, *provided, however*, that the Fiscal Agent shall be permitted to make investments and withdrawals in its own name and the Fiscal Agent may restrict investments in the such fund if necessary to keep moneys available for the purposes of this Fiscal Agent Agreement.

(k) the California Asset Management Program; and

(l) any other investment in which the City may invest its funds under California law.

Ratings of Permitted Investments referred to herein shall be determined at the time of purchase of such Permitted Investment and without regard to rating subcategories. The Fiscal Agent shall have no responsibility to monitor the ratings of Permitted Investments after the initial purchase of such Permitted Investment, or the responsibility to validate the ratings of Permitted Investments prior to the initial purchase.

“Principal Office” means such corporate trust office of the Fiscal Agent as may be designated from time to time by written notice from the Fiscal Agent to the City, initially being at the address set forth in Section 9.06, or such other office designated by the Fiscal Agent from time to time; provided that for purposes of the presentation or surrender of Bonds for payment, transfer or exchange, such office shall be the designated corporate trust agency or operations office of the Fiscal Agent.

“Proceeds” when used with reference to the Bonds, means the face amount of the Bonds, plus any accrued interest and premium, less any original issue and/or underwriter’s discount.

“Project” means those items described as the “Facilities” in the Resolution of Formation.

"Qualified Reserve Account Credit Instrument" means an irrevocable standby or direct-pay letter of credit, insurance policy, or surety bond issued by a commercial bank or insurance company and deposited with the Fiscal Agent, provided that all of the following requirements are met at the time of acceptance thereof by the Fiscal Agent: (a) in the case of a commercial bank, the long-term credit rating of such bank at the time of delivery of the irrevocable standby or direct-pay letter of credit is at least "A" from S&P or "A" from Moody's and, in the case of an insurance company, the claims paying ability of such insurance company at the time of delivery of the insurance policy or surety bond is at least "A" from S&P, or "A" from Moody's or, if not rated by S&P or Moody's but is rated by A.M. Best & Company, is rated at the time of delivery in the highest rating category by A.M. Best & Company; (b) such letter of credit, insurance policy or surety bond has a term of at least 12 months; (c) such letter of credit or surety bond has a stated amount at least equal to the portion of the 2024 Reserve Requirement with respect to which funds are proposed to be released; and (d) the Fiscal Agent is authorized pursuant to the terms of such letter of credit, insurance policy or surety bond to draw thereunder an amount equal to any deficiencies which may exist from time to time in the Bond Fund for the purpose of making payments with respect to the 2024 Bonds and any 2024 Related Parity Bonds.

"Rate and Method" means the Rate and Method of Apportionment of Special Taxes for the CFD set forth in the Resolution of Formation and as it subsequently may be amended in compliance with the provisions of this Agreement and the Act.

"Record Date" means the fifteenth day of the calendar month next preceding the applicable Interest Payment Date, whether or not such day is a Business Day.

"Refunding Bonds" means bonds issued by the City for the CFD, the net proceeds of which are used to refund all or a portion of the then-Outstanding Bonds; provided that the principal and interest on the Refunding Bonds to their final maturity date is less than the principal and interest on the Bonds being refunded to their final maturity date, and the final maturity of the Refunding Bonds is not later than the final maturity of the Bonds being refunded.

"Regulations" means temporary and permanent regulations promulgated under the Tax Code.

"Remainder Taxes" means the Special Taxes available for disbursement pursuant to Section 4.05(B)(iii).

"Remainder Taxes Account" means the account of that name within the Improvement Fund to be established and administered by the Fiscal Agent under Section 4.07.

"Resolution" or "Resolution of Issuance" has the meaning given that term in the recitals hereof.

"Resolution of Formation" means Resolution No. 88902 C.M.S, adopted by the City Council on September 19, 2023, forming the CFD.

"S&P" means S&P Global Services, a Standard & Poor's Financial Services LLC business, and its successors and assigns.

"Securities Depositories" means DTC and, in accordance with then current guidelines of the Securities and Exchange Commission, such other securities depositories as the City may designate in an Officer's Certificate delivered to the Fiscal Agent.

“Special Tax Fund” means the special fund of that name established and administered under Section 4.05.

“Special Tax Ordinance” means any ordinance of the City Council of the City levying the Special Taxes, including but not limited to Ordinance 13760 C.M.S introduced by the City Council on September 19, 2023, and adopted by the City Council on October 3, 2023.

“Special Tax Prepayments” means the proceeds of any Special Tax prepayments received by the City, as calculated pursuant to the Rate and Method, less any administrative fees or penalties collected as part of any such prepayment.

“Special Tax Prepayments Account” means the account by that name established within the Bond Fund under Section 4.04(A).

“Special Tax Revenues” means the proceeds of the Special Taxes received by the City, including any scheduled payments thereof and any Special Tax Prepayments, interest thereon and proceeds of the redemption or sale of property sold as a result of foreclosure of the lien of the Special Taxes to the amount of said lien and interest thereon, but shall not include any interest in excess of the interest due on the Bonds, or any penalties collected in connection with any such foreclosure.

“Special Taxes” means the Facilities Special Tax levied by the City Council within the CFD under the Act, the Rate and Method, the Special Tax Ordinance and this Agreement.

“State” means the State of California.

“Supplemental Agreement” means an agreement the execution of which is authorized by a resolution which has been duly adopted by the City under the Act and which agreement is amendatory of or supplemental to this Agreement, but only if and to the extent that such agreement is specifically authorized hereunder.

“Tax Code” means the Internal Revenue Code of 1986 as in effect on the date of issuance of the Bonds or (except as otherwise referenced herein) as it may be amended to apply to obligations issued on the date of issuance of the Bonds, together with applicable temporary and final regulations promulgated, and applicable official public guidance published, under the Tax Code.

“2024 Bond Ordinance” has the meaning given that term in the recitals hereof.

“Term Bonds” means the (i) 2024 Bonds maturing on September 1, _____ and (ii) the 2024 Bonds maturing on September 1, _____.

“2024 Bonds” means the Bonds so designated and authorized to be issued under Section 2.01 hereof.

“2024 Capitalized Interest Account” means the account by that name held by the Fiscal Agent and established and administered under Section 4.04(A).

“2024 Related Parity Bonds” means any series of Parity Bonds for which (i) the Proceeds are deposited into the 2024 Reserve Fund so that the balance therein is equal to the 2024

Reserve Requirement following issuance of such Parity Bonds and (ii) the related Supplemental Agreement specifies that the 2024 Reserve Fund shall act as a reserve for the payment of the principal of, and interest and any premium on, such series of Parity Bonds.

“2024 Reserve Fund” means the fund of that name established and administered under Section 4.03.

“2024 Reserve Requirement” means the amount as of any date of calculation equal to the least of (a) Maximum Annual Debt Service on the 2024 Bonds and 2024 Related Parity Bonds, if any, (b) 125% of average Annual Debt Service on the 2024 Bonds and 2024 Related Parity Bonds, if any and (c) 10% of the outstanding principal of the 2024 Bonds and 2024 Related Parity Bonds, if any; provided, however:

(A) that with respect to the calculation of clause (c), the issue price of the 2024 Bonds or any 2024 Related Parity Bonds excluding accrued interest shall be used rather than the outstanding principal amount, if (i) the net original issue discount or premium of the 2024 Bonds or any 2024 Related Parity Bonds was less than 98% or more than 102% of the original principal amount of the 2024 Bonds or any 2024 Related Parity Bonds and (ii) using the issue price would produce a lower result than using the outstanding principal amount;

(B) that in no event shall the amount calculated hereunder exceed the amount on deposit in the 2024 Reserve Fund on the date of issuance of the 2024 Bonds (if they are the only Bonds covered by the 2024 Reserve Fund) or the most recently issued series of 2024 Related Parity Bonds (if any 2024 Related Parity Bonds are covered by the 2024 Reserve Fund) except in connection with any increase associated with the issuance of 2024 Related Parity Bonds; and

(C) that in no event shall the amount required to be deposited into the 2024 Reserve Fund in connection with the issuance of a series of 2024 Related Parity Bonds exceed the maximum amount under the Tax Code that can be financed with tax-exempt bonds and invested an unrestricted yield.

ARTICLE II

THE BONDS

Section 2.01. Principal Amount; Designation. Bonds in the aggregate principal amount of \$50,000,000 are hereby authorized to be issued by the City for the CFD under and subject to the terms of the Act, the 2024 Bond Ordinance, the Resolution, this Agreement and other applicable laws of the State of California. This paragraph shall not limit the principal amount of any Refunding Bonds.

The 2024 Bonds shall be designated as the “City of Oakland Community Facilities District No. 2023-1 (Brooklyn Basin Facilities and Services) Special Tax Bonds, Series 2024,” and shall be in the initial principal amount of \$_____.

Section 2.02. Terms of the 2024 Bonds.

(A) Form; Denominations. The 2024 Bonds shall be issued as fully registered Bonds without coupons. The 2024 Bonds shall be lettered and numbered in a customary manner as determined by the City. The 2024 Bonds shall be issued in the denominations of \$5,000 or any integral multiple of \$5,000 in excess thereof.

(B) Date of 2024 Bonds. The 2024 Bonds shall be dated the Closing Date.

(C) CUSIP Identification Numbers. “CUSIP” identification numbers may, at the election of the Original Purchaser of the Bonds, be imprinted on the Bonds, but such numbers shall not constitute a part of the contract evidenced by the Bonds and any error or omission with respect thereto shall not constitute cause for refusal of any purchaser to accept delivery of and pay for the Bonds. In addition, failure on the part of the City or the Fiscal Agent to use such CUSIP numbers in any notice to Owners shall not constitute an event of default or any violation of the City’s contract with such Owners and shall not impair the effectiveness of any such notice.

(D) Maturities; Interest Rates. The 2024 Bonds shall mature and become payable on each September 1 in the principal amounts, and shall bear interest at the rates per annum indicated in the below table.

Maturity (<u>September 1</u>)	Principal <u>Amount</u>	Interest <u>Rate</u>
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* Term Bond

(E) Interest. The 2024 Bonds shall bear interest at the rates set forth above payable on the Interest Payment Dates in each year. Interest on all Bonds shall be calculated on the basis of a 360-day year composed of twelve 30-day months. Each Bond shall bear interest from the Interest Payment Date next preceding the date of authentication thereof unless

(i) it is authenticated on an Interest Payment Date, in which event it shall bear interest from such date of authentication, or

(ii) it is authenticated prior to an Interest Payment Date and after the close of business on the Record Date preceding such Interest Payment Date, in which event it shall bear interest from such Interest Payment Date, or

(iii) it is authenticated on or before the Record Date preceding the first Interest Payment Date, in which event it shall bear interest from the Dated Date;

provided, however, that if at the time of authentication of a Bond, interest is in default thereon, such Bond shall bear interest from the Interest Payment Date to which interest has previously been paid or made available for payment thereon.

(F) Method of Payment. Interest on the Bonds (including the final interest payment upon maturity or earlier redemption), is payable on the applicable Interest Payment Date by check of the Fiscal Agent mailed by first class mail to the registered Owner thereof at such registered Owner's address as it appears on the registration books maintained by the Fiscal Agent at the close of business on the Record Date preceding the Interest Payment Date, or by wire transfer to an account located in the United States of America made on such Interest Payment Date upon written instructions of any Owner of \$1,000,000 or more in aggregate principal amount of Bonds delivered to the Fiscal Agent prior to the applicable Record Date, which instructions shall continue in effect until revoked in writing, or until such Bonds are transferred to a new Owner.

The principal of the Bonds and any interest and premium on the Bonds are payable in lawful money of the United States of America upon surrender of the Bonds at the Principal Office of the Fiscal Agent. So long as the registered Owner of the Bonds are Cede & Co., payment of principal and redemption shall be made without presentment. All Bonds paid by the Fiscal Agent pursuant to this Section shall be canceled by the Fiscal Agent. The Fiscal Agent shall destroy the canceled Bonds and, upon request of the City, issue a certificate of destruction of such Bonds to the City.

Section 2.03. Redemption.

(A) Redemption Provisions.

(i) **Optional Redemption.** The 2024 Bonds maturing on or after September 1, _____ are subject to optional redemption as directed by the City, from sources of funds other than prepayments of Special Taxes, prior to their stated maturity on any date on or after September 1, _____, as a whole or in part, at a redemption price (expressed as a percentage of the principal amount of the 2024 Bonds to be redeemed), as set forth below, together with accrued interest thereon to the date fixed for redemption:

<u>Redemption Dates</u>	<u>Redemption Price</u>
September 1, _____ through August 31, _____	103%
September 1, _____ through August 31, _____	102
September 1, _____ through August 31, _____	101
September 1, _____ and any date thereafter	100

(ii) **Mandatory Sinking Fund Redemption.** The Term Bond maturing on September 1, _____, is subject to mandatory redemption in part by lot, from sinking fund payments made by the City from the Bond Fund, at a redemption price equal to the principal amount thereof to be redeemed, without premium, in the aggregate respective principal amounts all as set forth in the following table:

<u>Sinking Fund Redemption Date (September 1)</u>	<u>Sinking Fund Payments</u>
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(maturity)

The Term Bond maturing on September 1, _____, is subject to mandatory redemption in part by lot, from sinking fund payments made by the City from the Bond Fund, at a redemption price equal to the principal amount thereof to be redeemed, without premium, in the aggregate respective principal amounts all as set forth in the following table:

<u>Sinking Fund Redemption Date (September 1)</u>	<u>Sinking Fund Payments</u>
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(maturity)

Provided, however, if some but not all of the Term Bonds of a given maturity have been redeemed under subsection (i) above or subsection (iii) below, the total amount of all future Sinking Fund Payments relating to such maturity shall be reduced by the

aggregate principal amount of Term Bonds of such maturity so redeemed, to be allocated among such Sinking Fund Payments on a pro rata basis in integral multiples of \$5,000 as determined by the City, notice of which shall be given by the City to the Fiscal Agent, and the notice shall include a revised sinking fund schedule.

(iii) **Redemption from Special Tax Prepayments.** Special Tax Prepayments and any corresponding transfers from the 2024 Reserve Fund pursuant to Section 4.03(F) shall be used to redeem 2024 Bonds on the next Interest Payment Date for which notice of redemption can timely be given under Section 2.03(D), among maturities of outstanding bonds so as to maintain substantially the same debt service profile for the Bonds as in effect prior to such redemption and by lot within a maturity, at a redemption price (expressed as a percentage of the principal amount of the 2024 Bonds to be redeemed), as set forth below, together with accrued interest to the date fixed for redemption:

<u>Redemption Dates</u>	<u>Redemption Price</u>
Any Interest Payment Date on or before March 1, ____	103%
September 1, ____ and March 1, ____	102
September 1, ____ and March 1, ____	101
September 1, ____ and any Interest Payment Date thereafter	100

(B) **Notice to Fiscal Agent.** The City shall give the Fiscal Agent written notice of its intention to redeem Bonds under subsection (A)(i) and (A)(iii) not less than 45 days prior to the applicable redemption date or such lesser number of days as shall be acceptable to the Fiscal Agent.

(C) **Purchase of Bonds in Lieu of Redemption.** In lieu of redemption under Section 2.03(A), moneys in the Bond Fund may be used and withdrawn by the Fiscal Agent for purchase of Outstanding 2024 Bonds upon the filing with the Fiscal Agent of an Officer's Certificate requesting such purchase, at public or private sale as and when, and at such prices (including brokerage and other charges) as such Officer's Certificate may provide, but in no event may 2024 Bonds be purchased at a price in excess of the principal amount thereof, plus interest accrued to the date of purchase and any premium which would otherwise be due if such 2024 Bonds were to be redeemed in accordance with this Agreement.

(D) Redemption Procedure by Fiscal Agent.

(i) **Notices.** The Fiscal Agent shall cause notice of any redemption to be mailed by first class mail, postage prepaid, or posted, at least twenty (20) days but not more than sixty (60) days prior to the date fixed for redemption, to the Securities Depositories and to the respective registered Owners of any Bonds designated for redemption, at their addresses appearing on the Bond registration books in the Principal Office of the Fiscal Agent; but such mailing shall not be a condition precedent to such redemption and failure to mail or to receive any such notice, or any defect therein, shall not affect the validity of the proceedings for the redemption of such Bonds. In addition, the Fiscal Agent shall file each notice of redemption with the MSRB through its EMMA system. The sole remedy for failure to file such notices through EMMA shall be an action by the holders of the Bonds in mandamus for specific performance or a similar remedy to compel performance.

(ii) **Contents of Notices.** Such notice shall state the redemption date and the redemption price and, if less than all of the then Outstanding Bonds are to be called for redemption shall state as to any Bond called in part the principal amount thereof to be redeemed, and shall require that such Bonds be then surrendered at the Principal Office of the Fiscal Agent for redemption at the said redemption price, and shall state that further interest on such Bonds will not accrue from and after the redemption date. The cost of mailing any such redemption notice and any expenses incurred by the Fiscal Agent in connection therewith shall be paid by the City.

The City has the right to send a conditional optional redemption notice and to rescind any notice of the optional redemption of Bonds by written notice to the Fiscal Agent on or prior to the date fixed for redemption. Any notice of redemption shall be cancelled and annulled if for any reason funds will not be or are not available on the date fixed for redemption for the payment in full of the Bonds then called for redemption, and such cancellation shall not constitute a default under this Agreement. The City and the Fiscal Agent have no liability to the Owners or any other party related to or arising from such rescission of redemption. The Fiscal Agent shall mail notice of such rescission of redemption in the same manner as the original notice of redemption was sent under this Section.

(iii) **Selection of Bonds for Partial Redemption.** Whenever provision is made in this Agreement for the redemption of less than all of the Bonds of any maturity or any given portion thereof, unless otherwise directed by the City, the Fiscal Agent shall select the Bonds to be redeemed by lot. The selection of Bonds for redemption among maturities and series shall be determined by the City to the extent not otherwise set forth in this Agreement.

(iv) **New Bonds.** Upon surrender of Bonds redeemed in part only, the City shall execute and the Fiscal Agent shall authenticate and deliver to the registered Owner, at the expense of the City, a new Bond or Bonds, of the same series and maturity, of authorized denominations in aggregate principal amount equal to the unredeemed portion of the Bond or Bonds of such registered Owner.

(E) Effect of Redemption. From and after the date fixed for redemption, if funds available for the payment of the principal of, and interest and any premium on, the Bonds so called for redemption shall have been deposited in the Bond Fund, such Bonds so called shall cease to be entitled to any benefit under this Agreement other than the right to receive payment of the redemption price, and no interest shall accrue thereon on or after the redemption date specified in the notice of redemption. All Bonds redeemed and purchased by the Fiscal Agent under this Section 2.03 shall be canceled by the Fiscal Agent. The Fiscal Agent shall destroy the canceled Bonds in accordance with the Fiscal Agent's retention policy then in effect.

Section 2.04. Form of Bonds. The 2024 Bonds, the Fiscal Agent's certificate of authentication and the assignment, to appear thereon, shall be substantially in the forms, respectively, set forth in Exhibit A attached hereto and by this reference incorporated herein, with necessary or appropriate variations, omissions and insertions, as permitted or required by this Agreement, the 2024 Bond Ordinance, the Resolution and the Act.

Section 2.05. Execution and Authentication of Bonds.

(A) Execution. The Bonds shall be executed on behalf of the City by the manual or facsimile signatures of its City Administrator and its City Clerk who are in office on the date of execution of this Agreement or at any time thereafter. If any officer whose signature appears on any Bond ceases to be such officer before delivery of the Bonds to the Owner, such signature shall nevertheless be as effective as if the officer had remained in office until the delivery of the Bonds to the Owner. Any Bond may be signed and attested on behalf of the City by such persons as at the actual date of the execution of such Bond shall be the proper officers of the City although at the nominal date of such Bond any such person shall not have been such officer of the City.

(B) Authentication. Only such Bonds as shall bear thereon a certificate of authentication in substantially the form set forth in Exhibit A, executed and dated by the Fiscal Agent manually or electronically, shall be valid or obligatory for any purpose or entitled to the benefits of this Agreement, and such certificate of authentication of the Fiscal Agent shall be conclusive evidence that the Bonds registered hereunder have been duly authenticated, registered and delivered hereunder and are entitled to the benefits of this Agreement.

Section 2.06. Transfer or Exchange of Bonds. Any Bond may, in accordance with its terms, be transferred, upon the Bond Register required to be kept under the provisions of Section 2.07 by the person in whose name it is registered, in person or by such person's duly authorized attorney, upon surrender of such Bond for cancellation, accompanied by delivery of a duly written instrument of transfer in a form acceptable to the Fiscal Agent. Bonds may be exchanged at the Principal Office of the Fiscal Agent solely for a like aggregate principal amount of Bonds of authorized denominations and of the same maturity. The cost for any services rendered or any expenses incurred by the Fiscal Agent in connection with any such transfer or exchange shall be paid by the City. The Fiscal Agent shall collect from the Owner requesting such transfer or exchange any tax or other governmental charge required to be paid with respect to such transfer or exchange. Whenever any Bond or Bonds shall be surrendered for transfer or exchange, the City shall execute and the Fiscal Agent shall authenticate and deliver a new Bond or Bonds, for a like aggregate principal amount. No transfers or exchanges of Bonds shall be required to be made (i) fifteen days prior to the date established by the Fiscal Agent for selection of Bonds for redemption or (ii) with respect to a Bond after such Bond has been selected for redemption; or (iii) between a Record Date and the succeeding Interest Payment Date.

Prior to any transfer of the Bonds outside the book-entry system (including, but not limited to, the initial transfer outside the book-entry system) the transferor shall provide or cause to be provided to the Fiscal Agent all information necessary to allow the Fiscal Agent to comply with any applicable tax reporting obligations, including without limitation any cost basis reporting obligations under Internal Revenue Code Section 6045, as amended. The Fiscal Agent shall conclusively rely on the information provided to it and shall have no responsibility to verify or ensure the accuracy of such information.

Section 2.07. Bond Register. The Fiscal Agent will keep, or cause to be kept, at its Principal Office sufficient books for the registration and transfer of the Bonds (the "Bond Register"), which books shall show the series number, date, amount, rate of interest and last known owner of each Bond and shall at all times be open to inspection by the City during regular business hours upon reasonable notice; and, upon presentation for such purpose, the Fiscal Agent shall, under such reasonable regulations as it may prescribe, register or transfer or cause to be registered or transferred, on such books, the ownership of the Bonds as hereinbefore provided. The City and the Fiscal Agent will treat the Owner of any Bond whose name appears

on the Bond register as the absolute Owner of such Bond for any and all purposes, and the City and the Fiscal Agent shall not be affected by any notice to the contrary. The City and the Fiscal Agent may rely on the address of the Owner as it appears in the Bond register for any and all purposes.

Section 2.08. Temporary Bonds. The Bonds may be initially issued in temporary form exchangeable for definitive Bonds when ready for delivery. The temporary Bonds may be printed, lithographed or typewritten, shall be of such authorized denominations as may be determined by the City, and may contain such reference to any of the provisions of this Agreement as may be appropriate. Every temporary Bond shall be executed by the City upon the same conditions and in substantially the same manner as the definitive Bonds. If the City issues temporary Bonds, it will execute and furnish definitive Bonds without delay and thereupon the temporary Bonds shall be surrendered, for cancellation, in exchange for the definitive Bonds at the Principal Office of the Fiscal Agent or at such other location as the Fiscal Agent shall designate, and the Fiscal Agent shall authenticate and deliver in exchange for such temporary Bonds an equal aggregate principal amount of definitive Bonds of authorized denominations. Until so exchanged, the temporary Bonds shall be entitled to the same benefits under this Agreement as definitive Bonds authenticated and delivered hereunder.

Section 2.09. Bonds Mutilated, Lost, Destroyed or Stolen.

(A) Mutilated. If any Bond shall become mutilated, at the expense of the Owner of such Bond, the City shall execute and the Fiscal Agent shall authenticate manually or electronically and deliver a replacement Bond of like tenor and principal amount in exchange and substitution for the Bond so mutilated, but only upon surrender to the Fiscal Agent of the Bond so mutilated and provision of satisfactory indemnity to the Fiscal Agent. Every mutilated Bond so surrendered to the Fiscal Agent shall be canceled by it and destroyed by the Fiscal Agent, in accordance with the Fiscal Agent's retention policy then in effect.

(B) Destroyed or Stolen. If any Bond shall be lost, destroyed or stolen, the City shall execute and the Fiscal Agent shall authenticate and deliver a replacement Bond of like tenor and principal amount in lieu of and in substitution for the Bond so lost, destroyed or stolen, at the expense of the Owner, but only following provision by the Owner to the Fiscal Agent of indemnity for the City and the Fiscal Agent satisfactory to the Fiscal Agent. The City may require payment of a sum not exceeding the actual cost of preparing each a replacement Bond delivered under this Section and the City and the Fiscal Agent may require payment of the expenses which may be incurred by the City and the Fiscal Agent for the preparation, execution, authentication and delivery thereof. Any Bond delivered under the provisions of this Section in lieu of any Bond alleged to be lost, destroyed or stolen shall constitute an original additional contractual obligation on the part of the City whether or not the Bond so alleged to be lost, destroyed or stolen is at any time enforceable by anyone, and shall be equally and proportionately entitled to the benefits of this Agreement with all other Bonds issued under this Agreement.

(C) Additional Stock. If the Fiscal Agent has an insufficient stock of unauthenticated printed Bonds for such purpose, it shall communicate with the Director of Finance with respect to the printing of an additional stock of Bonds, in such quantities and as otherwise approved in writing by the Director of Finance.

Section 2.10. Book-Entry Only System. DTC shall act as the initial Depository for the Bonds. One Bond for each maturity of the Bonds shall be initially executed, authenticated, and delivered as set forth herein with a separate fully registered certificate (in print or typewritten form).

Upon initial execution, authentication, and delivery, the ownership of the Bonds shall be registered in the Bond register kept by the Fiscal Agent for the Bonds in the name of Cede & Co., as nominee of DTC or such nominee as DTC shall appoint in writing.

The Authorized Officers of the City and the Fiscal Agent are hereby authorized to take any and all actions as may be necessary and not inconsistent with this Agreement to qualify the Bonds for the Depository's book-entry system, including the execution of the Depository's required representation letter.

With respect to Bonds registered in the Bond register in the name of Cede & Co., as nominee of DTC, neither the City nor the Agent shall have any responsibility or obligation to any broker-dealer, bank, or other financial institution for which DTC holds Bonds as Depository from time to time (the "DTC Participants") or to any person for which a DTC Participant acquires an interest in the Bonds (the "Beneficial Owners"). Without limiting the immediately preceding sentence, neither the City nor the Fiscal Agent shall have any responsibility or obligation with respect to (i) the accuracy of the records of DTC, Cede & Co., or any DTC Participant with respect to any ownership interest in the Bonds, (ii) the delivery to any DTC Participant, any Beneficial Owner, or any other person, other than DTC, of any notice with respect to the Bonds, including any Bonds to be redeemed in the event the City elects to redeem the Bonds, in part, (iii) the selection by the Depository of the beneficial interests in the Bonds to be redeemed in the event the City elects to redeem the Bonds in part, (iv) the payments to any DTC Participant, any Beneficial Owner, or any person, other than DTC, of any amount with respect to the principal of or interest or premium on the Bonds, or (v) any consent given or other action taken by the Depository as Owner of the Bonds.

Except as set forth above, the City and the Fiscal Agent may treat as and deem DTC to be the absolute Owner of each Bond, for which DTC is acting as Depository for the purpose of payment of the principal of and premium and interest on such Bonds, for the purpose of giving notices of redemption and other matters with respect to such Bonds, for the purpose of registering transfers with respect to such Bonds, and for all purposes whatsoever. The Fiscal Agent on behalf of the City shall pay all principal of and premium and interest on the Bonds only to or upon the order of the Owners as shown on the Bond register, and all such payments shall be valid and effective to fully satisfy and discharge all obligations with respect to the principal of and premium and interest on the Bonds to the extent of the sums or sums so paid.

No person other than an Owner, as shown on the Bond register, shall receive a physical Bond. Upon delivery by DTC to the City and the Fiscal Agent of written notice to the effect that DTC has determined to substitute a new nominee in place of Cede & Co., and subject to the transfer provisions in Section 2.06 hereof, references to "Cede & Co." in this Section 2.10 shall refer to such new nominee of DTC.

DTC may determine to discontinue providing its services with respect to the Bonds at any time by giving written notice to the City and to the Fiscal Agent during any time that the Bonds are Outstanding, and discharging its responsibilities with respect thereto under applicable law. The City may terminate the services of DTC with respect to the Bonds if it determines that DTC is unable to discharge its responsibilities with respect to the Bonds or that continuation of the system of book-entry transfer through DTC is not in the best interest of the Beneficial Owners, and the City shall mail notice of such termination to the Fiscal Agent.

Upon termination of the services of DTC as provided in the previous paragraph, and if no substitute Depository willing to undertake the functions hereunder can be found which is willing

to undertake such functions upon reasonable or customary terms, or if the City determines that it is in the best interest of the Beneficial Owners of the Bonds that they be able to obtain certified Bonds, the Bonds shall no longer be restricted to being registered in the Bond register of the Fiscal Agent in the name of Cede & Co., as nominee of DTC, but may be registered in whatever name or names the Owners shall designate at that time, in accordance with Section 2.06.

To the extent that the Beneficial Owners are designated as the transferee by the Owners, in accordance with Section 2.06, the Bonds will be delivered to such Beneficial Owners.

ARTICLE III

ISSUANCE OF BONDS

Section 3.01. Issuance and Delivery of 2024 Bonds. At any time after the execution of this Agreement, the City may issue the 2024 Bonds for the CFD in the aggregate principal amount set forth in Section 2.01 and deliver the 2024 Bonds to the Fiscal Agent for authentication and delivery to the Original Purchaser. The Authorized Officers of the City are hereby authorized and directed to execute and deliver any and all documents and instruments necessary to cause the issuance of the 2024 Bonds in accordance with the provisions of the Act, the Resolution, the 2024 Bond Ordinance and this Agreement, to authorize the payment of Costs of Issuance and costs of the Project by the Fiscal Agent from the proceeds of the 2024 Bonds and to do and cause to be done any and all acts and things necessary or convenient for the timely delivery of the 2024 Bonds to the Original Purchaser. The Fiscal Agent is hereby authorized and directed to authenticate the 2024 Bonds and deliver them to the Original Purchaser, upon receipt of the purchase price for the 2024 Bonds.

Section 3.02. Pledge of Special Tax Revenues. The Bonds shall be secured by a first pledge (which shall be effected in the manner and to the extent herein provided) of all of the Special Tax Revenues and all moneys deposited in the Bond Fund (including the Special Tax Prepayments Account), and, until disbursed as provided herein, in the Special Tax Fund. The Special Tax Revenues and all moneys deposited into such funds (except as otherwise provided herein) are hereby dedicated to the payment of the principal of, and interest and any premium on, the Bonds as provided herein and in the Act until all of the Bonds have been paid and retired or until moneys or Federal Securities have been set aside irrevocably for that purpose under Section 9.03.

The 2024 Bonds and all 2024 Related Parity Bonds shall be secured by a first pledge (which shall be effected in the manner and to the extent herein provided) of all moneys deposited in the 2024 Reserve Fund. The moneys in the 2024 Reserve Fund (except as otherwise provided herein) are hereby dedicated to the payment of the principal of, and interest and any premium on, the 2024 Bonds and all 2024 Related Parity Bonds as provided herein and in the Act until all of the 2024 Bonds and all 2024 Related Parity Bonds have been paid and retired or until moneys or Federal Securities have been set aside irrevocably for that purpose under Section 9.03.

The 2024 Bonds shall be secured by a first pledge (which pledge shall be effected in the manner and to the extent herein provided) of all moneys deposited in the 2024 Capitalized Interest Account.

Amounts in the Improvement Fund (and the accounts therein), the Administrative Expense Fund and the Costs of Issuance Fund are not pledged to the repayment of the Bonds. The Project is not pledged to the repayment of the Bonds, nor are the proceeds of any condemnation or insurance award received by the City with respect to the Project.

Section 3.03. Limited Obligation. All obligations of the City under this Agreement and the Bonds shall not be general obligations of the City, but shall be limited obligations, payable solely from the Special Tax Revenues and the funds pledged therefor hereunder. Neither the faith and credit nor the taxing power of the City (except to the limited extent set forth herein) or of the State of California or any political subdivision thereof is pledged to the payment of the Bonds.

Section 3.04. No Acceleration. The principal of the Bonds shall not be subject to acceleration hereunder. Nothing in this Section shall in any way prohibit the redemption of Bonds under Section 2.03, or the defeasance of the Bonds and discharge of this Agreement under Section 9.03.

Section 3.05. Validity of Bonds. The validity of the authorization and issuance of the Bonds shall not be dependent upon the completion of the acquisition of the Project or upon the performance by any person of his obligation with respect to the Project.

Section 3.06. Parity Bonds. In addition to the 2024 Bonds, subject to Section 5.18, the City may issue Bonds as Parity Bonds in such principal amount as shall be determined by the City, under a Supplemental Agreement entered into by the City and the Fiscal Agent. Any such Parity Bonds shall constitute Bonds hereunder and shall be secured by a lien on the Special Tax Revenues and funds pledged for the payment of the Bonds hereunder on a parity with all other Bonds Outstanding hereunder, except as provided herein or in a Supplemental Agreement. The City may only issue Parity Bonds if the City complies with the following specific conditions precedent:

(A) Compliance. Following issuance of the Parity Bonds, the City shall be in compliance with all covenants set forth in this Agreement and all Supplemental Agreements, and issuance of the Parity Bonds shall not cause the City to exceed the bonded indebtedness limit of the CFD.

