
FIRST SUPPLEMENT TO FISCAL AGENT AGREEMENT

by and between the

CITY AND COUNTY OF SAN FRANCISCO

and

**ZIONS BANCORPORATION, NATIONAL ASSOCIATION,
as Fiscal Agent**

Dated as of December 1, 2023

RELATING TO

\$_____
IMPROVEMENT AREA NO. 2 OF THE
CITY AND COUNTY OF SAN FRANCISCO
COMMUNITY FACILITIES DISTRICT NO. 2016-1 (TREASURE ISLAND)
SPECIAL TAX BONDS, SERIES 2023A

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FIRST SUPPLEMENT TO FISCAL AGENT AGREEMENT

THIS FIRST SUPPLEMENT TO FISCAL AGENT AGREEMENT, dated as of December 1, 2023 (the “**First Supplement to Fiscal Agent Agreement**”), by and between the CITY AND COUNTY OF SAN FRANCISCO, a chartered city organized and existing under and by virtue of the Constitution and laws of the State of California (the “**City**”) for and on behalf of the "City and County of San Francisco Community Facilities District No. 2016-1 (Treasure Island)" (the “**CFD**”) with respect to its “Improvement Area No. 2 of the City and County of San Francisco Community Facilities District No. 2016-1 (Treasure Island)” (the “**Improvement Area No. 2**”), and ZIONS BANCORPORATION, 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 Los Angeles, California, as fiscal agent (the “**Fiscal Agent**”);

WITNESSETH:

WHEREAS, the Board of Supervisors of the City has formed the CFD, including Improvement Area No. 2, 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 Board of Supervisors is authorized under the Act to levy special taxes within Improvement Area No. 2 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 a Fiscal Agent Agreement, dated as of February 1, 2022 (“**Master Fiscal Agent Agreement**”); as supplemented, the “**Agreement**”), by and between the City and the Fiscal Agent, the City previously issued the following special tax bonds on behalf of the CFD with respect to Improvement Area No. 2 (“**2022A Bonds**”): \$25,130,000 Improvement Area No. 2 of the City and County of San Francisco Community Facilities District No. 2016-1 (Treasure Island) Special Tax Bonds, Series 2022A; and

WHEREAS, the City wishes to provide for the issuance of a series of Parity Bonds and 2022A Related Parity Bonds (as defined in the Master Fiscal Agent Agreement) on behalf of the CFD with respect to Improvement Area No. 2 under Section 3.06 of the Master Fiscal Agent Agreement for the purpose of paying for the costs of acquiring and constructing the Facilities, which Parity Bonds shall be entitled “Improvement Area No. 2 of the City and County of San Francisco Community Facilities District No. 2016-1 (Treasure Island) Special Tax Bonds, Series 2023A” (the “**2023A Bonds**”); and

WHEREAS, Section 8.01(B)(v) of the Master Fiscal Agent Agreement provides that the Master Fiscal Agent Agreement and the rights and obligations of the City and of the Owners may be modified or amended at any time by a Supplemental Agreement in connection with the issuance of Parity Bonds, without the consent of any Owners, but with the written consent of the Fiscal Agent, after the Fiscal Agent has been furnished an opinion of counsel that the amendment complies with the provisions of Section 8.01 of the Master Fiscal Agent Agreement; and

WHEREAS, Section 8.01(B)(i) of the Master Fiscal Agent Agreement provides that the Master Fiscal Agent Agreement and the rights and obligations of the City and of the Owners may

be modified or amended at any time by a Supplemental Agreement to add to the covenants and agreements of the City in the Master Fiscal Agent Agreement, 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, without the consent of any Owners, but with the written consent of the Fiscal Agent, after the Fiscal Agent has been furnished an opinion of counsel that the amendment complies with the provisions of Section 8.01 of the Master Fiscal Agent Agreement

WHEREAS, the Fiscal Agent has received an opinion of counsel that this First Supplement to Fiscal Agent Agreement, to the extent it amends the Master Fiscal Agent Agreement as described in the two preceding Whereas clauses, complies with Section 8.01 of the Master Fiscal Agent Agreement; and

WHEREAS, on _____, 2023, the Board of Supervisors adopted Resolution No. _____ (the “**2023 Resolution of Issuance**”) authorizing the issuance of the 2023A Bonds for and on behalf of the CFD with respect to Improvement Area No. 2 (which 2023 Resolution of Issuance was signed by the Mayor on _____, 2023); and

WHEREAS, in order to provide for the authentication and delivery of the 2023A Bonds, to establish and declare the terms and conditions upon which the 2023A Bonds are to be issued and to secure the 2023A Bonds by a lien and charge upon the Special Taxes and the respective funds and accounts established under the Master Fiscal Agent Agreement equal to and on a parity with the lien and charge securing the outstanding 2022A Bonds, the Board of Supervisors has authorized the execution and delivery of this First Supplement to Fiscal Agent Agreement; 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 First Supplement to Fiscal Agent Agreement to provide for the issuance of the 2023A Bonds hereunder to finance the acquisition and construction of facilities for the CFD and to provide for the disbursement of Proceeds of the 2023A Bonds, the disposition of the special taxes securing the 2023A Bonds and the administration and payment of the 2023A Bonds; and

WHEREAS, the City has determined that all acts and proceedings required by law and the Master Fiscal Agent Agreement necessary to make the 2023A Bonds, when executed by the City, authenticated and delivered by the Fiscal Agent and duly issued, the valid, binding and legal special obligations of the City, and to constitute this First Supplement to Fiscal Agent Agreement a valid and binding agreement for the uses and purposes herein set forth, in accordance with its terms, have been done and taken; and the execution and delivery of this First Supplement to Fiscal Agent Agreement have been in all respects 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:

Section 1. Authorization. Each of the parties represents and warrants that it has full legal authority and is duly empowered to enter into this First Supplement to Fiscal Agent Agreement and has taken all actions necessary to authorize the execution of this First Supplement to Fiscal Agent Agreement by the officers and persons signing it.

Section 2. Equal Security. As Parity Bonds issued pursuant to Section 3.06 of the Agreement, the 2023A Bonds shall be secured by a lien and charge upon the Special Tax Revenues and all moneys deposited in the Bond Fund (including the Special Tax Prepayments Account), and, until disbursed as provided in the Agreement, in the Special Tax Fund equal to and on a parity with the lien and charge securing the outstanding 2022A Bonds.

In addition, as 2022A Related Parity Bonds, the 2023A Bonds shall be secured by a first pledge of all moneys deposited in the 2022 Reserve Fund. The moneys in the 2022 Reserve Fund (except as otherwise provided herein) are hereby dedicated to the payment of the principal of, and interest and any premium on, the 2022A Bonds, the 2023A Bonds and all 2022A Related Parity Bonds as provided in the Agreement and in the Act until all of the 2022A Bonds, the 2023A Bonds and all 2022A 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.

In addition, until such amounts are released and the Additional Special Tax Reserve Fund is closed, as provided herein, the Bonds shall be secured by a first pledge (which pledge shall be effected in the manner and to the extent herein provided) of all of the moneys deposited in the Additional Special Tax Reserve Fund.

Section 3. Supplement to Master Fiscal Agent Agreement. In accordance with the provisions of Section 8.01(B)(v) of the Master Fiscal Agent Agreement, the Master Fiscal Agent Agreement is hereby amended by adding a supplement thereto consisting of new articles to be designated as Article X, XI and XII. Such Articles shall read in their entirety as follows:

ARTICLE X

DEFINITIONS; AUTHORIZATION AND PURPOSE OF 2023A BONDS; EQUAL SECURITY

Section 10.01. Definitions. Unless the context otherwise requires, the terms defined in this Section 10.01 shall, for all purposes of Articles X, XI and XII and for other purposes of this Agreement, to the extent applicable, have the respective meanings specified in this Section 10.01. All terms used in Articles X, XI and XII and not otherwise defined in this Section 10.01 shall have the respective meanings given to such terms in Section 1.03 of the Agreement.

“Additional Special Tax Reserve Release Date” means the date on which the City has delivered to the Fiscal Agent an Officer’s Certificate signed by the Director of the Office of Public Finance and the Treasure Island Director certifying that the Developer has submitted evidence reasonably satisfactory to the Director of the Office of Public Finance and the Treasure Island Director that the developer of Sub-Block B1 has spent more than **[\$250,000]** on the onsite cost of labor and materials directly related to the construction of the vertical improvements for Sub-Block B1 that are authorized by the Building Permit (as defined in the Rate and Method) for Sub-Block B-1.

“Additional Special Tax Reserve Fund” means the account by that name established pursuant to Section 12.05.

“Additional Special Tax Reserve Requirement” means (i) as of the Closing Date and continuing to October 1, 2024, an amount equal to \$652,770 and (ii) on October 1, 2024 and each October 1 thereafter prior to the Additional Special Tax Reserve Release Date, an amount equal to the Additional Special Tax Reserve Requirement as of the preceding October 1 increased by two percent (2%).

“Interest Payment Date” for the 2023A Bonds means March 1 and September 1 of each year, commencing March 1, 2024.

“Original Purchaser” and **“Participating Underwriter”** means Stifel, Nicolaus & Company, Incorporated, as the first purchaser of the 2023A Bonds from the City.

“2022A Bonds” means the Improvement Area No. 2 of the City and County of San Francisco Community Facilities District No. 2016-1 (Treasure Island) Special Tax Bonds, Series 2022A.

“2023A Bonds” means the Bonds so designated and authorized to be issued under Section 11.01 hereof.

“2023A Closing Date” means the date of initial issuance and delivery of the 2023A Bonds hereunder.

“2023 Costs of Issuance Fund” means the fund designated the “2023 Costs of Issuance Fund” which fund is established pursuant to Section 12.03.

“2023A Improvement Account” means the account within the Improvement Fund designated the “2023A Improvement Account” which fund is established pursuant to Section 12.04.

2023A Term Bonds means (i) the 2023A Bonds maturing on September 1, _____, September 1, _____ and September 1, _____.

Section 10.02. Rules of Construction. All references herein to “Articles,” “Sections” and other subdivisions are to the corresponding Articles, Sections or subdivisions of the Agreement, and the words “herein,” “hereof,” “hereunder” and other words of similar import refer to the Agreement as a whole and not to any particular Article, Section or subdivision hereof.

ARTICLE XI

ISSUANCE OF 2023A BONDS

Section 11.01. Terms of 2023A Bonds.

(A) Principal Amount; Designation. The 2023A Bonds in the aggregate principal amount of \$_____ are hereby authorized to be issued by the City for the CFD under and subject to the 2023 Resolution of Issuance, the Act, other applicable laws of the State of California and the terms of the Agreement.

The 2023A Bonds shall be designated the "Improvement Area No. 2 of the City and County of San Francisco Community Facilities District No. 2016-1 (Treasure Island) Special Tax Bonds, Series 2023A".

(B) Maturity Dates; Interest Rates. The 2023A Bonds shall be dated the 2023A Closing Date, issued in fully registered form without coupons in denominations of \$100,000 or any integral multiple of \$5,000 in excess thereof, and shall mature on the dates and in the principal amounts and shall bear interest at the rates per annum set forth in the following schedule:

<u>Maturity</u> <u>(September 1)</u>	<u>Principal</u> <u>Amount</u>	<u>Interest</u> <u>Rate</u>
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(T)=2023A Term Bond

(C) Form; Denominations; Authentication. The 2023A Bonds shall be issued as fully registered Bonds without coupons. The 2023A Bonds shall be lettered and numbered in a customary manner as determined by the Fiscal Agent. The 2023A Bonds shall be issued in the denominations of \$5,000 or any integral multiple in excess thereof.

The 2023A 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 E attached hereto and by this reference incorporated herein, with necessary or appropriate variations,

omissions and insertions, as permitted or required by this Agreement, the 2023 Resolution of Issuance and the Act.

(D) CUSIP Identification Numbers. “CUSIP” identification numbers may, at the election of the Original Purchaser of the 2023A Bonds, be imprinted on the 2023A Bonds, but such numbers shall not constitute a part of the contract evidenced by the 2023A 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 2023A 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.

(E) Interest. The 2023A Bonds shall bear interest at the rates set forth above payable on the Interest Payment Dates in each year. Interest on all 2023A Bonds shall be calculated on the basis of a 360-day year composed of twelve 30-day months. Each 2023A 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 2023A Bond, interest is in default thereon, such 2023A 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 2023A 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 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 2023A Bonds are transferred to a new Owner.

The principal of the 2023A Bonds and any premium on the 2023A 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. All 2023A Bonds paid by the Fiscal Agent pursuant to this Section shall be canceled by the Fiscal Agent. The Fiscal Agent shall destroy the canceled 2023A Bonds and, upon request of the City, issue a certificate of destruction of such 2023A Bonds to the City.

Section 11.02. Additional Transfer Restrictions Applicable to the 2023A Bonds . No transfer, sale or other disposition of any 2023A Bond, or any beneficial interest therein, may be made except to an entity that is a Qualified Purchaser that is purchasing such 2023A Bond for its own account for investment purposes and not with a view to distributing such 2023A Bond. Each

transferee of a 2023A Bond, or any beneficial interest therein, shall be deemed to have acknowledged, represented, warranted and agreed with and to the City, the Participating Underwriter and the Fiscal Agent that (i) such transferee is a Qualified Purchaser that is purchasing such 2023A Bond for its own account for investment purposes and not with a view to distributing such 2023A Bond in violation of the Securities Act of 1933 or other applicable securities laws, (ii) the 2023A Bonds are payable from Special Tax Revenues and such other funds described in the Fiscal Agent Agreement, (iii) the 2023A Bonds, or any beneficial interest therein, may only be transferred to a Qualified Purchaser and (iv) the City, the Participating Underwriter and the Fiscal Agent and others will rely upon the truth and accuracy of the foregoing acknowledgements, representations, warranties and agreements. Each 2023A Bond shall bear a legend describing or referencing the foregoing restrictions on transferability.

Neither the Participating Underwriter nor any Owner or Beneficial Owner of the 2023A Bonds shall deposit the 2023A Bonds in any trust or account under its control and sell any shares, participatory interest or certificates in such trust and account, and neither the Participating Underwriter nor any Owner or Beneficial Owner shall deposit the 2023A Bonds in any trust or account under its control the majority of the assets of which constitute the 2023A Bonds, and sell shares, participatory interest or certificates in such trust or account except to Qualified Purchasers.

Each entity that is or that becomes a Beneficial Owner of a 2023A Bond shall be deemed by the acceptance or acquisition of such beneficial ownership interest to have agreed to be bound by the provisions of this Section 2.06(B). In the event that a holder of the 2023A Bonds makes an assignment of its beneficial ownership interest in the 2023A Bonds, the assignor will notify the assignee of the restrictions on purchase and transfer described herein. Any transfer of a 2023A Bond to any entity that is not a Qualified Purchaser shall be deemed null and void.

Section 11.03. Other Terms of the Bonds. Except as otherwise set forth in this Article XI, Sections 2.05-2.10 shall govern the 2023A Bonds.

Section 11.04. Redemption of 2023A Bonds.

(A) Optional Redemption. The 2023A 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 2023A 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, _____	
September 1, _____ through August 31, _____	
September 1, _____ through August 31, _____	
September 1, _____ and any date thereafter	

(B) Mandatory Sinking Fund Redemption. The 2023A 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, together with interest accrued to the redemption

date, without premium, in the aggregate respective principal amounts all as set forth in the following table:

Sinking Fund Redemption Date (<u>September 1</u>)	Sinking Fund <u>Payments</u>
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Provided, however, if some but not all of the 2023A Term Bonds of a given maturity have been redeemed under subsection (A) above or subsection (C) below, the total amount of all future Sinking Fund Payments relating to such maturity shall be reduced by the aggregate principal amount of 2023A 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.

(C) Redemption from Special Tax Prepayments. Special Tax Prepayments and any corresponding transfers from the 2022 Reserve Fund pursuant to Section 4.03(F) shall be used to redeem 2023A Bonds on the next Interest Payment Date for which notice of redemption can timely be given under Section 2.03(D), among series and 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 2023A 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, _____	
On September 1, _____ and March 1, _____	
On September 1, _____ and March 1, _____	
On September 1, _____ and any Interest Payment Date thereafter	

(D) Notice to Fiscal Agent. The City shall give the Fiscal Agent written notice of its intention to redeem Bonds under Section 11.04 (A) and (C) not less than forty-five (45) days prior to the applicable redemption date or such lesser number of days as shall be allowed by the Fiscal Agent.

(E) Purchase of Bonds in Lieu of Redemption. In lieu of redemption under Section 11.04, moneys in the Bond Fund or other funds provided by the City may be used and withdrawn by the Fiscal Agent for purchase of Outstanding 2023A 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 2023A 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 2023A Bonds were to be redeemed in accordance with this Agreement. Any 2023A Bonds purchased pursuant to this Section 11.04(E) shall be treated as outstanding 2023A Bonds under this Agreement, except to the extent otherwise directed by the Finance Director.

(F) Redemption Procedure by Fiscal Agent. The provisions of Section 2.03(D) shall govern the procedure for redemption of the 2023A Bonds.

(G) 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 2023A Bonds so called for redemption shall have been deposited in the Bond Fund, such 2023A Bonds so called shall cease to be entitled to any benefit under the 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 2023A Bonds redeemed by the Fiscal Agent under this Section 11.04 shall be canceled by the Fiscal Agent. The Fiscal Agent shall destroy the canceled 2023A Bonds in accordance with the Fiscal Agent's retention policy then in effect.

Section 11.05. 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 executed by the City on the 2023A Closing Date relating to the 2023A Bonds. Notwithstanding any other provision of the Master Fiscal Agent Agreement or this First Supplement to Fiscal Agent Agreement, failure of the City to comply with the Continuing Disclosure Certificate shall not be considered an Event of Default; however, the Fiscal Agent shall, at the request of any Participating Underwriter or the holders of at least 25% aggregate principal amount of Outstanding 2023A Bonds, and upon receipt of indemnity satisfactory to the Fiscal Agent, or any holder or beneficial owner of the 2023A Bonds may, take such actions as may be necessary and appropriate to compel performance, including seeking mandate or specific performance by court order.

Section 11.06. Private Activity Bond Limitations. The City shall assure that the proceeds of the 2023A Bonds are not so used as to cause the 2023A 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 11.07. 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 2023A Bonds to be "federally guaranteed" within the meaning of Section 149(b) of the Tax Code.

Section 11.08. 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 2023A Bonds. The Finance Director shall take note of any investment of monies hereunder in excess of the yield on the 2023A 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 2022 Reserve Fund if the amount on deposit in the 2022 Reserve Fund, following the proposed transfer, is at least equal to the 2022 Reserve Requirement, and

amounts in any other reserve account for Parity Bonds that are not 2022A 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 11.09. 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 2023A 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 2023A Bonds would have caused the 2023A Bonds to be “arbitrage bonds” within the meaning of Section 148 of the Tax Code.

Section 11.10. Yield of the 2023A Bonds. In determining the yield of the 2023A Bonds to comply with Sections 11.08 and 11.09, 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 2023A Closing Date, regarding prepayments of Special Taxes and use of prepayments for redemption of the 2023A Bonds, without regard to whether or not prepayments are received or 2023A Bonds redeemed.

Section 11.11. Maintenance of Tax-Exemption. The City shall take all actions necessary to assure the exclusion of interest on the 2023A Bonds from the gross income of the Owners of the 2023A 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 2023A Bonds.

ARTICLE XII

ISSUE OF 2023A BONDS

Section 12.01. Issuance of 2023A Bonds. Upon the execution and delivery of the First Supplement to Fiscal Agent Agreement and satisfaction of the requirements for issuance of Parity Bonds under Section 3.06, the City shall execute and deliver the 2023A Bonds in the aggregate principal amount set forth in Section 11.01 to the Fiscal Agent for authentication and delivery to the Original Purchaser thereof upon receipt by the Fiscal Agent of an Officer's Certificate requesting authentication and delivery.

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 2023A Bonds in accordance with the provisions of the Act, the 2023 Resolution of Issuance 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 2023A Bonds and to do and cause to be done any and all acts and things necessary or convenient for the timely delivery of the 2023A Bonds to the Original Purchaser.

The Fiscal Agent is hereby authorized and directed to authenticate the 2023A Bonds and deliver them to the Original Purchaser, upon receipt of the purchase price for the 2023A Bonds.

Section 12.02. Application of Proceeds of Sale of 2023A Bonds; Additional Special Tax Reserve Fund.

(A) Proceeds of the 2023A Bonds. The Proceeds of the 2023A Bonds received from the Original Purchaser in the amount of \$_____ (which is equal to the principal amount of the 2023A Bonds, plus an original issue premium of \$_____ and less an underwriter's discount of \$_____) shall be paid to the Fiscal Agent, which shall deposit the Proceeds on the 2023A Closing Date, as follows:

- (i) \$_____ into the 2023 Costs of Issuance Fund;
- (ii) \$_____ into the 2022 Reserve Fund; and
- \$_____ into the 2023A Improvement Account to pay for Project costs.

(B) Additional Special Tax Reserve Fund. On the 2023A Closing Date for the 2023A Bonds, the City shall cause \$_____ to be transferred to the Fiscal Agent for deposit in the Additional Special Tax Reserve Fund.

Section 12.03. 2023 Costs of Issuance Fund.

(A) Establishment of 2023 Costs of Issuance Fund. The 2023 Costs of Issuance Fund is hereby established as a separate fund to be held by the Fiscal Agent, to the credit of which deposit shall be made as required by Section 12.02. Moneys in the 2023 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 attributable to the issuance of the 2023A Bonds.

(B) Disbursement. Amounts in the 2023 Costs of Issuance Fund shall be disbursed from time to time to pay Costs of Issuance attributable to the issuance of the 2023A Bonds, as set forth in a requisition substantially in the form of Exhibit F hereto, executed by the Finance Director, 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 2023 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 2023 Costs of Issuance Fund to be used for the purposes of such fund.

(D) Closing of Fund. The Fiscal Agent shall maintain the 2023 Costs of Issuance Fund for a period of 90 days from the 2023A Closing Date and then the Fiscal Agent shall deposit any moneys remaining therein, including any investment earnings thereon, into the 2023A Improvement Account.

Section 12.04. 2023A Improvement Account.

(A) Establishment of the 2023A Improvement Account; Deposit. There is hereby established a separate account within the Improvement Fund to be held by the Fiscal Agent to be designated the "2023A Improvement Account," to the credit of which deposits shall be made as required by Section 12.02. Moneys in the 2023A Improvement Account shall be disbursed, except as otherwise provided in subsection (D) of this Section, for the payment or reimbursement of the costs of the Project.

(B) Procedure for Disbursement. Disbursements from the 2023A Improvement Account 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 the disbursements described in the certificate are properly chargeable to the Improvement Fund; and

(iii) certify that no portion of the amount then being requested to be disbursed was set forth in any Officers 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.

(C) Investment. Moneys in the 2023A Improvement Account shall be invested in accordance with Section 6.01. Interest earnings and profits from such investment shall be retained in the 2023A Improvement Account to be used for the purpose of such fund or accounts.

(D) Closing of Fund. The 2023A Improvement Account shall be closed when there are no more moneys in the 2023A Improvement Account and, otherwise, as set forth in Section 4.07(D).

Section 12.05. Additional Special Tax Reserve Fund.

(A) Establishment of Additional Special Tax Reserve Fund. The Additional Special Tax 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 12.02, which deposit, as of the Series 2023A Closing Date, is equal to the initial Additional Special Tax Reserve Requirement.

(B) Application of Amounts in the Additional Special Tax Reserve Fund. Except as provided herein, moneys in the Additional Special Tax Reserve Fund shall be used solely for the purpose of paying the principal of, and interest and any premium on the Bonds when due in the event that the amounts on deposit in the Bond Fund or the Special Tax Fund are insufficient for such purpose. In such event, the Fiscal Agent shall withdraw from the Additional Special Tax Reserve Fund the moneys necessary for the purpose of paying the principal of, and interest and any premium on the Bonds when due. Whenever a transfer is made from the Additional Special Tax Reserve Fund to the Bond Fund for payment of the principal of, and interest and any premium on, the Bonds, the Fiscal Agent shall provide written notice thereof to the Finance Director, specifying the amount withdrawn.

(C) Replenishment of the Additional Special Tax Reserve Requirement. If the balance in the Additional Special Tax Reserve Fund is less than the Additional Special Tax Reserve Requirement, the Fiscal Agent shall, as set forth in Section 4.05, transfer to the Additional Special Tax Reserve Fund from available moneys in the Special Tax Fund the amount needed to restore the amount of the Additional Special Tax Reserve Fund to the Additional Special Tax Reserve Requirement. If such available amounts in the Special Tax Fund are inadequate to restore the Additional Special Tax Reserve Fund to the Additional Special Tax Reserve Requirement, then the City shall include the amount necessary to fully restore the Additional Special Tax Reserve Fund to the Additional Special Tax Reserve Requirement in the next annual Special Tax levy, subject to the Maximum Special Tax.

(D) Transfer of Excess of Additional Special Tax Reserve Requirement. On each October 1, the Fiscal Agent shall transfer the amount in the Additional Special Tax Reserve Fund that exceeds the Additional Special Tax Reserve Requirement to the Bond Fund for the purpose of paying Debt Service on the Bonds.

(E) Transfer for Rebate Purposes. Amounts in the Additional Special Tax 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 Additional Special Tax Reserve Fund shall be used for

rebate unless the amount in the Additional Special Tax Reserve Fund following such withdrawal equals the Additional Special Tax Reserve Requirement.

(F) Additional Special Tax Reserve Release Date and Closing of Fund. On the Additional Special Tax Reserve Release Date, the Fiscal Agent shall transfer all amounts in the Additional Special Tax Reserve Fund to the Finance Director for application in accordance with Section 4.05(B)(iv) and the Additional Special Tax Reserve Fund shall be closed.

Section 4. Amended Definitions. Section 1.03 is hereby amended and restated in its entirety as follows:

“Remainder Taxes” means the Special Taxes available for disbursement pursuant to Section 4.05(B)(iv).

Section 5. Amendment and Restatement of Subsections (B) and (C) of Section 4.03. Subsections (B) and (C) of Section 4.03 are hereby amended and restated in their entirety as follows:

(B) Use of Reserve Fund. Except as otherwise provided in this Section, all amounts deposited in the 2022 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 and the Additional Special Tax Reserve Fund of the amount then required for payment of the principal of, and interest and any premium on, the 2022A Bonds and any 2022A Related Parity Bonds or, in accordance with the provisions of this Section, for the purpose of redeeming 2022A Bonds and any 2022A Related Parity Bonds from the Bond Fund. Whenever a transfer is made from the 2022 Reserve Fund to the Bond Fund due to a deficiency in the Bond Fund and the Additional Special Tax Reserve Fund for payment of the principal of, and interest and any premium on, the 2022A Bonds and any 2022A Related Parity Bonds, the Fiscal Agent shall provide written notice thereof to the Finance Director, 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 Finance Director, the amount in the 2022 Reserve Fund exceeds the 2022 Reserve Requirement, the Fiscal Agent shall transfer an amount equal to the excess from the 2022 Reserve Fund to (i) on a pro rata basis (based on the outstanding principal amount of the Bonds secured by the 2022 Reserve Fund) to the related accounts in the Improvement Fund, to be used to pay for Project costs and (ii) after the Improvement Fund is no longer open, the Bond Fund, to be used to pay interest on the 2022A Bonds and any 2022A Related Parity Bonds on the next Interest Payment Date.

Section 6. Amendment and Restatement of Section 4.04(B). Section 4.04(B) is hereby amended and restated in its entirety as follows:

(B) Disbursements. At least 10 Business Days before each Interest Payment Date or redemption date, the Fiscal Agent shall notify the Finance Director in writing as to the principal and premium, if any, and interest due on the Bonds on the next Interest Payment Date or redemption 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). On each Interest Payment Date or redemption 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 or redemption date on the Bonds.

At least 5 Business Days 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 Finance Director by telephone (and confirm in writing) of the amount of the insufficiency.

In the event that amounts in the Bond Fund are insufficient for the purpose set forth in the preceding paragraph with respect to any Interest Payment Date, the Fiscal Agent shall do the following in the following order of priority:

(i) Withdraw from the Additional Special Tax Reserve Fund, in accordance with the provisions of Section 12.05, to the extent of any funds or Permitted Investments therein, amounts to cover the amount of such Bond Fund insufficiency.

(ii) Withdraw from the 2022 Reserve Fund, in accordance with the provisions of Section 4.03, to the extent of any funds (including the proceeds of any Qualified Reserve Account Credit Instrument held therein) or Permitted Investments therein, amounts to cover the amount of such Bond Fund insufficiency related to the 2022A Bonds and any 2022A Related Parity Bonds. Amounts so withdrawn from the 2022 Reserve Fund shall be deposited in the Bond Fund.

Withdraw from the reserve funds, if any, established under a Supplemental Agreement related to Parity Bonds that are not 2022A 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.

If, after the foregoing transfers, there are insufficient funds in the Bond Fund to make the payments provided for in the second sentence of the first paragraph of this Section 4.04(B), 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.

Section 7. Amendment and Restatement of Subsections (A) and (B) of Section 4.05. Subsections (A) and (B) of Section 4.05 are hereby amended and restated in their entirety as follows:

(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 to the Special Tax Fund.

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 Finance Director and shall be deposited by the Fiscal Agent 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 Finance Director and shall be disposed of by the Fiscal Agent first, for transfer to the Bond Fund to pay any past due Debt Service on the Bonds; second, without preference or priority, for transfer to the 2022 Reserve Fund to the extent needed to increase the amount then on deposit in the 2022 Reserve Fund up to the then 2022 Reserve Requirement and for transfer to the reserve account for any Parity Bonds that are not 2022A Related Parity Bonds to the extent needed to increase the amount then on deposit therein to the required level; third, to the Additional Special Tax Reserve Fund to the extent needed to increase the amount then on deposit in the Additional Special Tax Reserve Fund up to the then Additional Special Tax Reserve Requirement; and fourth, 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 Finance Director and shall be deposited by the Fiscal Agent as follows (as directed in writing by the Finance Director): (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 to 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 or redemption date, the Fiscal Agent shall withdraw from the Special Tax Fund and transfer the following amounts in the following order of priority:

(i) to 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 2022 Reserve Fund, any reserve account for Parity Bonds that are not 2022A Related Parity Bonds, the 2022A Capitalized Interest Account, a capitalized interest account established for any series of 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 or redemption 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) to the 2022 Reserve Fund an amount, taking into account amounts then on deposit in the 2022 Reserve Fund, such that the amount in the 2022 Reserve Fund is equal to

the 2022 Reserve Requirement, and (b) to the reserve account for any Parity Bonds that are not 2022A Related Parity Bonds, taking into account amounts then on deposit in 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 2022 Reserve Fund and any other reserve accounts ratably based on the then Outstanding principal amount of the Bonds),

(iii) to the Additional Special Tax Reserve Fund, an amount, taking into account amounts then on deposit in the Additional Special Tax Reserve Fund, such that the amount in the Additional Special Tax Reserve Fund is equal to the Additional Special Tax Reserve Requirement, and

(iv) on each October 1, beginning on October 1, 2023, all of the moneys remaining in the Special Tax Fund, to the extent that they are not needed to pay for Administrative Expenses, shall be transferred to the Finance Director for deposit in accordance with the DDA and the Development Agreement.

Section 8. Amendment and Restatement of Section 5.01. Section 5.01 is hereby amended and restated in its entirety as follows:

Section 5.01. Collection of Special Tax RevenuesThe 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 Finance Director with a notice stating (i) the amount then on deposit in the Bond Fund (including the 2022A Capitalized Interest Account and the capitalized interest account for any Parity Bonds), the Additional Special Tax Reserve Fund, the 2022 Reserve Fund and any reserve account for Parity Bonds that are not 2022A Related Parity Bonds that is held by the Fiscal Agent, and (ii) if the amount in the Additional Special Tax Reserve Fund is less than the Additional Special Tax Reserve Requirement, the amount in the 2022 Reserve Fund is less than the 2022 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 Additional Special Tax Reserve Fund, the 2022 Reserve Fund or such other reserve account is necessary. The receipt of or failure to receive such notice by the Finance Director shall in no way affect the obligations of the Finance Director under the following two paragraphs and the Fiscal Agent shall not be liable for failure to provide such notices to the Finance Director. Upon receipt of such notice, the Finance Director 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 Finance Director shall effect the levy of the Special Taxes each Fiscal Year in accordance with the 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 Auditor will accept the transmission of the

Special Tax amounts for the parcels within Improvement Area No. 2 for inclusion on the next real property tax roll. Upon the completion of the computation of the amounts of the levy, the Finance Director 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 Finance Director shall fix and levy the amount of Special Taxes within Improvement Area No. 2 required to pay the following amounts, taking into account the balances in the applicable funds established under this Agreement: (i) the principal of and interest on any outstanding Bonds of the CFD with respect to Improvement Area No. 2 becoming due and payable during the ensuing calendar year, (ii) any necessary replenishment of the Additional Special Tax Reserve Fund to the extent replenishment has not been included in the computation of the Special Taxes in a previous Fiscal Year, (iii) any necessary replenishment or expenditure of the 2022 Reserve Fund and any other reserve account for Parity Bonds that are not 2022A Related Parity Bonds to the extent such replenishment has not been included in the computation of the Special Taxes in a previous Fiscal Year, (iv) the Administrative Expenses, including amounts necessary to discharge any rebate obligation, during such year, (v) an amount to cure delinquencies in the payment of principal or interest on Bonds that occurred in the previous Fiscal Year, and (vi) any Project costs to be paid from Special Taxes.

Nothing in this Section 5.01(C) is intended to limit the amount of Special Taxes to be levied by the City to the extent that a higher amount is required to be levied by the DDA and Development Agreement.

(D) Collection. Except as set forth in the 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.

Section 9. Amendment and Restatement of Section 5.11. Section 5.11 is hereby amended and restated in its entirety as follows:

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 Bonds. The Finance Director shall take note of any investment of monies hereunder in excess of the yield on the 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 2022 Reserve Fund if the amount on deposit in the 2022 Reserve Fund, following the proposed transfer, is at least equal to the 2022 Reserve Requirement, and amounts in any other reserve account for Parity

Bonds that are not 2022A Related Parity Bonds to the extent permitted by the Supplemental Agreement;

- (B) Amounts in the Additional Special Tax Reserve Fund if the amount on deposit in the Additional Special Tax Reserve Fund, following the proposed transfer, is at least equal to the Additional Special Tax Reserve Requirement;
- (C) Amounts on deposit in the Administrative Expense Fund; and
- (D) 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), (B) and (C).

Section 10. Amendment and Restatement of Section 7.03. Section 7.03 is hereby amended and restated in its entirety as follows:

Section 7.03. Information; Books and Accounts. 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 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 relating to the expenditure of amounts disbursed from the Bond Fund, the Special Tax Fund, the Additional Special Tax Reserve Fund, the 2022 Reserve Fund, any other reserve account for Parity Bonds, the Improvement Fund and the Cost of Issuance Fund. Such books of record and accounts shall, upon reasonable notice, 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.

Section 11. Amendment and Restatement of Section 9.13. Section 9.13 is hereby amended and restated in its entirety as follows:

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 2022A Bonds, and in each calendar year thereafter until the October 30 following the final maturity of the Bonds, the Finance Director 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 insufficiency of funds on deposit in the Bond Fund, if funds are withdrawn from the 2022 Reserve Fund to pay principal and interest on the Bonds so as to reduce the amount in the 2022 Reserve Fund to less than the 2022 Reserve Requirement, or if, prior to the Additional Special Tax Reserve Release Date, amounts are withdrawn from the Additional Special Tax Reserve Fund to less than the Additional Special Tax Reserve Requirement, the Fiscal Agent shall notify the Finance Director of such failure or

withdrawal in writing. The Finance Director 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 Finance Director shall file a report with the City no later than the January 1 first succeeding the date of the 2022A Bonds, 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. Any increased reporting obligations are subject to the Fiscal Agent's approval in accordance with Section 8.01(C) of this Agreement.

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

The Finance Director 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 Finance Director. 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 12. Attachment of Exhibit E. The Master Fiscal Agent Agreement is hereby further amended by attaching thereto and incorporating therein an Exhibit E setting forth the form of the 2023A Bonds, which shall read substantially as set forth in Appendix 1 which is attached hereto and by this reference incorporated herein.

Section 13. Attachment of Exhibit F. The Master Fiscal Agent Agreement is hereby further amended by attaching thereto and incorporating therein an Exhibit F, which shall read substantially as set forth in Appendix 2 which is attached hereto and by this reference incorporated herein.

Section 14. Limitation on Principal Amount of Parity Bonds. Notwithstanding the provisions of Section 5.12 of the Master Fiscal Agent Agreement, following the issuance of the 2023A Bonds, the City will not issue more than \$_____ initial principal amount of Parity Bonds (exclusive of any Refunding Bonds).

Section 15. Applicable Law. This Agreement shall be governed by and enforced in accordance with the laws of the State of California applicable to contracts made and performed in the State of California.

Section 16. Conflict with Act. In the event of a conflict between any provision of this First Supplement to Fiscal Agent Agreement and any provision of the Act as in effect on the 2023A Closing Date, the provision of the Act shall prevail over the conflicting provision of this Agreement.

Section 17. Conclusive Evidence of Regularity. 2023A Bonds issued pursuant to this First Supplement to Fiscal Agent 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 18. Confirmation of Master Fiscal Agent Agreement; Conflict With Master Fiscal Agent Agreement. All representations, covenants, warranties and other provisions of the Master Fiscal Agent Agreement, unless specifically amended, modified or supplemented by this First Supplement to Fiscal Agent Agreement, are hereby confirmed as applicable to this First Supplement to Fiscal Agent Agreement. In the event of any conflict between the provisions of this First Supplement to Fiscal Agent Agreement and the Master Fiscal Agent Agreement, the provisions of this First Supplement to Fiscal Agent Agreement shall govern.

Section 19. Electronic Signatures. Any signature (including any electronic symbol or process attached to, or associated with, a contract or other record and adopted by a Person with the intent to sign, authenticate or accept such contract or record) hereto or to any other certificate, agreement or document related to this transaction, and any contract formation or record-keeping through electronic means shall have the same legal validity and enforceability as a manually executed signature or use of a paper-based recordkeeping system to the fullest extent permitted by applicable law, including the Federal Electronic Signatures in Global and National Commerce Act, the California Uniform Electronic Transaction Act, Government Code Section 16.5, or any similar state law, and the parties hereby waive any objection to the contrary.

Section 20. Counterparts. This First Supplement to Fiscal Agent 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 First Supplement to Fiscal Agent Agreement to be executed as of the date first written above.

CITY AND COUNTY OF SAN FRANCISCO,
for and on behalf of
City and County of San Francisco Community
Facilities District No. 2016-1 (Treasure Island)

By _____
Director of the Office of Public Finance

ZIONS BANCORPORATION, NATIONAL
ASSOCIATION,
as Fiscal Agent

By: _____

Name: _____

Title: _____
Zions Bank Division

APPENDIX 1

EXHIBIT E

FORM OF 2023A BOND

THIS BOND IS SUBJECT TO RESTRICTIONS ON TRANSFERABILITY AND MAY ONLY BE TRANSFERRED IN ACCORDANCE WITH THE PROVISIONS OF SECTION 2.06(B) OF THE FISCAL AGENT AGREEMENT. NO TRANSFER, SALE OR OTHER DISPOSITION OF THIS BOND, OR ANY BENEFICIAL INTEREST HEREIN, MAY BE MADE EXCEPT TO A PERSON THAT IS A QUALIFIED PURCHASER THAT IS PURCHASING THIS BOND FOR ITS OWN ACCOUNT FOR INVESTMENT PURPOSES AND NOT WITH A VIEW TO DISTRIBUTING THIS BOND. EACH TRANSFEREE OF A 2023A BOND, OR ANY BENEFICIAL INTEREST THEREIN, SHALL BE DEEMED TO HAVE REPRESENTED TO THE CITY AND THE FISCAL AGENT THAT SUCH TRANSFEREE IS A QUALIFIED PURCHASER THAT IS PURCHASING SUCH 2023A BOND FOR ITS OWN ACCOUNT FOR INVESTMENT PURPOSES AND NOT WITH A VIEW TO DISTRIBUTING SUCH 2023A BOND. EACH ENTITY THAT IS OR THAT BECOMES AN OWNER OR A BENEFICIAL OWNER OF THIS BOND IS DEEMED BY THE ACCEPTANCE OR ACQUISITION OF THIS BOND OR SUCH BENEFICIAL OWNERSHIP INTEREST TO HAVE AGREED TO BE BOUND BY THE PROVISIONS OF SAID SECTION 2.06(B). ANY TRANSFER OF A 2023A BOND TO ANY ENTITY THAT IS NOT A QUALIFIED PURCHASER SHALL BE DEEMED NULL AND VOID.

No. ____

\$_____

**UNITED STATES OF AMERICA
STATE OF CALIFORNIA**

**CITY AND COUNTY OF SAN FRANCISCO
COMMUNITY FACILITIES DISTRICT NO. 2016-1
(TREASURE ISLAND)
SPECIAL TAX BOND, SERIES 2023A**

INTEREST RATE

MATURITY DATE

DATED DATE

_____%

September 1, _____

REGISTERED OWNER:

PRINCIPAL AMOUNT:

*****DOLLARS

The City and County of San Francisco (the "City") for and on behalf of the "City and County of San Francisco Community Facilities District No. 2016-1 (Treasure Island)" (the "CFD") with respect to its "Improvement Area No. 2 of the City and County of San Francisco Community

Facilities District No. 2016-1 (Treasure Island)" ("Improvement Area No. 2"), for value received, hereby promises to pay solely from the Special Tax (as hereinafter defined) to be collected in Improvement Area No. 2 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 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, 2024, 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, 2024 (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.

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 to an account maintained within the United States 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 as designated by the Fiscal Agent.

This Bond is one of a duly authorized issue of bonds in the aggregate principal amount of \$ _____ approved by Resolution No. _____ of the Board of Supervisors of the City (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 CFD, and is one of the series of bonds designated "Improvement Area No. 2 of the City and County of San Francisco Community Facilities District No. 2016-1 (Treasure Island) Special Tax Bonds, Series 2023A" (the "Bonds"). The issuance of the Bonds and the terms and conditions thereof are provided for by a Fiscal Agent Agreement, dated as of February 1, 2022, as supplemented by a First Supplement to Fiscal Agent Agreement, dated as of December 1, 2023 (as supplemented, the "Agreement"), between the City and the Zions Bancorporation, 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, 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 Improvement Area No. 2 (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 are payable on a parity basis with the following outstanding Parity Bonds (as defined in the

Agreement): the \$25,130,000 Improvement Area No. 2 of the City and County of San Francisco Community Facilities District No. 2016-1 (Treasure Island) Special Tax Bonds, Series 2022A. The Bonds constitute “2022A Related Parity Bonds” under the Agreement and are secured on a parity basis with the 2022A Bonds by a first pledge of all moneys deposited in the 2022 Reserve Fund.

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, 2028	%
September 1, ____ through August 31, 2029	
September 1, ____ through August 31, 2030	
September 1, ____ and any date thereafter	

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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Provided, however, if some but not all of the 2023A Term Bonds of a given maturity have been redeemed under subsection (A) above or subsection (C) below, the total amount of all future Sinking Fund Payments relating to such maturity shall be reduced by the aggregate principal amount of 2023A 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.

Redemption From Special Tax Prepayments. Special Tax Prepayments and any corresponding transfers from the 2022 Reserve Fund pursuant to the Fiscal Agent Agreement shall be used to redeem Bonds on the next Interest Payment Date for which notice of redemption can timely be given, among series and 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, ____	
On September 1, ____ and March 1, ____	
On September 1, ____ and March 1, ____	
On September 1, ____ and any Interest Payment Date thereafter	

Under the terms of the Agreement, in the event the City pays and discharges the entire indebtedness on all or any portion on the Bonds Outstanding (as such term is defined therein) in one or more of the ways specified therein, the pledge of the Special Taxes and other funds provided for in the Agreement and all other obligations of the City under the Agreement with respect to such Bonds shall cease and terminate.

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. The City has the right 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 as further described in 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 in the circumstances set forth in the Fiscal Agent Agreement.

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 and County of San Francisco has caused this Bond to be signed by the facsimile signature of its Mayor and countersigned by the facsimile signature of the Clerk of the Board of Supervisors with the seal of the City imprinted hereon.

[S E A L]

Clerk of the Board of Supervisors

Mayor

[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 _____, 20__.

ZIONS BANCORPORATION, NATIONAL
ASSOCIATION,
as Fiscal Agent

By: _____
Authorized Signatory

Bond #

Maturity Date

Principal Amount

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 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.

NOTICE: The signature on this assignment must correspond with the name(s) as written on the face of the within Bond in every particular without alteration or enlargement or any change whatsoever.

APPENDIX 2

EXHIBIT F

**\$ _____
IMPROVEMENT AREA NO. 2 OF THE
CITY AND COUNTY OF SAN FRANCISCO
COMMUNITY FACILITIES DISTRICT NO. 2016-1 (TREASURE ISLAND)
SPECIAL TAX BONDS, SERIES 2023A**

**OFFICER'S CERTIFICATE REQUESTING DISBURSEMENT
FROM 2023 COSTS OF ISSUANCE FUND**

REQUISITION NO. _____

The undersigned hereby states and certifies that:

(i) I am the duly appointed, qualified and acting Director of the Office of Public Finance of the City and County of San Francisco, a chartered duly organized and existing under the Constitution and the laws 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 February 1, 2022 (the "Master Fiscal Agent Agreement"), by and between the City and Zions Bancorporation, National Association, as fiscal agent (the "Fiscal Agent"), which agreement was supplemented by the First Supplement to Fiscal Agent Agreement, dated as of December 1, 2023 (the "First Supplement"; together with the Master Fiscal Agent Agreement, the "Fiscal Agent Agreement") by and between the City and the Fiscal Agent;

(iii) Under Section 12.03 of the Fiscal Agent Agreement, the undersigned hereby requests and authorizes the Fiscal Agent to disburse from the 2023 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 in an invoice submitted by each such payee but no more than 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.

(iv) The disbursements described on the attached Schedule A constitute Costs of Issuance, and are properly chargeable to the 2023 Costs of Issuance Fund.

Dated: _____

CITY AND COUNTY OF SAN FRANCISCO

By: _____
Director of the Office of Public Finance

SCHEDULE A

PAYEE NAME AND ADDRESS	PURPOSE OF OBLIGATION	AMOUNT