

DRAFT

RESOLUTION 20xx-xxx

**RESOLUTION AUTHORIZING AMENDED AND
RESTATED REVENUE SHARING AGREEMENT
WITH THE CITY OF CHULA VISTA, WITH
CONDITIONS**

WHEREAS, the San Diego Unified Port District (District) is a public corporation created by the legislature in 1962 pursuant to Harbors and Navigation Code Appendix 1, (Port Act); and

WHEREAS, Section 21 of the Port Act authorizes the Board of Port Commissioners (BPC) to pass all necessary ordinances and resolutions for the regulation of the District; and

WHEREAS, the Chula Vista Bayfront Master Plan (CVBMP) is the result of a decade-long joint planning effort by the District, the City of Chula Vista (City), and a broad coalition of stakeholders; and

WHEREAS, the CVBMP was collaboratively planned through an extensive public participation program that included over 100 community meetings and resulted in a comprehensive Environmental Impact Report and Port Master Plan Amendment, which was approved by the BPC in May 2010 and certified by the California Coastal Commission (CCC) in August 2012; and

WHEREAS, the Amended and Restated Chula Vista Bayfront Master Plan Financing Agreement (Financing Agreement) for the CVBMP was approved by the BPC in 2017 and the Disposition and Development Agreement was entered into among RIDA Chula Vista, LLC (RIDA), the District, and the City on May 7, 2018 (DDA), each setting forth the framework and mechanism to design, finance, and construct the resort hotel and convention center (RHCC) and surrounding public infrastructure (Phase 1A Infrastructure); and

WHEREAS, the RHCC and the Phase 1A Infrastructure are collectively referred to herein, as the “Project”; and

WHEREAS, the RHCC, located on approximately 36 acres of land within the CVBMP (Site), is the catalyst project for the CVBMP with the goal to not only provide a world-class hotel and convention center to the region, but also provide a vehicle to build future parks, restore sensitive habitat, and construct public infrastructure; and

WHEREAS, the DDA sets forth the necessary steps for the District, the City, and RIDA to issue financing for the Project and commence construction of

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the Project, ultimately leading to a ground lease and related subleases for development and operations of a world-class hotel and convention center; and

WHEREAS, in the process of determining the financial feasibility of the Project, it was determined that in order for the RHCC to be developed a public financial subsidy would be needed, herein described as the “Public Contribution”; and

WHEREAS, the Public Contribution is anticipated to be delivered to the Project through the issuance of future bond offerings; and

WHEREAS, to pay for the debt service for the Public Contribution, the District and the City must commit sources of revenues, as identified in the Conceptual Outline of the Plan of Finance (Conceptual Plan of Finance) attached to the DDA that will be used to repay the Public Contribution; and

WHEREAS, it is anticipated that the proposed bond financing structure will result in excess cash flow to the District and the City after debt service payments are made for the Public Contribution; and

WHEREAS, the District and the City entered into a Revenue Sharing Agreement on April 24, 2018 (Revenue Sharing Agreement) describing the priority in which any excess cash flow after the debt service payments are made on the Public Contribution (Excess Funds) would be disbursed to the District and the City; and

WHEREAS, under the current Revenue Sharing Agreement, it was contemplated that the District would contribute the following forms of revenues to the Project consistent with the Conceptual Outline Plan Finance: (1) existing and designated future lease revenues from the CVBMP (i.e., current recreational vehicle (RV) park lease, new RV park lease, various marina leases); and (2) ground rent from the RHCC; and

WHEREAS, additionally, it is contemplated that the District would contribute the previously received SDG&E contribution of \$1.7 million and the Pacifica contribution of \$3.0 million toward the Phase 1A Infrastructure cost; and

WHEREAS, the District will also be responsible for an annual contribution (Annual Contribution) to be applied toward the payment of bond debt service to support the Public Contribution in an amount not to exceed the following schedule of amounts during Lease Years 5 through 38:

Lease Years 1-4	\$0
Lease Years 5-14	\$5.0 million
Lease Years 15-19	\$6.0 million
Lease Years 20-24	\$3.0 million

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Lease Years 25-38

\$3.5 million

WHEREAS, the City would contribute toward the construction of the required sewer and fire services and contribute to the Project through transient occupancy tax (TOT) for the existing and future RV Park, sales tax, property taxes, and revenues received from the District under the Municipal Services Agreement (MSA); and

WHEREAS, since the approval of the Revenue Sharing Agreement, the District and the City have continued to refine the priority of disbursement to the District and the City of the Excess Funds; and

WHEREAS, on October 8, 2019, the District and City authorized a funding agreement (Funding Agreement) between the District, the City, the County of San Diego (County) and the Chula Vista Bayfront Facilities Financing Authority (JEPA) where the County agreed to contribute \$25 Million toward the Phase 1A Infrastructure (County Contribution); and