(B) Same Payment Dates. The Supplemental Agreement providing for the issuance of such Parity Bonds shall provide that interest thereon shall be payable on the Interest Payment Dates, and principal thereof shall be payable on September 1 in any year in which principal is payable on the Parity Bonds (provided that there shall be no requirement that any Parity Bonds pay interest on a current basis).

(C) Separate Funds; Debt Service Reserve Fund. The Supplemental Agreement providing for the issuance of such Parity Bonds may provide for the establishment of separate funds and accounts.

The Supplemental Agreement providing for issuance of the Parity Bonds shall provide for either of the following:

(i) a deposit to the 2024 Reserve Fund in an amount necessary such that the amount deposited therein shall equal the 2024 Reserve Requirement following issuance of the Parity Bonds or

(ii) a deposit to a reserve account for the Parity Bonds (and such other series of Parity Bonds identified by the City) in an amount defined in such Supplemental Agreement, as long as such Supplemental Agreement expressly declares that the Owners of such Parity Bonds will have no interest in or claim to the 2024 Reserve Fund and that the Owners of the Bonds covered by the 2024 Reserve Fund will have no interest in or claim to such other reserve account or

(iii) no deposit to either the 2024 Reserve Fund or another reserve account as long as such Supplemental Agreement expressly declares that the Owners of such Parity

Bonds will have no interest in or claim to the 2024 Reserve Fund or any other reserve account.

(D) CFD Value. The CFD Value shall be at least ten (10) times the sum of: (i) the aggregate principal amount of all Bonds then Outstanding, plus (ii) the aggregate principal amount of the series of Parity Bonds proposed to be issued, plus (iii) the aggregate principal amount of any fixed assessment liens on the parcels in the CFD subject to the levy of Special Taxes, plus (iv) a portion of the aggregate principal amount of any and all other community facilities district bonds then outstanding and payable at least partially from special taxes to be levied on parcels of land within the CFD (the "Other District Bonds") equal to the aggregate principal amount of the Other District Bonds multiplied by a fraction, the numerator of which is the amount of special taxes levied for the Other District Bonds on parcels of land within the CFD, and the denominator of which is the total amount of special taxes levied for the Other District Bonds on all parcels of land against which the special taxes are levied to pay the Other District Bonds (such fraction to be determined based upon the maximum assigned special taxes which could be levied in the year in which maximum annual debt service on the Other District Bonds occurs), based upon information from the most recent available Fiscal Year.

(E) Coverage. An Independent Financial Consultant shall certify that for each Fiscal Year after issuance of the Parity Bonds, the maximum amount of the Special Taxes that may be levied for such Fiscal Year under the Special Tax Ordinance, the Agreement and any Supplemental Agreement less estimated Administrative Expenses for each respective Fiscal Year, will be at least 110% of the total Annual Debt Service of the then Outstanding Bonds and the proposed Parity Bonds for each Bond Year that commences in each such Fiscal Year.

For the purpose of calculating the Special Taxes that may be levied for each Fiscal Year after issuance of the Parity Bonds, the City shall not include for any Fiscal Year the Special Taxes that may be levied on any parcel that is delinquent in the payment of Special Taxes on the date of the Officer's Certificate required by subsection (F).

(F) Ordinance. To the extent required by the City Charter, the Parity Bonds shall have been approved by an ordinance of the City Council.

Certificates. The City shall deliver to the Fiscal Agent an Officer's Certificate certifying that the conditions precedent to the issuance of such Parity Bonds set forth in subsections (A), (B), (C), (D) and (E) of this Section 3.06 have been satisfied.

Notwithstanding the foregoing, the City may issue Refunding Bonds as Parity Bonds without the need to satisfy the requirements of clauses (D) or (E) above, and, in connection therewith, the Officer's Certificate in clause (F) above need not make reference to said clauses (D) or (E).

Nothing in this Section 3.06 shall prohibit the City from issuing any other bonds or otherwise incurring debt secured by a pledge of the Special Tax Revenues subordinate to the pledge thereof under Section 3.02 of this Agreement.

ARTICLE IV

PROCEEDS, FUNDS AND ACCOUNTS

Section 4.01. Application of 2024 Bond Proceeds. The Proceeds of the 2024 Bonds received from the Original Purchaser in the amount of \$_____ (which is equal to the initial principal amount of the 2024 Bonds, *plus* an original issue premium of \$_____, *less* an underwriter's discount in the amount of \$_____) shall be paid to the Fiscal Agent, which shall transfer or deposit the Proceeds on the Closing Date as follows:

- (i) deposit \$_____ into the Costs of Issuance Fund;
- (ii) deposit \$_____ into the 2024 Capitalized Interest Account;
- (iii) deposit \$_____ into the 2024 Reserve Fund equaling the initial 2024 Reserve Requirement; and
- (iv) deposit \$_____ into the Bond Proceeds Account of the Improvement Fund.

The Fiscal Agent may, in its discretion, establish a temporary fund or account to facilitate the foregoing transfers or deposits. Any remaining proceeds after the transfers listed above shall be transferred into the Bond Fund and used to pay debt service on the Bonds.

Section 4.02. Costs of Issuance Fund.

(A) Establishment of Costs of Issuance Fund. The Costs of Issuance Fund is hereby established as a separate fund to be held by the Fiscal Agent, to the credit of which a deposit shall be made as required by Section 4.01. Moneys in the Costs of Issuance Fund shall be held by the Fiscal Agent for the benefit of the City and shall be disbursed as provided in subsection (B) of this Section for the payment or reimbursement of Costs of Issuance.

(B) Disbursement. Amounts in the Costs of Issuance Fund shall be disbursed from time to time to pay Costs of Issuance, as set forth in a requisition substantially in the form of Exhibit C hereto, executed by the Director of Finance, containing respective amounts to be paid to the designated payees and delivered to the Fiscal Agent. Each such requisition shall be sufficient evidence to the Fiscal Agent of the facts stated therein and the Fiscal Agent shall have no duty to confirm the accuracy of such facts.

(C) Investment. Moneys in the Costs of Issuance Fund shall be invested and deposited by the Fiscal Agent under Section 6.01. Interest earnings and profits resulting from such investment shall be retained by the Fiscal Agent in the Costs of Issuance Fund to be used for the purposes of such fund.

(D) Closing of Fund. The Fiscal Agent shall maintain the Costs of Issuance Fund for a period of 90 days from the Closing Date and then the Fiscal Agent shall transfer any moneys remaining therein, including any investment

earnings thereon, to the Bond Proceeds Account of the Improvement Fund and used for the purposes thereof.

Section 4.03. 2024 Reserve Fund.

(A) Establishment of Fund. The 2024 Reserve Fund is hereby established as a separate fund to be held by the Fiscal Agent to the credit of which a deposit shall be made as required by Section 4.01, which deposit, as of the Closing Date, is equal to the initial 2024 Reserve Requirement with respect to the 2024 Bonds, and deposits shall be made as provided in Sections 3.06(C) and 4.05(A) and (B). Moneys in the 2024 Reserve Fund shall be held by the Fiscal Agent for the benefit of the Owners of the 2024 Bonds and any 2024 Related Parity Bonds as a reserve for the payment of the principal of, and interest and any premium on, the 2024 Bonds and any 2024 Related Parity Bonds and shall be subject to a lien in favor of the Owners of the 2024 Bonds and any 2024 Related Parity Bonds.

(B) Use of Reserve Fund. Except as otherwise provided in this Section, all amounts deposited in the 2024 Reserve Fund shall be used and withdrawn by the Fiscal Agent solely for the purpose of making transfers to the Bond Fund in the event of any deficiency at any time in the Bond Fund of the amount then required for payment of the principal of, and interest and any premium on, the 2024 Bonds and any 2024 Related Parity Bonds or, in accordance with the provisions of this Section, for the purpose of redeeming 2024 Bonds and any 2024 Related Parity Bonds from the Bond Fund. Whenever a transfer is made from the 2024 Reserve Fund to the Bond Fund due to a deficiency in the Bond Fund for payment of the principal of, and interest and any premium on, the 2024 Bonds and any 2024 Related Parity Bonds, the Fiscal Agent shall provide written notice thereof to the Director of Finance, specifying the amount withdrawn.

(C) Transfer of Excess of Reserve Requirement. Whenever, on or before any Interest Payment Date, or on any other date at the request of the Director of Finance, the amount in the 2024 Reserve Fund exceeds the 2024 Reserve Requirement, the Fiscal Agent shall transfer an amount equal to the excess from the 2024 Reserve Fund to the Bond Fund, to be used to pay interest on the 2024 Bonds and any 2024 Related Parity Bonds on the next Interest Payment Date.

(D) Transfer for Rebate Purposes. Amounts in the 2024 Reserve Fund shall be withdrawn for purposes of making payment to the federal government to comply with Section 5.11, upon receipt by the Fiscal Agent of an Officer's Certificate specifying the amount to be withdrawn and to the effect that such amount is needed for rebate purposes; *provided, however*, that no amounts in the 2024 Reserve Fund shall be used for rebate unless the amount in the 2024 Reserve Fund following such withdrawal equals the 2024 Reserve Requirement.

(E) Transfer When Balance Exceeds Outstanding Bonds. Whenever the balance in the 2024 Reserve Fund exceeds the amount required to redeem or pay the Outstanding 2024 Bonds and all Outstanding 2024 Related Parity Bonds, including interest accrued to the date of payment or redemption and premium, if any, due upon redemption, the Fiscal Agent shall, upon the written

request of the Director of Finance, transfer any cash or Permitted Investments in the 2024 Reserve Fund to the Bond Fund to be applied, on the redemption date to the payment and redemption, in accordance with Section 4.04 or 2.03 and the provisions of the Supplemental Agreement related to the 2024 Related Parity Bonds, as applicable, of all of the Outstanding 2024 Bonds and Outstanding 2024 Related Parity Bonds. In the event that the amount so transferred from the 2024 Reserve Fund to the Bond Fund exceeds the amount required to pay and redeem the Outstanding 2024 Bonds and Outstanding 2024 Related Parity Bonds, the balance in the 2024 Reserve Fund shall be transferred to the Director of Finance to be used by the City for any lawful purpose.

Notwithstanding the provisions of the first paragraph of this Section 4.03(E), no amounts shall be transferred from the 2024 Reserve Fund under this Section 4.03(E) until after: (i) the calculation of any amounts due to the federal government under Section 5.11 and withdrawal of any such amount under Section 4.03(D) for purposes of making such payment to the federal government; and (ii) payment of any fees and expenses due to the Fiscal Agent.

(F) Transfer Upon Special Tax Prepayment. Whenever Special Taxes are prepaid and 2024 Bonds or any 2024 Related Parity Bonds are to be redeemed with the proceeds of such prepayment pursuant to Section 2.03(A)(iii) or a Supplemental Agreement related to any 2024 Related Parity Bonds, a proportionate amount in the 2024 Reserve Fund (determined on the basis of the principal of 2024 Bonds and 2024 Related Parity Bonds to be redeemed and the then-Outstanding principal of the 2024 Bonds and 2024 Related Parity Bonds, but in any event not in excess of the amount that will leave the balance in the 2024 Reserve Fund following the proposed redemption equal to the 2024 Reserve Requirement) shall be transferred on the Business Day prior to the redemption date by the Fiscal Agent to the Bond Fund to be applied to the redemption of the 2024 Bonds pursuant to Section 2.03(A)(iii) or 2024 Related Parity Bonds pursuant to a Supplemental Agreement related to any 2024 Related Parity Bonds. The Director of Finance shall deliver to the Fiscal Agent an Officer's Certificate specifying any amount to be so transferred, and the Fiscal Agent may rely on any such Officer's Certificate.

(G) Investment. Moneys in the 2024 Reserve Fund shall be invested by the Fiscal Agent under Section 6.01.

(H) Qualified Reserve Account Credit Instruments. The City shall have the right at any time to direct the Fiscal Agent to release funds from the 2024 Reserve Fund, in whole or in part, by tendering to the Fiscal Agent: (i) a Qualified Reserve Account Credit Instrument, and (ii) an opinion of Bond Counsel stating that neither the release of such funds nor the acceptance of such Qualified Reserve Account Credit Instrument will cause interest on the 2024 Bonds or any 2024 Related Parity Bonds the interest on which is excluded from gross income of the owners thereof for federal income tax purposes to become includable in gross income for purposes of federal income taxation. Upon tender of such items to the Fiscal Agent, and upon delivery by the City to the Fiscal Agent of a written calculation of the amount permitted to be released from the 2024 Reserve Fund (upon which calculation the Fiscal Agent may conclusively rely), the Fiscal Agent shall transfer such funds from the 2024 Reserve Fund to the Bond Proceeds

Account of the Improvement Fund to be used for the purposes thereof. The Fiscal Agent shall comply with all documentation relating to a Qualified Reserve Account Credit Instrument as shall be required to maintain such Qualified Reserve Account Credit Instrument in full force and effect and as shall be required to receive payments thereunder in the event and to the extent required to make any payment when and as required under this Section. If the 2024 Reserve Requirement is being maintained partially in cash and partially with a Qualified Reserve Account Credit Instrument, the cash shall be first used to meet any deficiency which may exist from time to time in the Bond Fund with respect to the 2024 Bonds and any 2024 Related Parity Bonds. If the 2024 Reserve Requirement is being maintained with two or more Qualified Reserve Account Credit Instruments, any draw to meet a deficiency which may exist from time to time in the Bond Fund with respect to the 2024 Bonds and any 2024 Related Parity Bonds shall be pro-rata with respect to each such instrument.

In the event that a Qualified Reserve Account Credit Instrument is available to be drawn upon for only one or more particular series of Bonds, a separate subaccount in the 2024 Reserve Fund may be established for such series, and the calculation of the 2024 Reserve Requirement with respect to any other Bonds shall exclude the debt service on such issue of Bonds.

The City will have no obligation to replace a Qualified Reserve Account Credit Instrument or to fund the 2024 Reserve Fund with cash if, at any time that the 2024 Bonds are Outstanding, the Qualified Reserve Account Credit Instrument (or its provider) is downgraded or the provider becomes insolvent, if there is an unscheduled termination of the Qualified Reserve Account or if for any reason insufficient amounts are available to be drawn upon under the Qualified Reserve Account Credit Instrument; provided, however, that the City shall reimburse the provider, in accordance with the terms of the Qualified Reserve Account Credit Instrument, for any draws made thereon.

The City and the Fiscal Agent shall comply with the terms of the Qualified Reserve Account Credit Instrument as shall be required to receive payments thereunder in the event and to the extent required under this Section.

Section 4.04. Bond Fund.

(A) Establishment of Bond Fund. The Bond Fund is hereby established as a separate fund to be held by the Fiscal Agent to the credit of which deposits shall be made as required by Section 4.01, Section 4.07 and Section 4.03 and as otherwise set forth in this Agreement. Moneys in the Bond Fund shall be held by the Fiscal Agent for the benefit of the City and the Owners of the Bonds, and shall be disbursed for the payment of the principal of, and interest and any premium on, the Bonds as provided below.

Within the Bond Fund there is hereby established a separate account designated as the "2024 Capitalized Interest Account" to be held in trust by the Fiscal Agent for the benefit of the City and the Owners of the Bonds into which shall be deposited the amount specified in Section 4.01 (if any). Amounts on deposit in the 2024 Capitalized Interest Account shall be used and withdrawn by

the Fiscal Agent solely for the payment of interest on the 2024 Bonds according to the following schedule: **[to come]**.

When the amount in the 2024 Capitalized Interest Account is fully expended for the payment of interest, the account shall be closed.

There is also hereby created in the Bond Fund a separate account to be held by the Fiscal Agent, designated the "Special Tax Prepayments Account," to the credit of which deposits shall be made as provided in clause (iii) of Section 4.05(A).

(B) Deposits and Disbursements. At least 10 Business Days before each Interest Payment Date, the Fiscal Agent shall notify the Director of Finance in writing in the form of an invoice of the following: (i) the principal and premium, if any, and interest due on the Bonds on the next Interest Payment Date (whether as a result of scheduled principal of and interest on the Bonds, optional redemption of the Bonds or a mandatory sinking fund redemption), (ii) the amount in the Bond Fund (and any accounts therein) that is available to pay the amounts due on such Interest Payment Date, (iii) the amount needed to be transferred by the City to the Fiscal Agent in order for the Fiscal Agent to pay the amount due on such Interest Payment Date and (iv) the amount needed (a) to be deposited in the 2024 Reserve Fund, taking into account amounts then on deposit in the 2024 Reserve Fund, such that the amount in the 2024 Reserve Fund is equal to the 2024 Reserve Requirement, and (b) to be deposited in the reserve account for any Parity Bonds that are not 2024 Related Parity Bonds, taking into account amounts then on deposit in the such reserve account, such that the amount in such reserve account is equal to the amount required to be on deposit therein.

At least 7 Business Days prior to each Interest Payment Date, the Fiscal Agent shall transfer from the Special Tax Fund to the Bond Fund an amount equal to the lesser of (i) the amount in the Special Tax Fund and (ii) the amount described in clause (iii) of the previous paragraph.

On the fourth Business Day prior to each Interest Payment Date, the Fiscal Agent shall determine if the amounts then on deposit in the Bond Fund are sufficient to pay the Debt Service due on the Bonds on the next Interest Payment Date. In the event that amounts in the Bond Fund are insufficient for such purpose, the Fiscal Agent promptly shall notify the Director of Finance by telephone (and confirm in writing) of the amount of the insufficiency then do the following:

(i) Withdraw from the 2024 Reserve Fund, in accordance with the provisions of Section 4.03, to the extent of any funds or Permitted Investments therein, amounts to cover the amount of such Bond Fund insufficiency related to the 2024 Bonds and any 2024 Related Parity Bonds. Amounts so withdrawn from the 2024 Reserve Fund shall be deposited in the Bond Fund.

(ii) Withdraw from the reserve funds, if any, established under a Supplemental Agreement related to Parity Bonds that are not 2024 Related Parity Bonds, to the extent of any funds or Permitted Investments therein, amounts to cover the amount of such Bond Fund insufficiency

related to such Parity Bonds. Amounts so withdrawn from any such reserve fund shall be deposited in the Bond Fund.

On each Interest Payment Date, the Fiscal Agent shall withdraw from the Bond Fund and pay to the Owners of the Bonds the principal of, and interest and any premium, due and payable on such Interest Payment Date on the Bonds. If, after the foregoing transfers and application of such funds for their intended purposes, there are insufficient funds in the Bond Fund to make the payments due and payable on such Interest Payment Date, the Fiscal Agent shall apply the available funds first to the payment of interest on the Bonds, then to the payment of principal due on the Bonds other than by reason of sinking payments, if any, and then to payment of principal due on the Bonds by reason of sinking payments. Each such payment shall be made ratably to the Owners of the Bonds based on the then Outstanding principal amount of the Bonds, if there are insufficient funds to make the corresponding payment for all of the then Outstanding Bonds, subject to the restrictions on the uses of any funds as set forth in this Fiscal Agent Agreement. Any sinking payment not made as scheduled shall be added to the sinking payment to be made on the next sinking payment date.

(C) Disbursements from the Special Tax Prepayments Account.

Moneys in the Special Tax Prepayments Account shall be transferred by the Fiscal Agent to the Bond Fund on the next date for which notice of redemption of Bonds can timely be given under Section 2.03(A)(iii) and the provisions of any Supplemental Agreement related to Parity Bonds, and notice to the Fiscal Agent can timely be given under Section 2.03(B) and the provisions of any Supplemental Agreement related to Parity Bonds, and shall be used (together with any amounts transferred pursuant to Section 4.03(F)) to redeem Bonds on the redemption date selected in accordance with Section 2.03 and the provisions of any Supplemental Agreement related to Parity Bonds.

(D) Investment.

Moneys in the Bond Fund, the 2024 Capitalized Interest Account, any capitalized interest account established for Parity Bonds, and the Special Tax Prepayments Account shall be invested under Section 6.01. Interest earnings and profits resulting from such investment shall be retained in the Bond Fund.

(E) Deficiency.

If at any time it appears to the Fiscal Agent that there is a danger of deficiency in the Bond Fund and that the Fiscal Agent may be unable to pay Debt Service on the Bonds in a timely manner, the Fiscal Agent shall report to the Director of Finance such fact. The City covenants to increase the levy of the Special Taxes in the next Fiscal Year (subject to the maximum amount authorized by the Rate and Method) in accordance with the procedures set forth in the Act for the purpose of curing Bond Fund deficiencies. In no event shall the Fiscal Agent be responsible or liable for any such deficiency.

(F) Excess.

Any excess moneys remaining in the Bond Fund following the payment of Debt Service on the Bonds on any September 1 (not including any amounts in the 2024 Capitalized Interest Account or other capitalized interest account), shall be accounted for by the Fiscal Agent when it invoices the City for the next Interest Payment Date.

Section 4.05. Special Tax Fund.

(A) Establishment of Special Tax Fund. The Special Tax Fund is hereby established as a separate fund to be held by the Fiscal Agent, to the credit of which the Fiscal Agent shall deposit amounts received from or on behalf of the City consisting of Special Tax Revenues and amounts transferred from the Administrative Expense Fund and the Bond Fund. The City shall promptly remit any Special Tax Revenues received by it to the Fiscal Agent for deposit by the Fiscal Agent in the Special Tax Fund.

Moneys in the Special Tax Fund shall be held by the Fiscal Agent for the benefit of the City and Owners of the Bonds, shall be disbursed as provided below and, pending disbursement, shall be subject to a lien in favor of the Owners of the Bonds.

Notwithstanding the foregoing,

(i) Special Tax Revenues in an amount not to exceed the amount included in the Special Tax levy for such Fiscal Year for Administrative Expenses shall be separately identified by the Director of Finance and shall be deposited in the Administrative Expense Fund;

(ii) any Special Tax Revenues constituting the collection of delinquencies in payment of Special Taxes shall be separately identified by the Director of Finance and shall be disposed of by the Fiscal Agent first, for deposit in the Bond Fund to pay any past due Debt Service on the Bonds; second, without preference or priority, for deposit in the 2024 Reserve Fund to the extent needed to increase the amount then on deposit in the 2024 Reserve Fund up to the then 2024 Reserve Requirement and for deposit in the reserve account for any Parity Bonds that are not 2024 Related Parity Bonds to the extent needed to increase the amount then on deposit therein to the required level (and in the event the collection of delinquencies in payment of Special Taxes are not sufficient for the purposes of this clause, such amounts shall be applied to the 2024 Reserve Fund and any other reserve accounts ratably based on the then Outstanding principal amount of the Bonds); and third, to be held in the Special Tax Fund for use as described in Section 4.05(B) below; and

(iii) any proceeds of Special Tax Prepayments shall be separately identified by the Director of Finance and shall be deposited by the Fiscal Agent as follows: (a) that portion of any Special Tax Prepayment constituting a prepayment of construction costs (which otherwise could have been included in the proceeds of Parity Bonds) shall be deposited by the Fiscal Agent in the Bond Proceeds Account of the Improvement Fund and (b) the remaining Special Tax Prepayment shall be deposited by the Fiscal Agent in the Special Tax Prepayments Account established pursuant to Section 4.04(A).

(B) Disbursements. At least 7 Business Days prior to each Interest Payment Date, the Fiscal Agent shall withdraw from the Special Tax Fund and transfer the following amounts in the following order of priority:

(i) for deposit in the Bond Fund an amount, taking into account any amounts then on deposit in the Bond Fund and any expected transfers from the Improvement Fund, the 2024 Reserve Fund and any reserve account for Parity Bonds that are not 2024 Related Parity Bonds and the Special Tax Prepayments Account to the Bond Fund such that the amount in the Bond Fund equals the principal (including any sinking payment), premium, if any, and interest due on the Bonds on such Interest Payment Date and any past due principal or interest on the Bonds not theretofore paid from a transfer described in subparagraph (ii) of the second paragraph of Section 4.05(A),

(ii) without preference or priority (a) for deposit in the 2024 Reserve Fund an amount, taking into account amounts then on deposit in the 2024 Reserve Fund, such that the amount in the 2024 Reserve Fund is equal to the 2024 Reserve Requirement, and (b) for deposit in the reserve account for any Parity Bonds that are not 2024 Related Parity Bonds, taking into account amounts then on deposit in the such reserve account, such that the amount in such reserve account is equal to the amount required to be on deposit therein (and in the event that amounts in the Special Tax Fund are not sufficient for the purposes of this paragraph, such amounts shall be applied to the 2024 Reserve Fund and any other reserve accounts ratably based on the then Outstanding principal amount of the Bonds),

(iii) between each September 2, beginning with the initial Fiscal Year in which the Special Tax is levied in the CFD and continuing for the next ten (10) Fiscal Years thereafter, for deposit in the Remainder Taxes Account of the Improvement Fund, and

(iv) beginning on the September 2 following the period described in the previous clause (iii), the Fiscal Agent shall, as directed by the City in an Officer's Certificate (i) transfer amounts remaining on deposit in the Special Tax Fund to the City for deposit in the Administrative Expense Fund to the extent such amounts are needed to pay Administrative Expenses or (ii) apply amounts for any lawful purposes of the CFD.

(C) Investment. Moneys in the Special Tax Fund shall be invested and deposited by the Fiscal Agent at the direction of the City under Section 6.01. Interest earnings and profits resulting from such investment and deposit shall be retained in the Special Tax Fund to be used for the purposes thereof.

Section 4.07. Improvement Fund.

(A) Establishment of Improvement Fund. The Improvement Fund is hereby established as a separate fund to be held by the Fiscal Agent and to the credit of which fund deposits shall be made as required by Sections 4.01, 4.02(D), 4.03(H) and 4.05(A)(iii). The Remainder Taxes Account and the Bond Proceeds Account are hereby established as separate accounts within the Improvement Fund to be held by the Fiscal Agent.

The City may direct the Fiscal Agent to establish additional accounts within the Improvement Fund pursuant to a Supplemental Agreement.

Moneys in the Improvement Fund shall be disbursed, except as otherwise provided in subsections (B) and (D) of this Section, for the payment or reimbursement of costs of the Project.

(B) Procedure for Disbursement. Disbursements from the Improvement Fund shall be made by the Fiscal Agent upon receipt of an Officer's Certificate substantially in the form of Exhibit B attached hereto which shall:

(i) set forth the amount required to be disbursed, the purpose for which the disbursement is to be made (which shall be for payment of a Project cost or to reimburse expenditures of the City or any other party for Project costs previously paid), and the person to which the disbursement is to be paid; and

(ii) certify that no portion of the amount then being requested to be disbursed was set forth in any Officer's Certificate previously filed requesting disbursement.

Each such requisition shall be sufficient evidence to the Fiscal Agent of the facts stated therein and the Fiscal Agent shall have no duty to confirm the accuracy of such facts.

Disbursements for the payment or reimbursement of costs of the Project shall be made from the Bond Proceeds Account and the Remainder Taxes Account in the following order:

First: payments or reimbursements shall be made from the Bond Proceeds Account so long as there are moneys available therein and such costs can be paid from Bond proceeds without violating the covenants set forth in Sections 5.09-5.14 and

Second: payments or reimbursements shall be made from the Remainder Taxes Account (1) even if Bond proceeds remain in the Bond Proceeds Account, if such payment or reimbursement would violate the covenants set forth in Sections 5.09-5.14 and (2) when no Bond proceeds remain in the Bond Proceeds Account.

At the direction of the Director of Finance, and so long as such amounts have not been previously approved for payment of a Project cost, the Fiscal Agent shall transfer amounts from the Remainder Taxes Account to (1) the Bond Fund to pay Debt Service on the Bonds, (2) to the City for deposit in the Administrative Expense Fund to pay Administrative Expenses and (3) without preference or priority, the 2024 Reserve Fund to increase the amount therein to the 2024 Reserve Requirement or the reserve account for any Parity Bonds that are not 2024 Related Parity Bonds to increase the amount therein to the required amount.

(C) Investment. Moneys in the Improvement Fund shall be invested in accordance with Section 6.01. Interest earnings and profits from such investment shall be retained in the Improvement Fund to be used for the purpose of such fund.

(D) Closing of Fund. When the City believes that the Project has been completed, it shall provide a written notice to the Developers that the City believes the Project has been completed and that the Improvement Fund, Bond Proceeds Account and Remainder Taxes Account should be closed. The Developers shall have 30 days after receipt of such notice to dispute the City's finding or to concur that the Project is complete. If the Developers concur that the Project is complete, or fails to respond to the notice by the end of the 30-day period, the City may file an Officer's Certificate directing the Fiscal Agent to close the Improvement Fund, Bond Proceeds Account and Remainder Taxes Account.

Upon the filing of an Officer's Certificate with the Fiscal Agent stating that the Project has been completed and that all costs of the Project have been paid or are not required to be paid from the Improvement Fund, Bond Proceeds Account and Remainder Taxes Account, the Fiscal Agent shall transfer the amount, if any, remaining in the Improvement Fund, Bond Proceeds Account and Remainder Taxes Account to the Bond Fund for application to Debt Service payments due on the next succeeding Interest Payment Date and the Improvement Fund, Bond Proceeds Account and Remainder Taxes Account shall be closed; provided, however, the City shall not file such Officer's Certificate with the Fiscal Agent until the City has provided the Developer with thirty days' prior written notice of the intended closing of the Improvement Fund. Moneys transferred from the Improvement Fund to the Bond Fund shall be used to pay Debt Service on the Bonds in the manner specified by the City in an Officer's Certificate.

Section 4.08. Administrative Expense Fund.

(A) Establishment of Administrative Expense Fund. The Administrative Expense Fund is hereby established as a separate fund to be held by the City, to the credit of which deposits shall be made as required by Section 4.05(A). Moneys in the Administrative Expense Fund shall be held by the City and shall be disbursed as provided below.

(B) Disbursement. Amounts in the Administrative Expense Fund shall be used by the Director of Finance from time to time to pay an Administrative Expense or a Cost of Issuance or, in the discretion of the Director of Finance, may be transferred to the Special Tax Fund.

Proceeds of the 2024 Bonds (if any) deposited into the Administrative Expense Fund shall be spent before any other moneys in the Administrative Expense Fund.

(C) Investment. Moneys in the Administrative Expense Fund shall be invested by the City under Section 6.01. Interest earnings and profits resulting from such investment shall be retained by the City in the Administrative Expense Fund to be used for the purposes of such fund.

ARTICLE V
COVENANTS

Section 5.01. Collection of Special Tax Revenues. The City shall comply with all requirements of the Act so as to assure the timely collection of Special Tax Revenues, including without limitation, the enforcement of delinquent Special Taxes.

(A) Processing. On or within five (5) Business Days of each June 1, the Fiscal Agent shall provide the Director of Finance with a notice stating (i) the amount then on deposit in the Bond Fund, the 2024 Reserve Fund and any reserve account for Parity Bonds that are not 2024 Related Parity Bonds that is held by the Fiscal Agent, and (ii) if the amount in the 2024 Reserve Fund is less than the 2024 Reserve Requirement or the amount in such other reserve account held by the Fiscal Agent is less than its required amount, informing the City that replenishment of the 2024 Reserve Fund or such other reserve account is necessary. The receipt of or failure to receive such notice by the Director of Finance shall in no way affect the obligations of the Director of Finance under the following two paragraphs and the Fiscal Agent shall not be liable for failure to provide such notices to the Director of Finance. Upon receipt of such notice, the Director of Finance shall communicate with the Auditor to ascertain the relevant parcels on which the Special Taxes are to be levied, taking into account any parcel splits or combinations during the preceding and then current year.

(B) Levy. The Director of Finance shall effect the levy of the Special Taxes each Fiscal Year in accordance with the Special Tax Ordinance by each August 1 that the Bonds are outstanding, or otherwise such that the computation of the levy is complete before the final date on which the Auditor will accept the transmission of the Special Tax amounts for the parcels within the CFD for inclusion on the next real property tax roll. Upon the completion of the computation of the amounts of the levy, the Director of Finance shall prepare or cause to be prepared, and shall transmit to the Auditor, such data as the Auditor requires to include the levy of the Special Taxes on the next real property tax roll.

(C) Computation. The Director of Finance shall fix and levy the amount of Special Taxes within the CFD required to pay the following amounts, taking into account the balances in the applicable funds established under this Agreement and its obligation under Section 4(c) of the Acquisition Agreement: (i) the principal of and interest on any outstanding Bonds of the CFD becoming due and payable during the ensuing calendar year, (ii) any necessary replenishment or expenditure of the 2024 Reserve Fund and any other reserve account for Parity Bonds that are not 2024 Related Parity Bonds to the extent such replenishment has not been included in the computation of the Special Taxes in a previous Fiscal Year, (iii) the Administrative Expenses, including amounts necessary to discharge any rebate obligation, during such year, (iv) an amount to cure delinquencies in the payment of principal or interest on Bonds that occurred in the previous Fiscal Year, and (v) any Project costs to be paid from Special Taxes to the extent required by Section 4(c) of the Acquisition Agreement or permitted by the Rate and Method. The

Special Taxes so levied shall not exceed the authorized amounts as provided in the proceedings under the Resolution of Formation.

(D) Collection. Except as set forth in the Special Tax Ordinance, Special Taxes shall be payable and be collected in the same manner and at the same time and in the same installment as the general taxes on real property are payable, and have the same priority, become delinquent at the same time and in the same proportionate amounts and bear the same proportionate penalties and interest after delinquency as do the ad valorem taxes on real property. The Director of Finance is hereby authorized to employ consultants to assist in computing the levy of the Special Taxes hereunder and any reconciliation of amounts levied to amounts received. The fees and expenses of such consultants and the costs and expenses of the Director of Finance (including a charge for City staff time) in conducting its duties hereunder shall be an Administrative Expense hereunder.

Section 5.02. Covenant to Foreclose. Under the Act, the City hereby covenants with and for the benefit of the Owners of the Bonds that it will order, and cause to be commenced as hereinafter provided, and thereafter diligently prosecute to judgment (unless such delinquency is theretofore brought current), an action in the superior court to foreclose the lien of any Special Tax or installment thereof not paid when due as provided in the following two paragraphs. The Director of Finance shall notify the City Attorney of any such delinquency of which the Director of Finance is aware, and the City Attorney shall commence, or cause to be commenced, such proceedings.

On or about March 30 and June 30 of each Fiscal Year, the Director of Finance shall compare the amount of Special Taxes theretofore levied in the CFD to the amount of Special Tax Revenues theretofore received by the City, and:

(A) Individual Parcel Delinquencies. If the Director of Finance determines that any single parcel subject to the Special Tax in the CFD is delinquent in the payment of Special Taxes in the aggregate amount of \$5,000 or more, then the Director of Finance shall send or cause to be sent a notice of delinquency (and a demand for immediate payment thereof) to the property owner within 45 days of such determination, and (if the delinquency remains uncured) foreclosure proceedings shall be commenced by the City within 90 days of such determination. Notwithstanding the foregoing, the Director of Finance may defer any such actions with respect to a delinquent parcel if (1) the CFD is then participating in the Alternative Method of Distribution of Tax Levies and Collections described in Revenue & Taxation Code Section 4701 et seq., or an equivalent procedure, (2) the amount in the 2024 Reserve Fund is at least equal to the 2024 Reserve Requirement and (3) the amount in the reserve account for any Parity Bonds that are not 2024 Related Parity Bonds is at least equal to the required amount.

(B) Aggregate Delinquencies. If the Director of Finance determines that (i) the total amount of delinquent Special Tax for the prior Fiscal Year for the entire CFD (including the total of delinquencies under subsection (A) above), exceeds 5% of the total Special Tax due and payable for the prior Fiscal Year, or (ii) there are 10 or fewer owners of real property within the CFD, determined by reference to the latest available secured property tax roll of the County, the Director

of Finance shall notify or cause to be notified property owners who are then delinquent in the payment of Special Taxes (and demand immediate payment of the delinquency) within 45 days of such determination, and shall commence foreclosure proceedings within 90 days of such determination against each parcel of land in the CFD with a Special Tax delinquency.

(C) Individual Owner Delinquencies. As to any owner of more than one parcel within the CFD, if the Director of Finance determines that the aggregate amount of delinquent Special Taxes for all preceding tax years on all parcels owned by such owner (whether such parcels are owned solely by such owner or jointly by such owner and one or more others) exceeds \$5,000, then the Director of Finance shall send or cause to be sent a notice of delinquency (and a demand for immediate payment thereof) to the property owner within 45 days of such determination, and (if the delinquency remains uncured) shall commence foreclosure proceedings within 90 days of such determination, regardless of when such delinquencies occurred.

The Director of Finance and the City Attorney, as applicable, are hereby authorized to employ counsel to conduct any such foreclosure proceedings. The fees and expenses of any such counsel (including a charge for City staff time) in conducting foreclosure proceedings shall be an Administrative Expense hereunder.

Section 5.03. Punctual Payment. The City will punctually pay or cause to be paid the principal of, and interest and any premium on, the Bonds when and as due in strict conformity with the terms of this Agreement and any Supplemental Agreement, and it will faithfully observe and perform all of the conditions covenants and requirements of this Agreement and all Supplemental Agreements and of the Bonds.

Section 5.04. Extension of Time for Payment. In order to prevent any accumulation of claims for interest after maturity, the City shall not, directly or indirectly, extend or consent to the extension of the time for the payment of any claim for interest on any of the Bonds and shall not, directly or indirectly, be a party to the approval of any such arrangement by purchasing or funding said claims for interest or in any other manner. In case any such claim for interest shall be extended or funded, whether or not with the consent of the City, such claim for interest so extended or funded shall not be entitled, in case of default hereunder, to the benefits of this Agreement, except subject to the prior payment in full of the principal of all of the Bonds then Outstanding and of all claims for interest which shall not have been so extended or funded.

Section 5.05. Against Encumbrances. The City will not encumber, pledge or place any charge or lien upon any of the Special Tax Revenues or other amounts pledged to the Bonds superior to or on a parity with the pledge and lien herein created for the benefit of the Bonds, or their Owners, except as permitted by this Agreement.

Section 5.06. Books and Records.

(A) **City.** The City will keep, or cause to be kept, proper books of record and accounts, separate from all other records and accounts of the City, in which complete and correct entries shall be made of all transactions relating to the Special Tax Revenues and the funds held by the City hereunder. Such books of record and accounts shall at all times during business hours be subject to the inspection of the Fiscal Agent (who shall have no duty to inspect) and the Owners of not less than 10% of the principal amount of the Bonds then Outstanding, or their representatives duly authorized in writing.

(B) **Fiscal Agent.** The Fiscal Agent shall provide to the City such information relating to the Bonds and the funds and accounts maintained by the Fiscal Agent hereunder as the City shall reasonably request, including but not limited to monthly statements and an annual statement (as of September 1), in each case reporting funds held and transactions by the Fiscal Agent, including the value of any investments held by the Fiscal Agent. The Fiscal Agent will keep, or cause to be kept, proper books of record and accounts, separate from all other records and accounts of the Fiscal Agent, in which complete and correct entries shall be made of all transactions made by it relating to the expenditure of amounts disbursed from the funds, and, if any, accounts in such funds held by the Fiscal Agent hereunder. Such books of record and accounts shall at all times during business hours be subject to the inspection of the City and the Owners of not less than 10% of the principal amount of the Bonds then Outstanding, or their representatives duly authorized in writing upon reasonable prior notice.

Section 5.07. Protection of Security and Rights of Owners. The City will preserve and protect the security of the Bonds and the rights of the Owners, and will warrant and defend their rights against all claims and demands of all persons. From and after the delivery of any of the Bonds by the City, the Bonds shall be incontestable by the City.

Section 5.08. Further Assurances. The City 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 Owners of the rights and benefits provided in this Agreement.

Section 5.09. Private Activity Bond Limitations. The City shall assure that the proceeds of the 2024 Bonds are not so used as to cause the 2024 Bonds to satisfy the private business tests of section 141(b) of the Tax Code or the private loan financing test of section 141(c) of the Tax Code.

Section 5.10. Federal Guarantee Prohibition. The City shall not take any action or permit or suffer any action to be taken if the result of the same would be to cause the 2024 Bonds to be “federally guaranteed” within the meaning of Section 149(b) of the Tax Code.

Section 5.11. Rebate Requirement. The City shall take any and all actions necessary to assure compliance with section 148(f) of the Tax Code, relating to the rebate of excess investment earnings, if any, to the federal government, to the extent that such section is applicable to the 2024 Bonds. The Director of Finance shall take note of any investment of monies hereunder in excess of the yield on the 2024 Bonds, and shall take such actions as are necessary to ensure

compliance with this Section 5.11, such as increasing the portion of the Special Tax levy for Administrative Expenses as appropriate to have funds available in the Administrative Expense Fund to satisfy any rebate liability under this Section. If necessary to satisfy its obligations under this Section 5.11, the City may use:

- (A) Amounts in the 2024 Reserve Fund if the amount on deposit in the 2024 Reserve Fund, following the proposed transfer, is at least equal to the 2024 Reserve Requirement, and amounts in any other reserve account for Parity Bonds that are not 2024 Related Parity Bonds to the extent permitted by the Supplemental Agreement;
- (B) Amounts on deposit in the Administrative Expense Fund; and
- (C) Any other funds available to the City, including amounts advanced by the City, in its sole discretion, to be repaid as soon as practicable from amounts described in the preceding clauses (A) and (B).

Section 5.12. No Arbitrage. The City shall not take, or permit or suffer to be taken by the Fiscal Agent or otherwise, any action with respect to the proceeds of the 2024 Bonds which, if such action had been reasonably expected to have been taken, or had been deliberately and intentionally taken, on the date of issuance of the 2024 Bonds would have caused the 2024 Bonds to be “arbitrage bonds” within the meaning of section 148 of the Tax Code.

Section 5.13. Yield of the 2024 Bonds. In determining the yield of the 2024 Bonds to comply with Sections 5.11 and 5.12, the City will take into account redemption (including premium, if any) in advance of maturity based on the reasonable expectations of the City, as of the Closing Date, regarding prepayments of Special Taxes and use of prepayments for redemption of the 2024 Bonds, without regard to whether or not prepayments are received or 2024 Bonds redeemed.

Section 5.14. Maintenance of Tax-Exemption; Record Retention; Compliance with Tax Certificate.

(A) The City shall take all actions necessary to assure the exclusion of interest on the 2024 Bonds from the gross income of the Owners of the 2024 Bonds to the same extent as such interest is permitted to be excluded from gross income under the Tax Code as in effect on the date of issuance of the 2024 Bonds.

(B) The City will retain its records of all accounting and monitoring it carries out with respect to the 2024 Bonds for at least 3 years after the 2024 Bonds mature or are redeemed (whichever is earlier); however, if the 2024 Bonds are redeemed and refunded, the City will retain its records of accounting and monitoring at least 3 years after the earlier of the maturity or redemption of the obligations that refunded the 2024 Bonds.

(C) The City will comply with the provisions of the Certificate as to Arbitrage and the Certificate Regarding Use of Proceeds with respect to the 2024 Bonds, which are incorporated herein as if fully set forth herein. The covenants of this paragraph will survive payment in full or defeasance of the 2024 Bonds.

Section 5.15. Continuing Disclosure. The City hereby covenants and agrees that it will comply with and carry out all of the provisions of the Continuing Disclosure Certificate. Notwithstanding any other provision of this Agreement, failure of the City to comply with the

Continuing Disclosure Certificate shall not be considered an event of default for the purposes of this Agreement. However, any Owner or Beneficial Owner of the 2024 Bonds may take such actions as may be necessary and appropriate to compel performance, including seeking mandate or specific performance by court order.

One or more owners of the real property in the CFD as of the Closing Date may also have executed a continuing disclosure agreement for the benefit of the holders and Beneficial Owners of the 2024 Bonds. Any Participating Underwriter or Holder or Beneficial Owner may take such actions as may be necessary and appropriate directly against any such landowner to compel performance by it of its obligations thereunder, including seeking mandate or specific performance by court order; however the City shall have no obligation whatsoever to enforce any obligations under any such agreement.

Section 5.16. Limits on Special Tax Waivers and Bond Tenders. The City covenants not to exercise its rights under the Act to waive delinquency and redemption penalties related to the Special Taxes or to declare a Special Tax penalties amnesty program if to do so would materially and adversely affect the interests of the Owners of the Bonds and further covenants not to permit the tender of Bonds in payment of any Special Taxes except upon receipt of a certificate of an Independent Financial Consultant that to accept such tender will not result in the City having insufficient Special Tax Revenues to pay the principal of and interest on the Bonds and any Parity Bonds remaining Outstanding following such tender.

Section 5.17. City Bid at Foreclosure Sale. The City will not bid at a foreclosure sale of property in respect of delinquent Special Taxes, unless it expressly agrees to take the property subject to the lien for Special Taxes imposed by the City and that the Special Taxes levied on the property are payable while the City owns the property.

Section 5.18. Limitation on Principal Amount of Parity Bonds. Following issuance of the 2024 Bonds, the City will not issue more than \$_____ initial principal amount of Parity Bonds (exclusive of any Refunding Bonds).

Section 5.19. Amendment of Rate and Method.

(A) General. The City shall not initiate proceedings under the Act to modify the Rate and Method if such modification would adversely affect the security for the Bonds. If an initiative is adopted that purports to modify the Rate and Method in a manner that would adversely affect the security for the Bonds, the City shall, to the extent permitted by law, commence and pursue reasonable legal actions to prevent the modification of the Rate and Method in a manner that would adversely affect the security for the Bonds.

(B) Exception. Notwithstanding clause (A) of this section, the City may initiate proceedings to reduce the maximum Special Tax rates under the Rate and Method, if, in connection therewith: (i) the City receives a certificate from one or more Independent Financial Consultants which, when taken together, certify that, on the basis of the parcels of land and improvements existing in the CFD as of the July 1 preceding the reduction, the maximum amount of the Special Tax which may be levied on then-existing Taxable Property (as such term is defined in the Rate and Method) in each Bond Year for any Bonds and Parity Bonds Outstanding will equal at least the sum of the estimated Administrative Expenses and 110% of Debt Service in each Bond Year on all Bonds and Parity Bonds to remain Outstanding after the reduction is approved; (ii) the reduction does not adversely affect the financing of the Project and (iii) the City is not delinquent in the payment of the principal of or interest on the Bonds or any Parity Bonds.

For purposes of estimating Administrative Expenses for the foregoing calculation, the Independent Financial Consultant will compute the Administrative Expenses for the current Fiscal Year and escalate such amounts by 2% in each subsequent Fiscal Year.

ARTICLE VI

INVESTMENTS; LIABILITY OF THE CITY

Section 6.01. Deposit and Investment of Moneys in Funds.

(A) Moneys Held by the Fiscal Agent. Moneys in any fund or account created or established by this Agreement and held by the Fiscal Agent shall be invested by the Fiscal Agent in Permitted Investments, which in any event by their terms mature prior to the date on which such moneys are required to be paid out hereunder, as directed pursuant to an Officer's Certificate filed with the Fiscal Agent at least two Business Days in advance of the making of such investments. In the absence of any such Officer's Certificate, the Fiscal Agent shall hold such funds uninvested. The Director of Finance shall make note of any investment of funds hereunder in excess of the yield on the Bonds so that appropriate actions can be taken to assure compliance with Section 5.11. The parties hereto acknowledge that the Fiscal Agent is not providing investment supervision, recommendations, or advice.

(B) Moneys Held by the City. Moneys in any fund or account created or established by this Agreement and held by the City shall be invested by the City in any Permitted Investment or in any other lawful investment for City funds, which in any event by its terms matures prior to the date on which such moneys are required to be paid out hereunder. Obligations purchased as an investment of moneys in any fund shall be deemed to be part of such fund or account, subject, however, to the requirements of this Agreement for transfer of interest earnings and profits resulting from investment of amounts in funds and accounts. Whenever in this Agreement any moneys are required to be transferred by the City to the Fiscal Agent, such transfer may be accomplished by transferring a like amount of Permitted Investments.

(C) Actions of Officials. The Fiscal Agent and its affiliates or the Director of Finance may act as sponsor, advisor, depository, principal or agent in the acquisition or disposition of any investment. Neither the Fiscal Agent nor the Director of Finance shall incur any liability for losses arising from any investments made pursuant to this Section. The Fiscal Agent shall not be required to determine the legality or suitability of any investments.

(D) Valuation of Investments. Except as otherwise provided in the next sentence, all investments of amounts deposited in any fund or account created by or pursuant to this Agreement, or otherwise containing gross proceeds of the Bonds (within the meaning of section 148 of the Tax Code) shall be acquired, disposed of, and valued (as of the date that valuation is required by this Agreement or the Tax Code) at Fair Market Value. Investments in funds or accounts (or portions thereof) that are subject to a yield restriction under the applicable provisions of the Tax Code and (unless valuation is undertaken at least annually) investments in the 2024 Reserve Fund and any other reserve account for Parity Bonds that are not 2024 Related Parity Bonds shall be valued at their present value (within the meaning of section 148 of the Tax Code). The Fiscal Agent shall not be liable for verification of the application of such sections of the Tax Code or for any determination of Fair Market Value or present value and may conclusively rely upon an Officer's Certificate as to such valuations. The Fiscal Agent may use and rely conclusively and without liability upon any generally recognized pricing information service (including brokers and dealers in securities) available to it.

(E) Commingled Money. Investments in any and all funds and accounts may be commingled in a separate fund or funds for purposes of making, holding and disposing of investments, notwithstanding provisions herein for transfer to or holding in or to the credit of particular funds or accounts of amounts received or held by the Fiscal Agent or the Director of Finance hereunder, provided that the Fiscal Agent or the Director of Finance, as applicable, shall at all times account for such investments strictly in accordance with the funds and accounts to which they are credited and otherwise as provided in this Agreement.

(F) Confirmations Waiver. The City acknowledges that to the extent regulations of the Comptroller of the Currency or other applicable regulatory entity grant the City the right to receive brokerage confirmations of security transactions as they occur, the City specifically waives receipt of such confirmations to the extent permitted by law. The Fiscal Agent will furnish the City periodic cash transaction statements which shall include detail for all investment transactions made by the Fiscal Agent hereunder.

(G) Sale of Investments. The Fiscal Agent or the Director of Finance, as applicable, shall sell at Fair Market Value, or present for redemption, any investment security whenever it shall be necessary to provide moneys to meet any required payment, transfer, withdrawal or disbursement from the fund or account to which such investment security is credited and neither the Fiscal Agent nor the Director of Finance shall be liable or responsible for any loss resulting from the acquisition or disposition of such investment security in accordance herewith.

Section 6.02. Liability of City.

(A) General. The City shall not incur any responsibility or liability in respect of the Bonds or this Agreement other than in connection with the duties or obligations explicitly herein or in the Bonds assigned to or imposed upon it. The City shall not be liable in connection with the performance of its duties hereunder, except for its own negligence or willful default. The City shall not be bound to ascertain or inquire as to the performance or observance of any of the terms, conditions, covenants or agreements of the Fiscal Agent herein or of any of the documents executed by the Fiscal Agent in connection with the Bonds, or as to the existence of a default or event of default thereunder.

(B) Reliance. In the absence of bad faith, the City, including the Director of Finance, may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon certificates or opinions furnished to the City by the Fiscal Agent or an Independent Financial Consultant and conforming to the requirements of this Agreement. The City, including the Director of Finance, shall not be liable for any error of judgment made in good faith unless it shall be proved that it was negligent in ascertaining the pertinent facts. The City may rely and shall be protected in acting or refraining from acting upon any notice, resolution, request, consent, order, certificate, report, warrant, bond or other paper or document believed by it to be genuine and to have been signed or presented by the proper party or proper parties. The City may consult with counsel, who may be the City Attorney, with regard to legal questions, and the opinion of such counsel shall be full and complete authorization and protection in respect of any action taken or suffered by it hereunder in good faith and in accordance therewith.

(C) No General Liability. No provision of this Agreement shall require the City to expend or risk its own general funds or otherwise incur any financial liability (other than with respect to the Special Tax Revenues) in the performance of any of its obligations hereunder, or in the exercise of any of its rights or powers, if it shall have reasonable grounds for believing that

repayment of such funds or adequate indemnity against such risk or liability is not reasonably assured to it.

(D) Owner of Bonds. The City shall not be bound to recognize any person as the Owner of a Bond unless and until such Bond is submitted for inspection, if required, and his title thereto satisfactorily established, if disputed.

Section 6.03. Employment of Agents by City. In order to perform its duties and obligations hereunder, the City may employ such persons or entities as it deems necessary or advisable. The City shall not be liable for any of the acts or omissions of such persons or entities employed by it in good faith hereunder, and shall be entitled to rely, and shall be fully protected in doing so, upon the opinions, calculations, determinations and directions of such persons or entities.

ARTICLE VII

THE FISCAL AGENT

Section 7.01. The Fiscal Agent.

(A) Appointment. The Fiscal Agent is hereby appointed as the fiscal, authentication, paying and transfer agent hereunder for the Bonds. The Fiscal Agent undertakes to perform such duties, and only such duties, as are specifically set forth in this Agreement, and no implied duties, covenants or obligations shall be read into this Agreement against the Fiscal Agent. These duties shall be deemed purely ministerial in nature, and the Fiscal Agent 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 Fiscal Agent. The permissive rights of the Fiscal Agent to do things enumerated in this Agreement shall not be construed as a duty and, with respect to such permissive rights, the Fiscal Agent shall not be answerable for other than its negligence or willful misconduct.

(B) Merger. Any company into which the Fiscal Agent 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 Fiscal Agent may sell or transfer all or substantially all of its corporate trust business, provided such company shall be eligible under the following paragraph of this Section 7.01 shall be the successor to such Fiscal Agent without the execution or filing of any paper or any further act, anything herein to the contrary notwithstanding. The Fiscal Agent shall give the Director of Finance written notice of any such succession hereunder.

(C) Removal. Upon 30 days written notice, the City may remove the Fiscal Agent initially appointed, and any successor thereto, and may appoint a successor or successors thereto, but any such successor shall be a bank, national banking association or trust company having a combined capital (exclusive of borrowed capital) and surplus of at least \$50,000,000, and subject to supervision or examination by federal or state authority. If such bank, national banking association or trust company publishes a report of condition at least annually, pursuant to law or to the requirements of any supervising or examining authority above referred to, then for the purposes of this Section 7.01, combined capital and surplus of such bank, national banking association or trust company shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published.

(D) Resignation. The Fiscal Agent may at any time resign and be discharged from its duties and obligations hereunder by giving sixty (60) days' written notice to the City by certified mail return receipt requested, and by giving to the Owners notice by electronic means of such resignation. Upon receiving notice of such resignation, the City shall promptly appoint a successor Fiscal Agent by an instrument in writing. Any resignation or removal of the Fiscal Agent shall become effective upon acceptance of appointment by the successor Fiscal Agent.

(E) No Successor. If no appointment of a successor Fiscal Agent shall be made pursuant to the foregoing provisions of this Section 7.01 within forty-five (45) days after the Fiscal Agent shall have given to the City written notice or after a vacancy in the office of the Fiscal Agent shall have occurred by reason of its inability to act, the Fiscal Agent, at the expense of the City, or any Owner may apply to any court of competent jurisdiction to appoint a successor Fiscal Agent

and for other appropriate relief. Said court may thereupon, after such notice, if any, as such court may deem proper, appoint a successor Fiscal Agent and grant any such other relief.

(F) Court Order. If, by reason of the judgment of any court, the Fiscal Agent is rendered unable to perform its duties hereunder, all such duties and all of the rights and powers of the Fiscal Agent hereunder shall be assumed by and vest in the Director of Finance of the City in trust for the benefit of the Owners. The City covenants for the direct benefit of the Owners that its Director of Finance in such case shall be vested with all of the rights and powers of the Fiscal Agent hereunder, and shall assume all of the responsibilities and perform all of the duties of the Fiscal Agent hereunder, in trust for the benefit of the Owners of the Bonds.

Section 7.02. Liability of Fiscal Agent.

(A) General. The recitals of facts, covenants and agreements herein and in the Bonds contained shall be taken as statements, covenants and agreements of the City, and the Fiscal Agent assumes no responsibility for the correctness of the same, nor makes any representations as to the validity or sufficiency of this Agreement or of the Bonds, nor shall the Fiscal Agent incur any responsibility in respect thereof, other than in connection with the duties or obligations herein or in the Bonds assigned to or imposed upon it. The Fiscal Agent shall not be liable in connection with the performance of its duties hereunder, except for its own negligence or willful misconduct. The Fiscal Agent assumes no responsibility or liability for any information, statement or recital in any offering memorandum or other disclosure material prepared or distributed with respect to the issuance of the Bonds. All indemnifications and releases from liability granted to the Fiscal Agent hereunder shall extend to the directors, officers and employees of the Fiscal Agent.

The Fiscal Agent shall not be considered in breach of or in default in its obligations hereunder or progress in respect thereto in the event of delay in the performance of such obligations due to unforeseeable causes beyond its control, 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, inability to procure or general sabotage or rationing of labor, equipment, facilities, sources of energy, material or supplies in the open market, 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 suppliers or subcontractors due to such causes or any similar event and/or occurrences beyond the control of the Fiscal Agent.

(B) Reliance. The Fiscal Agent may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon certificates, documents, written instructions or opinions furnished to the Fiscal Agent and conforming to the requirements of this Agreement; but in the case of any such certificates, documents, written instructions or opinions by which any provision hereof are specifically required to be furnished to the Fiscal Agent, the Fiscal Agent shall be under a duty to examine the same to determine whether or not they conform to the requirements of this Agreement. Except as provided above in this paragraph, the Fiscal Agent shall be protected and shall incur no liability in acting or proceeding, or in not acting or not proceeding, in accordance with the terms of this Agreement, upon any resolution, order, judgment, decree, notice, request, consent or waiver, certificate, statement, affidavit, facsimile transmission, electronic mail, or other paper or document which it shall reasonably believe to be genuine and to have been adopted or signed by the proper person or to have been prepared and furnished pursuant to any provision of this Agreement (not only as to due execution, validity and effectiveness, but also as to the truth and accuracy of any information contained therein), and the

Fiscal Agent shall not be under any duty to make any investigation or inquiry as to any statements contained or matters referred to in any such instrument.

(C) No Duty to Inquire. The Fiscal Agent shall not be bound to ascertain or inquire as to the performance or observance of any of the terms, conditions, covenants or agreements of the City or the CFD herein or of any of the documents executed by the City or the CFD in connection with the Bonds, or as to the existence of a default or event of default thereunder. The Fiscal Agent shall not be charged with knowledge of any default under this Agreement or any other agreement unless a responsible officer of the Fiscal Agent shall have actual knowledge thereof. Neither the Fiscal Agent nor any of its directors, officers, employees, agents or affiliates shall be responsible for nor have any duty to monitor the performance or any action of the City, the CFD, any Owner, or any of their directors, members, officers, agents, affiliates or employee, nor shall it have any liability in connection with the malfeasance or nonfeasance by such party. The Fiscal Agent may assume performance by all such persons of their respective obligations. The Fiscal Agent shall have no enforcement or notification obligations relating to breaches of representations or warranties of any other person.

(D) Errors in Judgment. The Fiscal Agent shall not be liable for any action taken or error of judgment made in good faith by a responsible officer of the Fiscal Agent unless it shall be proved that the Fiscal Agent was negligent in ascertaining the pertinent facts. In no event shall the Fiscal Agent be responsible or liable for special, indirect, punitive, incidental or consequential loss or damage of any kind whatsoever (including, but not limited to, loss of profit) irrespective of whether the Fiscal Agent has been advised of the likelihood of such loss or damage and regardless of the form of action.

(E) No Expenditures. No provision of this Agreement shall require the Fiscal Agent 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 any of its rights or powers.

(F) No Action. The Fiscal Agent shall be under no obligation to exercise any of the rights or powers vested in it by this Agreement at the request or direction of any of the Owners under this Agreement. The Fiscal Agent shall be under no obligation to exercise any of the rights or powers vested in it by this Agreement at the request or direction of any of the Owners pursuant to this Agreement unless such Owners shall have offered to the Fiscal Agent security or indemnity satisfactory to the Fiscal Agent in its sole and absolute discretion against the costs, expenses and liabilities which might be incurred by it in compliance with such request or direction.

(G) Owner of Bonds. The Fiscal Agent may become the owner of the Bonds with the same rights it would have if it were not the Fiscal Agent.

Section 7.03. Reserved.

Section 7.04. Notice to Fiscal Agent. The Fiscal Agent may rely and shall be protected in acting or refraining from acting upon any notice, resolution, request, consent, order, judgment, decree, certificate, facsimile transmission, electronic mail, written instructions, report, warrant, bond or other paper or document believed by it to be genuine and to have been signed or presented by the proper party or proper parties, not only as to due execution, validity and effectiveness, but also as to the truth and accuracy of any information contained therein.

The Fiscal Agent may consult with counsel, who may be the City Attorney, with regard to legal questions, and the opinion of such counsel shall be full and complete authorization and

protection in respect of any action taken, suffered or omitted by it hereunder in accordance therewith.

The Fiscal Agent shall not be bound to recognize any person as the Owner of a Bond unless and until such Bond is submitted for inspection, if required, and his title thereto satisfactorily established, if disputed.

The Fiscal Agent may, at the expense of the City, request, rely on and act in accordance with officer's certificates and/or opinions of counsel, and shall incur no liability and shall be fully protected in acting or refraining from acting in accordance with such officer's certificates and opinions of counsel. Whenever in the administration of its duties under this Agreement the Fiscal Agent 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 by an Officer's Certificate of the City, and such certificate shall be full warrant to the Fiscal Agent for any action taken or suffered under the provisions of this Agreement or any Supplemental Agreement upon the faith thereof, but in its discretion the Fiscal Agent may, in lieu thereof, accept other evidence of such matter or may require such additional evidence as to it may seem reasonable.

The Fiscal Agent shall be entitled to request and receive written instructions from the City and/or the Owners 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 Fiscal Agent in accordance with the written direction of any such parties. The Fiscal Agent shall have the right to accept and act upon instructions, including funds transfer instructions ("Instructions") given pursuant to this Agreement and delivered using Electronic Means ("Electronic Means" shall mean the following communications methods: e-mail, facsimile transmission, secure electronic transmission containing applicable authorization codes, passwords and/or authentication keys issued by the Fiscal Agent, or another method or system specified by the Fiscal Agent as available for use in connection with its services hereunder); provided, however, that the City shall provide to the Fiscal Agent an incumbency certificate listing officers with the authority to provide such Instructions ("Authorized Officers") and containing specimen signatures of such Authorized Officers, which incumbency certificate shall be amended by the City whenever a person is to be added or deleted from the listing. If the City elects to give the Fiscal Agent Instructions using Electronic Means and the Fiscal Agent in its discretion elects to act upon such Instructions, the Fiscal Agent's understanding of such Instructions shall be deemed controlling. The City understands and agrees that the Fiscal Agent cannot determine the identity of the actual sender of such Instructions and that the Fiscal Agent shall conclusively presume that directions that purport to have been sent by an Authorized Officer listed on the incumbency certificate provided to the Fiscal Agent have been sent by such Authorized Officer. The City shall be responsible for ensuring that only Authorized Officers transmit such Instructions to the Fiscal Agent and that the City and all Authorized Officers are solely responsible to safeguard the use and confidentiality of applicable user and authorization codes, passwords and/or authentication keys upon receipt by the City. The Fiscal Agent shall not be liable for any losses, costs or expenses arising directly or indirectly from the Fiscal Agent's reliance upon and compliance with such Instructions notwithstanding such directions conflict or are inconsistent with a subsequent written instruction. The City agrees: (i) to assume all risks arising out of the use of Electronic Means to submit Instructions to the Fiscal Agent, including without limitation the risk of the Fiscal Agent acting on unauthorized Instructions, and the risk of interception and misuse by third parties; (ii) that it is fully informed of the protections and risks associated with the various methods of transmitting Instructions to the Fiscal Agent and that there may be more secure methods of transmitting Instructions than the method(s) selected by the City; (iii) that the security procedures (if any) to be followed in connection with its transmission of

Instructions provide to it a commercially reasonable degree of protection in light of its particular needs and circumstances; and (iv) to notify the Fiscal Agent immediately upon learning of any compromise or unauthorized use of the security procedures.

The Fiscal Agent shall not be concerned with or accountable to anyone for the subsequent use or application of any moneys which shall be released or withdrawn in accordance with the provisions hereof.

The Fiscal Agent may act through attorneys or agents and shall not be responsible for the acts or omissions of any such attorney or agent appointed with due care. The Fiscal Agent shall be entitled to rely on and shall not be liable for any action taken or omitted to be taken by the Fiscal Agent in accordance with the advice of counsel or other professionals retained or consulted by the Fiscal Agent.

The permissive right of the Fiscal Agent to do things enumerated in this Agreement shall not be construed as a duty and it shall not be answerable for such actions other than as a result of its negligence or willful misconduct.

Section 7.05. Compensation, Indemnification. The City shall pay to the Fiscal Agent from time to time reasonable compensation for all services rendered as Fiscal Agent under this Agreement, and also all reasonable expenses, charges, counsel fees and expenses and other disbursements, including those of its attorneys (including the allocated costs of in-house attorneys), agents and employees, incurred in and about the performance of their powers and duties under this Agreement, but the Fiscal Agent shall not have a lien therefor on any funds at any time held by it under this Agreement. The City further agrees, to the extent permitted by applicable law, to indemnify and save the Fiscal Agent, its officers, employees, directors and agents harmless against any liabilities, costs, claims or expenses, including fees and expenses of its attorneys, which it may incur in the exercise and performance of its powers and duties hereunder which are not due to its negligence or willful misconduct. The obligations of the City under this Section shall survive resignation or removal of the Fiscal Agent under this Agreement, and payment of the Bonds and discharge of this Agreement, but any monetary obligation of the City arising under this Section shall be limited solely to amounts on deposit in the Administrative Expense Fund.

ARTICLE VIII

MODIFICATION OR AMENDMENT

Section 8.01. Amendments Permitted.

(A) With Consent. This Agreement and the rights and obligations of the City and of the Owners of the Bonds may be modified or amended at any time by a Supplemental Agreement pursuant to the affirmative vote at a meeting of Owners, or with the written consent without a meeting, of the Owners of at least 60% in aggregate principal amount of the Bonds then Outstanding, exclusive of Bonds disqualified as provided in Section 8.04. No such modification or amendment shall (i) extend the maturity of any Bond or reduce the interest rate thereon, or otherwise alter or impair the obligation of the City to pay the principal of, and the interest and any premium on, any Bond, without the express consent of the Owner of such Bond, or (ii) permit the creation by the City of any pledge or lien upon the Special Taxes superior to or on a parity with the pledge and lien created for the benefit of the Bonds (except as otherwise permitted by the Act, the laws of the State of California or this Agreement), or reduce the percentage of Bonds required for the amendment hereof.

(B) Without Consent. This Agreement and the rights and obligations of the City and of the Owners may also be modified or amended at any time by a Supplemental Agreement, without the consent of any Owners, only to the extent permitted by law and only for any one or more of the following purposes:

(i) to add to the covenants and agreements of the City herein, other covenants and agreements thereafter to be observed, or to limit or surrender any right or power herein reserved to or conferred upon the City;

(ii) to make modifications not adversely affecting any Outstanding Bonds in any material respect as evidenced by the opinion of counsel delivered pursuant to Section 8.01(C) hereof;

(iii) to make such provisions for the purpose of curing any ambiguity, or of curing, correcting or supplementing any defective provision contained in this Agreement, or in regard to questions arising under this Agreement, as the City and the Fiscal Agent may deem necessary or desirable and not inconsistent with this Agreement, and which shall not materially adversely affect the rights of the Owners of the Bonds as evidenced by the opinion of counsel delivered pursuant to Section 8.01(C) hereof;

(iv) to make such additions, deletions or modifications as may be necessary or desirable to assure exclusion from gross income for federal income tax purposes of interest on the Bonds;

(v) in connection with the issuance of any Parity Bonds under and pursuant to Section 3.06.

(C) Fiscal Agent's Consent. Any amendment of this Agreement may not modify any of the rights or obligations of the Fiscal Agent without its written consent. The Fiscal Agent shall be furnished an opinion of counsel that any such Supplemental Agreement entered into by the

City and the Fiscal Agent complies with the provisions of this Section 8.01 and the Fiscal Agent may conclusively rely on such opinion and shall be absolutely protected in so relying.

Section 8.02. Owners' Meetings. The City may at any time call a meeting of the Owners. In such event the City is authorized to fix the time and place of said meeting and to provide for the giving of notice thereof and to fix and adopt rules and regulations for the conduct of said meeting.

Section 8.03. Procedure for Amendment with Written Consent of Owners. The City and the Fiscal Agent may at any time adopt a Supplemental Agreement amending the provisions of the Bonds or of this Agreement or any Supplemental Agreement, to the extent that such amendment is permitted by Section 8.01(A), to take effect when and as provided in this Section 8.03. A copy of such Supplemental Agreement, together with a request to Owners for their consent thereto, shall be mailed by first class mail, by the Fiscal Agent, at the expense of the City, to each Owner of Bonds Outstanding, but failure to mail copies of such Supplemental Agreement and request shall not affect the validity of the Supplemental Agreement when assented to as in this Section 8.03 provided.

Such Supplemental Agreement shall not become effective unless there shall be filed with the Fiscal Agent the written consents of the Owners of at least 60% in aggregate principal amount of the Bonds then Outstanding (exclusive of Bonds disqualified as provided in Section 8.04) and a notice shall have been mailed as hereinafter in this Section 8.03 provided. Each such consent shall be effective only if accompanied by proof of ownership of the Bonds for which such consent is given, which proof shall be such as is permitted by Section 9.04. Any such consent shall be binding upon the Owner of the Bonds giving such consent and on any subsequent Owner (whether or not such subsequent Owner has notice thereof) unless such consent is revoked in writing by the Owner giving such consent or a subsequent Owner by filing such revocation with the Fiscal Agent prior to the date when the notice hereinafter in this Section 8.03 provided for has been mailed.

After the Owners of the required percentage of Bonds shall have filed their consents to the Supplemental Agreement, the City shall mail a notice to the Owners in the manner hereinbefore provided in this Section 8.03 for the mailing of the Supplemental Agreement, stating in substance that the Supplemental Agreement has been consented to by the Owners of the required percentage of Bonds and will be effective as provided in this Section 8.03 (but failure to mail copies of said notice shall not affect the validity of the Supplemental Agreement or consents thereto). Proof of the mailing of such notice shall be filed with the Fiscal Agent. A record, consisting of the papers required by this Section 8.03 to be filed with the Fiscal Agent, shall be proof of the matters therein stated until the contrary is proved. The Supplemental Agreement shall become effective upon the filing with the Fiscal Agent of the proof of mailing of such notice, and the Supplemental Agreement shall be deemed conclusively binding (except as otherwise hereinabove specifically provided in this Article) upon the City and the Owners of all Bonds at the expiration of 60 days after such filing, except in the event of a final decree of a court of competent jurisdiction setting aside such consent in a legal action or equitable proceeding for such purpose commenced within such 60-day period.

Section 8.04. Disqualified Bonds. Bonds owned or held for the account of the City, excepting any pension or retirement fund, shall not be deemed Outstanding for the purpose of any vote, consent or other action or any calculation of Outstanding Bonds provided for in this Article VIII, and shall not be entitled to vote upon, consent to, or take any other action provided for in this Article VIII; except that in determining whether the Fiscal Agent shall be protected in

relying upon any such demand, request, direction, consent or waiver of an Owner, only Bonds which the Fiscal Agent actually knows to be so owned or held shall be disregarded unless all Bonds are so owned or held, in which case such Bonds shall be considered Outstanding for the purpose of such determination. Upon request of the Fiscal Agent, the City shall specify in a certificate to the Fiscal Agent those Bonds disqualified pursuant to this Section and the Fiscal Agent may conclusively rely on such certificate.

Section 8.05. Effect of Supplemental Agreement. From and after the time any Supplemental Agreement becomes effective under this Article VIII, this Agreement shall be deemed to be modified and amended in accordance therewith, the respective rights, duties and obligations under this Agreement of the City, the Fiscal Agent and all Owners of Bonds Outstanding shall thereafter be determined, exercised and enforced hereunder subject in all respects to such modifications and amendments, and all the terms and conditions of any such Supplemental Agreement shall be deemed to be part of the terms and conditions of this Agreement for any and all purposes.

Section 8.06. Endorsement or Replacement of Bonds Issued After Amendments. The City may determine that Bonds issued and delivered after the effective date of any action taken as provided in this Article VIII shall bear a notation, by endorsement or otherwise, in form approved by the City, as to such action. In that case, upon demand of the Owner of any Bond Outstanding at such effective date and upon presentation of his Bond for that purpose at the Principal Office of the Fiscal Agent or at such other office as the City may select and designate for that purpose, a suitable notation shall be made on such Bond. The City may determine that new Bonds, so modified as in the opinion of the City is necessary to conform to such Owners' action, shall be prepared, executed and delivered. In that case, upon demand of the Owner of any Bonds then Outstanding, such new Bonds shall be exchanged at the Principal Office of the Fiscal Agent without cost to any Owner, for Bonds then Outstanding, upon surrender of such Bonds.

Section 8.07. Amendatory Endorsement of Bonds. The provisions of this Article VIII shall not prevent any Owner from accepting any amendment as to the particular Bonds held by him, provided that due notation thereof is made on such Bonds.

ARTICLE IX

MISCELLANEOUS

Section 9.01. Benefits of Agreement Limited to Parties. Nothing in this Agreement, expressed or implied, is intended to give to any person other than the City, the Fiscal Agent and the Owners, any right, remedy, claim under or by reason of this Agreement. Any covenants, stipulations, promises or agreements in this Agreement contained by and on behalf of the City shall be for the sole and exclusive benefit of the Owners and the Fiscal Agent.

Section 9.02. Successor and Predecessor. Whenever in this Agreement or any Supplemental Agreement either the City or the Fiscal Agent is named or referred to, such reference shall be deemed to include the successors or assigns thereof, and all the covenants and agreements in this Agreement contained by or on behalf of the City or the Fiscal Agent shall bind and inure to the benefit of the respective successors and assigns thereof whether so expressed or not.

Section 9.03. Discharge of Agreement. The City may pay and discharge the entire indebtedness on all or a portion of the Bonds Outstanding in any one or more of the following ways:

(A) by paying or causing to be paid the principal of, and interest and any premium on, such Bonds Outstanding, as and when the same become due and payable;

(B) by depositing with the Fiscal Agent at or before maturity, money which, together with the amounts then on deposit in the funds and accounts provided for in the Bond Fund and the 2024 Reserve Fund hereof, is fully sufficient to pay such Bonds Outstanding, including all principal, interest and redemption premiums; or

(C) by irrevocably depositing with the Fiscal Agent cash and/or Federal Securities in such amount as the City shall determine, as confirmed by an independent certified public accountant in writing, will, together with the interest to accrue thereon and moneys then on deposit in the fund and accounts provided for in the Bond Fund, the 2024 Reserve Fund or such other reserve account for Parity Bonds that are not 2024 Related Parity Bonds (to the extent invested in Federal Securities), be fully sufficient to pay and discharge the indebtedness on such Bonds (including all principal, interest and redemption premiums) at or before their respective maturity dates.

If the City shall have taken any of the actions specified in (A), (B) or (C) above, and if such Bonds are to be redeemed prior to the maturity thereof and notice of such redemption shall have been given as in this Agreement provided or provision satisfactory to the Fiscal Agent shall have been made for the giving of such notice, then, at the election of the City, and notwithstanding that any such Bonds shall not have been surrendered for payment, the pledge of the Special Taxes and other funds provided for in this Agreement and all other obligations of the City under this Agreement with respect to such Bonds Outstanding shall cease and terminate. Notice of such election shall be filed with the Fiscal Agent.

Notwithstanding the foregoing, the following obligations and pledges of the City shall continue in any event: (i) the obligation of the City to pay or cause to be paid to the Owners of the Bonds not so surrendered and paid all sums due thereon, (ii) the obligation of the City to pay amounts owing to the Fiscal Agent pursuant to Section 7.05, and (iii) the obligation of the City to assure that no action is taken or failed to be taken if such action or failure adversely affects the exclusion of interest on the Bonds from gross income for federal income tax purposes.

Upon compliance by the City with the foregoing with respect to all Bonds Outstanding, any funds held by the Fiscal Agent after payment of all fees and expenses of the Fiscal Agent, which are not required for the purposes of the preceding paragraph, shall be paid over to the City and any Special Taxes thereafter received by the City shall not be remitted to the Fiscal Agent but shall be retained by the City to be used for any purpose permitted under the Act and the Resolution of Formation.

Section 9.04. Execution of Documents and Proof of Ownership by Owners. Any request, declaration, consent or other instrument which this Agreement may require or permit to be executed by Owners may be in one or more instruments of similar tenor, and shall be executed by Owners in person or by their attorneys appointed in writing.

Except as otherwise herein expressly provided, the fact and date of the execution by any Owner or his attorney of such request, declaration, consent or other instrument, or of such writing appointing such attorney, may be proved by the certificate of any notary public or other officer authorized to take acknowledgments of deeds to be recorded in the state in which he purports to act, that the person signing such request, declaration or other instrument or writing acknowledged to him the execution thereof, or by an affidavit of a witness of such execution, duly sworn to before such notary public or other officer.

Except as otherwise herein expressly provided, the ownership of registered Bonds and the amount, maturity, number and date of holding the same shall be proved by the registration books maintained by the Fiscal Agent under Section 2.07.

Any request, declaration, consent or other instrument or writing of the Owner of any Bond shall bind all future Owners of such Bond in respect of anything done or suffered to be done by the City or the Fiscal Agent in good faith and in accordance therewith.

Section 9.05. Waiver of Personal Liability. No member, officer, agent or employee of the City shall be individually or personally liable for the payment of the principal of or interest or any premium on the Bonds; but nothing herein contained shall relieve any such member, officer, agent or employee from the performance of any official duty provided by law.

Section 9.06. Notices to and Demands on City and Fiscal Agent. Any notice or demand which by any provision of this Agreement is required or permitted to be given or served by the Fiscal Agent to or on the City may be given or served by facsimile transmission receipt of which has been confirmed or by being deposited postage prepaid in a post office letter box addressed (until another address is filed by the City with the Fiscal Agent) as follows:

City of Oakland
150 Frank H. Ogawa Plaza, Suite 5330
Oakland, CA 94612
Fax: 510-238-2137
Attention: Director of Finance

Any notice or demand which by any provision of this Agreement is required or permitted to be given or served by the City to or on the Fiscal Agent may be given or served by facsimile transmission receipt of which has been confirmed or by being deposited postage prepaid in a post office letter box addressed (until another address is filed by the Fiscal Agent with the City) as follows:

Wilmington Trust, National Association
650 Town Center, Suite 800
Costa Mesa, California 92626
Attention: Corporate Trust Services

Section 9.07. Entire Agreement; Partial Invalidity. This Agreement and the exhibits hereto set forth the entire agreement and understanding of the parties related to this transaction and supersedes all prior agreements and understandings, oral or written.

If any Section, paragraph, sentence, clause or phrase of this Agreement shall for any reason be held by a court of competent jurisdiction to be illegal or unenforceable, such holding shall not affect the validity of the remaining portions of this Agreement. The City hereby declares that it would have adopted this Agreement and each and every other Section, paragraph, sentence, clause or phrase hereof and authorized the issuance of the Bonds pursuant thereto irrespective of the fact that any one or more Sections, paragraphs, sentences, clauses, or phrases of this Agreement may be held illegal, invalid or unenforceable.

Section 9.08. Unclaimed Moneys. Anything contained herein to the contrary notwithstanding, any moneys held by the Fiscal Agent for the payment and discharge of the principal of, and the interest and any premium on, the Bonds which remains unclaimed for two (2) years after the date when the payment of such principal, interest and premium have become payable, if such moneys were held by the Fiscal Agent at such date, shall be repaid by the Fiscal Agent to the City as its absolute property, and the Fiscal Agent shall thereupon be released and discharged with respect thereto and the Owners of such Bonds shall look only to the City for the payment of the principal of, and interest and any premium on, such Bonds. Any right of any Owner to look to the City for such payment shall survive only so long as required under applicable law.

Section 9.09. Applicable Law. This Agreement shall be governed by and enforced in accordance with the laws of the State applicable to contracts made and performed in the State.

Section 9.10. Conflict with Act. In the event of a conflict between any provision of this Agreement with any provision of the Act as in effect on the Closing Date, the provision of the Act shall prevail over the conflicting provision of this Agreement.

Section 9.11. Conclusive Evidence of Regularity. Bonds issued under this Agreement shall constitute conclusive evidence of the regularity of all proceedings under the Act relative to their issuance and the levy of the Special Taxes.

Section 9.12. Payment on Business Day. In any case where the date of the maturity of interest or of principal (and premium, if any) of the Bonds, or the date fixed for redemption of any Bonds, or the date any action is to be taken under this Agreement, is other than a Business Day, the payment of interest or principal (and premium, if any) or the action shall be made on the next succeeding day which is a Business Day with the same force and effect as if made on the date required and no interest shall accrue for the period from and after such date.

Section 9.13. State Reporting Requirements. In addition to Section 5.15, the following requirements shall apply to the Bonds:

(A) Annual Reporting. Not later than October 30 of each calendar year, beginning with the October 30 first succeeding the date of the 2024 Bonds, and in each calendar year thereafter until the October 30 following the final maturity of the Bonds, the Director of Finance shall cause the information required by California Government Code Section 53359.5(b) to be supplied to CDIAC. The annual reporting shall be made using such form or forms as may be prescribed by CDIAC.

(B) Other Reporting. If at any time the Fiscal Agent fails to pay principal and interest due on any scheduled payment date for the Bonds due to the insufficiency of funds on deposit in the accounts from which such payments are to be made, or if funds are withdrawn from the 2024 Reserve Fund to pay principal and interest on the Bonds so as to reduce the amount in the 2024 Reserve Fund to less than the 2024 Reserve Requirement, the Fiscal Agent shall notify the Director of Finance of such failure or withdrawal in writing. The Director of Finance shall notify CDIAC and the Original Purchasers of such failure or withdrawal within 10 days of such failure or withdrawal.

(C) Special Tax Reporting. The Director of Finance shall file a report with the City no later than January 1, 2025, and at least once a year thereafter, which annual report shall contain: (i) the amount of Special Taxes collected and expended with respect to the CFD, (ii) the amount of Bond proceeds collected and expended with respect to the CFD, and (iii) the status of the Project. It is acknowledged that the Special Tax Fund and the Special Tax Prepayments Account are the accounts into which Special Taxes collected on the City will be deposited for purposes of Section 50075.1(c) of the California Government Code, and the funds and accounts listed in Section 4.01 are the funds and accounts into which Bond proceeds will be deposited for purposes of Section 53410(c) of the California Government Code, and the annual report described in the preceding sentence is intended to satisfy the requirements of Sections 50075.1(d), 50075.3(d) and 53411 of the California Government Code.

(D) Compliance with Section 53343.2. The City shall comply with the provisions of California Government Code Section 53343.2, which require the City, within seven months after the last day of each fiscal year of the CFD, to display prominently on its Internet Web site all of the following information:

(a) A copy of an annual report for that fiscal year if requested pursuant to Section 53343.1.

(b) A copy of the report provided to the California Debt and Investment Advisory Commission pursuant to Section 53359.5.

(c) A copy of the report provided to the Controller's office pursuant to Section 12463.2.

(E) Amendment. The reporting requirements of this Section 9.13 shall be amended from time to time, without action by the City or the Fiscal Agent (i) with respect to subparagraphs (A) and (B) above, to reflect any amendments to Section 53359.5(b) or Section 53359.5(c) of the Act, (ii) with respect to subparagraph (C) above, to reflect any amendments to Section 50075.1, 50075.3, 53410 or 53411 of the California Government Code and (iii) with respect to subparagraph (D) above, to reflect any amendments to Section 53343.2. Notwithstanding the foregoing, any such amendment shall not, in itself, affect the City's obligations under the Continuing Disclosure Certificate. The City shall notify the Fiscal Agent in writing of any such amendments which affect the reporting obligations of the Fiscal Agent under this Agreement.

(E) No Liability. None of the City and its officers, agents and employees, the Director of Finance or the Fiscal Agent shall be liable for any inadvertent error in reporting the information required by this Section 9.13.

The Director of Finance shall provide copies of any such reports to any Bondowner upon the written request of a Bondowner and payment by the person requesting the information of the cost of the City to photocopy and pay any postage or other delivery cost to provide the same, as determined by the Director of Finance. The term "Bondowner" for purposes of this Section 9.13 shall include any Beneficial Owner of the Bonds as described in Section 2.10.

Section 9.14. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original.

* * * * *

IN WITNESS WHEREOF, the City and the Fiscal Agent have caused this Agreement to be executed as of the date first written above.

CITY OF OAKLAND,
for and on behalf of
CITY OF OAKLAND COMMUNITY FACILITIES
DISTRICT NO. 2023-1 (BROOKLYN BASIN
FACILITIES AND SERVICES)

By: _____
City Administrator

WILMINGTON TRUST, NATIONAL
ASSOCIATION,
as Fiscal Agent

By: _____
Authorized Officer

EXHIBIT A

FORM OF 2024 BOND

No. ____

\$_____

**UNITED STATES OF AMERICA
STATE OF CALIFORNIA
COUNTY OF ALAMEDA**

**CITY OF OAKLAND
Community Facilities District No. 2023-1
(Brooklyn Basin Facilities and Services)
Special Tax Bond, Series 2024**

INTEREST RATE	MATURITY DATE	DATED DATE	CUSIP
_____%	September 1, _____	_____, 2024	_____

REGISTERED OWNER:

PRINCIPAL AMOUNT: *****DOLLARS

The City of Oakland (the "City") for and on behalf of the "City of Oakland Community Facilities District No. 2023-1 (Brooklyn Basin Facilities and Services)" (the "CFD"), for value received, hereby promises to pay solely from the Special Tax Revenues (as defined in the hereinafter defined Agreement) to be collected in the CFD or amounts in certain funds and accounts held under the Agreement (as hereinafter defined), to the registered owner named above, or registered assigns, on the maturity date set forth above, unless redeemed prior thereto as hereinafter provided, the principal amount set forth above, and to pay interest on such principal amount from the Dated Date set forth above, or from the most recent Interest Payment Date (as hereinafter defined) to which interest has been paid or duly provided for (unless this Bond is authenticated on or before an Interest Payment Date (as hereinafter defined) and after the close of business on the Record Date (as hereinafter defined) preceding such Interest Payment Date, in which event it shall bear interest from such Interest Payment Date, or unless this Bond is authenticated on or prior to February 15, 2025, in which event it shall bear interest from the Dated Date identified above, payable semiannually on each March 1 and September 1, commencing March 1, 2025 (each an "Interest Payment Date"), at the interest rate set forth above, until the principal amount hereof is paid or made available for payment provided, however, that if at the time of authentication of this Bond, interest is in default on this Bond, this Bond shall bear interest from the Interest Payment Date to which interest has previously been paid or made available for payment. Capitalized terms not defined have meaning set forth in the Fiscal Agent Agreement (defined below).

Principal of and interest on the Bonds (including the final interest payment upon maturity or earlier redemption), is payable on the applicable Interest Payment Date by check of the Fiscal Agent (defined below) mailed by first class mail to the registered Owner thereof at such registered Owner's address as it appears on the registration books maintained by the Fiscal Agent at the close of business on the Record Date preceding the Interest Payment Date, or by wire transfer

made on such Interest Payment Date upon written instructions of any Owner of \$1,000,000 or more in aggregate principal amount of Bonds delivered to the Fiscal Agent prior to the applicable Record Date. The principal of the Bonds and any premium on the Bonds are payable in lawful money of the United States of America upon surrender of the Bonds at the Principal Office of the Fiscal Agent or such other place designated by the Fiscal Agent.

This Bond is one of a duly authorized issue of bonds in the aggregate principal amount of \$_____ approved by an ordinance of the City Council adopted on ____, 2024 (the "2024 Bond Ordinance") and a resolution of the City Council of the City adopted on ____, 2024 (the "Resolution"), under the Mello-Roos Community Facilities Act of 1982, as amended, sections 53311, *et seq.*, of the California Government Code (the "Act") for the purpose of funding certain facilities for the City, and is one of the series of bonds designated "City of Oakland Community Facilities District No. 2023-1 (Brooklyn Basin Facilities and Services) Special Tax Bonds, Series 2024" (the "Bonds"). The issuance of the Bonds and the terms and conditions thereof are provided for by a Fiscal Agent Agreement, dated as of August 1, 2024 (the "Agreement"), between the City and Wilmington Trust, National Association (the "Fiscal Agent") and this reference incorporates the Agreement herein, and by acceptance hereof the owner of this Bond assents to said terms and conditions. The Agreement is authorized under, this Bond is issued under and both are to be construed in accordance with, the laws of the State of California.

Pursuant to the Act, 2024 Bond Ordinance, the Resolution and the Agreement, the principal of and interest on this Bond are payable solely from the annual special tax authorized under the Act to be collected within the CFD (the "Special Tax") and certain funds held under the Agreement. Any tax for the payment hereof shall be limited to the Special Tax, except to the extent that provision for payment has been made by the City, as may be permitted by law. The Bonds do not constitute obligations of the City for which the City is obligated to levy or pledge, or has levied or pledged, general or special taxation other than described hereinabove. Neither the faith and credit nor the taxing power of the City (except to the limited extent set forth in the Agreement) or the State of California or any political subdivision thereof is pledged to the payment of the Bonds.

Optional Redemption. The Bonds maturing on or after September 1, ____ are subject to optional redemption as directed by the City, from sources of funds other than prepayments of Special Taxes, prior to their stated maturity on any date on or after September 1, ____, as a whole or in part, at a redemption price (expressed as a percentage of the principal amount of the Bonds to be redeemed), as set forth below, together with accrued interest thereon to the date fixed for redemption:

<u>Redemption Dates</u>	<u>Redemption Price</u>
September 1, ____ through August 31, ____	103%
September 1, ____ through August 31, ____	102
September 1, ____ through August 31, ____	101
September 1, ____ and any date thereafter	100

Mandatory Sinking Fund Redemption. The Term Bond maturing on September 1, ____, is subject to mandatory redemption in part by lot, from sinking fund payments made by the City from the Bond Fund, at a redemption price equal to the principal amount thereof to be redeemed, without premium, in the aggregate respective principal amounts all as set forth in the following table:

Sinking Fund
Redemption Date
(September 1)

Sinking Fund
Payments

(maturity)

The Term Bond maturing on September 1, _____, is subject to mandatory redemption in part by lot, from sinking fund payments made by the City from the Bond Fund, at a redemption price equal to the principal amount thereof to be redeemed, without premium, in the aggregate respective principal amounts all as set forth in the following table:

Sinking Fund
Redemption Date
(September 1)

Sinking Fund
Payments

(maturity)

Provided, however, if some but not all of the Term Bonds of a given maturity have been redeemed as a result of an optional redemption or a redemption from Special Tax Prepayments, the total amount of all future Sinking Fund Payments relating to such maturity shall be reduced by the aggregate principal amount of Term Bonds of such maturity so redeemed, to be allocated among such Sinking Fund Payments on a pro rata basis in integral multiples of \$5,000 as determined by the City, notice of which determination shall be given by the City to the Fiscal Agent.

Redemption From Special Tax Prepayments. Special Tax Prepayments and any corresponding transfers from the 2024 Reserve Fund shall be used to redeem Bonds on the next Interest Payment Date for which notice of redemption can timely be given under the Fiscal Agent Agreement, among maturities so as to maintain substantially the same Debt Service profile for the Bonds as in effect prior to such redemption and by lot within a maturity, at a redemption price (expressed as a percentage of the principal amount of the Bonds to be redeemed), as set forth below, together with accrued interest to the date fixed for redemption:

<u>Redemption Dates</u>	<u>Redemption Price</u>
Any Interest Payment Date on or before March 1, _____	103%
September 1, _____ and March 1, _____	102
September 1, _____ and March 1, _____	101
September 1, _____ and any Interest Payment Date thereafter	100

Notice of redemption with respect to the Bonds to be redeemed shall be given to the registered owners thereof, in the manner, to the extent and subject to the provisions of the Agreement.

This Bond shall be registered in the name of the owner hereof, as to both principal and interest. Each registration and transfer of registration of this Bond shall be entered by the Fiscal Agent in books kept by it for this purpose and authenticated by its manual signature upon the certificate of authentication endorsed hereon.

No transfer or exchange hereof shall be valid for any purpose unless made by the registered owner, by execution of the form of assignment endorsed hereon, and authenticated as herein provided, and the principal hereof, interest hereon and any redemption premium shall be payable only to the registered owner or to such owner's order. The Fiscal Agent shall require the registered owner requesting transfer or exchange to pay any tax or other governmental charge required to be paid with respect to such transfer or exchange. No transfer or exchange hereof shall be required to be made (i) fifteen days prior to the date established by the Fiscal Agent for selection of Bonds for redemption or (ii) with respect to a Bond after such Bond has been selected for redemption.

The Agreement and the rights and obligations of the City thereunder may be modified or amended as set forth therein. The principal of the Bonds is not subject to acceleration upon a default under the Agreement or any other document.

This Bond shall not become valid or obligatory for any purpose until the certificate of authentication and registration hereon endorsed shall have been dated and signed by the Fiscal Agent.

IT IS HEREBY CERTIFIED, RECITED AND DECLARED by the City that all acts, conditions and things required by law to exist, happen and be performed precedent to and in the issuance of this Bond have existed, happened and been performed in due time, form and manner as required by law, and that the amount of this Bond, together with all other indebtedness of the City, does not exceed any debt limit prescribed by the laws or Constitution of the State of California.

Unless this Bond is presented by an authorized representative of The Depository Trust Company, a New York corporation ("DTC"), to the Fiscal Agent for registration of transfer, exchange, or payment, and any Bond issued is registered in the name of Cede & Co. or in such other name as is requested by an authorized representative of DTC (and any payment is made to Cede & Co. or to such other entity as is requested by an authorized representative of DTC), ANY TRANSFER, PLEDGE, OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL inasmuch as the registered owner hereof, Cede & Co., has an interest herein.

IN WITNESS WHEREOF, City of Oakland has caused this Bond to be to be signed by the facsimile signature of its City Administrator and countersigned by the facsimile signature of the Clerk.

Clerk

City Administrator

[FORM OF FISCAL AGENT'S CERTIFICATE OF AUTHENTICATION AND REGISTRATION]

This is one of the Bonds described in the Agreement which has been authenticated on _____, 2019.

WILMINGTON TRUST, NATIONAL
ASSOCIATION,
as Fiscal Agent

By: _____
Authorized Signatory

FORM OF ASSIGNMENT

For value received, the undersigned do(es) hereby sell, assign and transfer unto

(Name, Address and Tax Identification or Social Security Number of Assignee)

the within Bond and do(es) hereby irrevocably constitute and appoint _____
_____, attorney, to transfer the same on the registration books of the Fiscal Agent, with
full power of substitution in the premises.

Dated: _____

Signature Guaranteed:

NOTICE: Signature(s) must be guaranteed
by an eligible guarantor.

NOTICE: Signature guarantee shall be made
by a guarantor institution participating in the
Securities Transfer Agents Medallion
Program or in such other guarantee program
acceptable to the Fiscal Agent

EXHIBIT B

**CITY OF OAKLAND
Community Facilities District No. 2023-1
(Brooklyn Basin Facilities and Services)
Special Tax Bonds, Series 2024**

**OFFICER’S CERTIFICATE REQUESTING DISBURSEMENT FROM IMPROVEMENT
FUND**

REQUISITION NO. _____

The undersigned hereby states and certifies that:

(i) I am the duly appointed, qualified and acting Treasury Director of the City of Oakland, a chartered city duly organized and existing under the Constitution of the State of California (the “City”) and as such, am familiar with the facts herein certified and am authorized to certify the same;

(ii) I am an “Authorized Officer,” as such term is defined in that certain Fiscal Agent Agreement, dated as of August 1, 2024 (the “Fiscal Agent Agreement”), by and between the City and Wilmington Trust, National Association, as fiscal agent (the “Fiscal Agent”);

[if moneys are being requisitioned from the Bond Proceeds Account] (iii) under Section 4.07(B) of the Fiscal Agent Agreement, the undersigned hereby requests and authorizes the Fiscal Agent to disburse from the Bond Proceeds Account established under the Fiscal Agent Agreement to each payee designated on Schedule A attached hereto and by this reference incorporated herein, the amount set forth opposite such payee, for payment or reimbursement of previous payment of a Project cost (as Project is defined in the Fiscal Agent Agreement) as described on attached Schedule A;

[if moneys are being requisitioned from the Remainder Taxes Account] (iv) under Section 4.07(B) of the Fiscal Agent Agreement, the undersigned hereby requests and authorizes the Fiscal Agent to disburse from the Remainder Taxes Account established under the Fiscal Agent Agreement to each payee designated on Schedule A attached hereto and by this reference incorporated herein, the amount set forth opposite such payee, for payment or reimbursement of previous payment of a Project cost as described on attached Schedule A;

[if moneys are being transferred to the Bond Fund, the Administrative Expense Fund, the 2024 Reserve Fund or another debt service reserve account] (v) under Section 4.07(B) of the Fiscal Agent Agreement, the undersigned hereby requests and authorizes the Fiscal Agent to transfer \$_____ from the Remainder Taxes Account established under the Fiscal Agent Agreement to [the Bond Fund] [the City for deposit in the Administrative Expense Fund] [the 2024 Reserve Fund or such other reserve fund established for the Bonds];

(vi) the disbursements described on the attached Schedule A are properly chargeable to the Improvement Fund; and

(vii) no portion of the amount herein requested to be disbursed was set forth in any Officer's Certificate previously filed requesting disbursement.

Dated: _____

CITY OF OAKLAND

By: _____
Treasury Director

SCHEDULE A

Payee Name and Address	Purpose of Obligation	Amount	Account from which Amounts should be paid

EXHIBIT C

**CITY OF OAKLAND
Community Facilities District No. 2023-1
(Brooklyn Basin Facilities and Services)
Special Tax Bonds, Series 2024**

**OFFICER’S CERTIFICATE REQUESTING DISBURSEMENT
FROM COSTS OF ISSUANCE FUND**

REQUISITION NO. _____

The undersigned hereby states and certifies that:

(i) I am the duly appointed, qualified and acting Treasury Director of the City of Oakland, a chartered law city duly organized and existing under the Constitution of the State of California (the “City”) and as such, am familiar with the facts herein certified and am authorized to certify the same.

(ii) I am an “Authorized Officer,” as such term is defined in that certain Fiscal Agent Agreement, dated as of August 1, 2024 (the “Fiscal Agent Agreement”), by and between the City and Wilmington Trust, National Association, as fiscal agent (the “Fiscal Agent”).

(iii) under Section 4.02(B) of the Fiscal Agent Agreement, the undersigned hereby requests and authorizes the Fiscal Agent to disburse from the Costs of Issuance Fund established under the Fiscal Agent Agreement to each payee designated on Schedule A attached hereto and by this reference incorporated herein, the amount set forth opposite such payee, for payment or reimbursement of previous payment of Costs of Issuance (as that term is defined in the Fiscal Agent Agreement) as described on attached Schedule A. Payments shall be made by check or wire transfer in accordance with the payment instructions set forth on Schedule A (or the invoice attached thereto) and the Fiscal Agent shall rely on such payment instructions as though given by the City with no duty to investigate or inquire as to the authenticity of the invoice or the payment instructions contained therein or the authority under which they were given and

(iv) the disbursements described on the attached Schedule A constitute Costs of Issuance, and are properly chargeable to the Costs of Issuance Fund.

Dated: _____

CITY OF OAKLAND

By: _____

Treasury Director

SCHEDULE A

Payee Name and Address

Purpose of Obligation

Amount