WHEREAS, the County Contribution would be repaid to the County through a percentage of the property tax revenue generated from the CVBMP (Property Tax Increment) that is actually received by the County, as may be supplemented by payment from the District to the County to make the County whole if such projected tax revenue is not achieved for a given year (Shortfall Payment) or from the City of contested funds currently subject to litigation with the County (Disputed Funds); and

WHEREAS, the Funding Agreement required that the District and the City amend the Revenue Sharing Agreement to provide for priority reimbursement to the District and the City for any payment or contribution made by either party to the County under the Funding Agreement; and

WHEREAS, on October 9, 2019, the Board of Directors of the JEPA (JEPA Board) provided direction to staff to amend the Revenue Sharing Agreement to guarantee repayment to the District for any Shortfall Payments made by the District to the County under the Funding Agreement; and

WHEREAS, the contemplated form of the Amended and Restated Revenue Sharing Agreement would include a revised priority of disbursements to the District and City that requires that any funds that are contributed or paid to the County through the Funding Agreement are reimbursed pari passu to each entity as the second priority under the disbursement list; and

WHEREAS, the District would remain in the first priority spot for its support payments toward the Project; and

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WHEREAS, the third priority is the City's contribution toward fire services, as fire services will be required for the RHCC and CVBMP as a whole with the construction of the Project, and any actual fire services contribution toward the Project by the City will be reimbursed with excess revenues after the District is reimbursed for their Annual Contribution; and

WHEREAS, the fourth priority is reimbursement of both the District and City's general fund contributions toward the Project (Before Close of Escrow), which includes the District's existing CVBMP lease revenues and the City's existing transient occupancy tax (TOT) and municipal services agreement revenues; and

WHEREAS, the fifth priority is to reimburse the City an amount equivalent to the actual amount paid by the City for operations and maintenance (O&M) costs from the City general fund revenues that would have been paid from Special Tax Revenues had those revenues not been used to fund the construction of some or all of the Parking Garage; and

WHEREAS, the sixth priority is reimbursement of both the District and City's general fund contributions toward the Project (After Close of Escrow), which includes the District's existing CVBMP lease revenues, RHCC lease revenues, and the City's TOT and municipal services agreement revenues; and

WHEREAS, the seventh priority, establishing one year of additional debt reserves, is not anticipated to be required by the bondholders (as these are above and beyond those ordinarily required by the proposed debt structure, as described in more detail below); however, the District and the City believe the additional reserves would be prudent and may be covered through an insurance policy; and

WHEREAS, the eighth priority would be any remaining revenues to be split evenly between the District and the City equally; and

WHEREAS, in addition, the City plans to form a special tax district where revenues equal to 5% of room revenue on the RHCC and the replacement RV park (Special Tax Revenues) are collected to fund certain improvements and operations and maintenance (O&M) within the CVBMP (Bayfront Project Special Tax Financing District); and

WHEREAS, as currently proposed, in the Amended & Restated Revenue Sharing Agreement, the District could elect to use the Special Tax Revenues in an amount not to exceed \$40 Million to fund the construction of the 1,600-space parking structure primarily serving parcel H-3 (Parking Garage); and

WHEREAS, in the Revenue Sharing Agreement, the District is to generally pay for O&M for the parks and the City to generally cover O&M for the

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streets and sanitary sewers and the District and the City would split the O&M costs pursuant to the Chula Vista Natural Resources Management Plan (NRMP) that are not required to be paid by a third party, with a cap to the contribution of \$300,000 a year for each year of the term of the A&R Revenue Sharing Agreement, provided the cap would not limit the obligations of the District or the City pursuant to any other agreements to which either is a party; and

WHEREAS, both District and City staff have included additional clean-up items in the A&R Revenue Sharing Agreement, as well, that reflect the evolution of the Project; and

WHEREAS, staff recommends that the BPC authorize the Executive Director, or her designee, to enter into the Amended and Restated Revenue Sharing Agreement substantially in the form presented to the BPC at the November 5, 2019 BPC meeting.

NOW, THEREFORE, BE IT RESOLVED by the Board of Port Commissioners of the San Diego Unified Port District (BPC), as follows:

That the Executive Director, or her designee, is hereby authorized on behalf of the San Diego Unified Port District to enter into the Amended and Restated Revenue Sharing Agreement with the City of Chula Vista, in substantially the form presented to the BPC at the November 5, 2019 meeting.

APPROVED AS TO FORM AND LEGALITY:
GENERAL COUNSEL

By: Assistant/Deputy

PASSED AND ADOPTED by the Board of Port Commissioners of the San Diego Unified Port District, this 5th day of November, 2019, by the following vote: