



Special Closed & Regular Public Session of July 24, 2018

**Santa Cruz Port Commission  
MINUTES**

*Commissioners Present:*

Dennis Smith	Chairman
Stephen Reed	Vice-Chairman
Toby Goddard	Commissioner
Reed Geisreiter	Commissioner
Darren Gertler	Commissioner

**SPECIAL PUBLIC SESSION – 5:30 PM**

Chairman Smith brought the special public session to order at 5:30 PM at the Santa Cruz Harbor Office, 135 Fifth Avenue, Santa Cruz, CA 95062.

1. Oral Communication
2. Announcement of Closed Session Pursuant to Government Code (Ralph M. Brown Act) Section 54957.

At 5:01 PM, Chairman Smith announced the Commission will meet in closed session to discuss agenda item 3.

**SPECIAL CLOSED SESSION**

3. Public Employee Performance Evaluation  
Title: Port Director

**SPECIAL PUBLIC SESSION**

4. Action and Vote Disclosure after Closed Session Pursuant to Government Code (Ralph M. Brown Act) Section 54957.1.

Chairman Smith announced that the Commission took no reportable action in closed session on item 3.

Chairman Smith adjourned the special open session following the closed meeting at 6:40 PM.

**REGULAR PUBLIC SESSION – 7:00 PM**

Chairman Smith brought the regular public session to order at 7:00 PM at the Santa Cruz Harbor Public Meeting Room, 365 A Lake Avenue, Santa Cruz, CA 95062.

5. Pledge of Allegiance
6. Oral Communication

Slip renter Eileen Sundet expressed concern about vehicles not obeying traffic signs in the north harbor parking lot.

Vice-Chairman Reed stated that the ad hoc committee has developed a preliminary site recommendation for *Pappy Park*. Port Director Olin stated that she will provide a brief update on *Pappy Park* in her report.

Chairman Smith stated that Phase I of the Pile Repair and Replacement Project is going well. In response to a question posed by Commissioner Goddard, FME Kerkes confirmed that some piles will be replaced at J-Dock in the north harbor. Port Director Olin stated that Phase I of the project is expected to be complete by mid-August. Chairman Smith thanked staff for their efforts related to the project.

#### **CONSENT AGENDA**

7. Approval of Minutes
  - a) Special Closed & Regular Public Session of June 26, 2018
8. Approval of Month-to-Month Lease for 333 Lake Avenue, Suite H  
(Tenant: Portside Paddle)
9. Approval of Adventure Sports Journal's Sublease Agreement - 333 Lake Avenue, Suite D/G  
(Tenant: S. Marschall)

MOTION: Motion made by Commissioner Geisreiter, seconded by Vice-Chairman Reed to approve the consent agenda.  
- *Motion carried unanimously.*

#### **REGULAR AGENDA**

10. Approval of Employment Reclassification for Accounting Technician and Senior Deputy Harbormaster to Accounting Technician II and Assistant Harbormaster

Discussion: Port Director Olin stated that the Commission met in closed session on June 26, 2018, to discuss two proposed employment reclassifications (Accounting Technician to Accounting Technician II and one Senior Deputy Harbormaster to Assistant Harbormaster). She stated that there was consensus among the Commission to present the reclassifications for approval at a regular public session.

Port Director Olin stated that approval of the two proposed employment reclassifications will not change the Port District's number of full-time equivalent (FTE) employee count.

Port Director Olin stated that approval of updated Salary Schedule amendments will follow in agenda item 11.

Commissioner Goddard stated that he is supportive of the proposed employment reclassifications. He requested that staff review and edit the attached job descriptions for duplicate language, noting that the motion does not include approval of the job descriptions.

There was consensus among the Commission to approve the proposed employment reclassifications.

MOTION: Motion made by Commissioner Goddard, seconded by Vice-Chairman Reed to:

1. Approve reclassification of one full time equivalent (FTE) Accounting Technician Position to Accounting Technician II, with revised job duties, and create two accounting technician levels, Accounting Technician I and Accounting Technician II.
2. Approve reclassification of one full time equivalent (FTE) Senior Deputy Harbormaster to Assistant Harbormaster, with revised job duties, and eliminate one Senior Deputy Harbormaster position.

- *Motion carried unanimously.*

11. Approval of Resolution 18-08, Adopting Amendments to the Salary Schedule

Discussion: Port Director Olin recommended approval of Resolution 18-08, adopting amendments to the Port District's salary schedule. She highlighted the following changes:

- Move the provisional Parking Coordinator position from the 2018 salary schedule for unrepresented employees to the full-time equivalent (FTE) represented salary schedule (the Parking Coordinator position was converted to a FTE position with the FY19 budget);
- Amend the represented salary schedule to include the Assistant Harbormaster position, paid on salary grade 24 basis;
- Amend the represented salary schedule to include the Accounting Technician II position, paid on salary grade 22 basis.

Port Director Olin stated that the amended salary schedule will be posted online to comply with transparency requirements, if approved.

MOTION: Motion made by Commissioner Gertler, seconded by Vice-Chairman Reed to approve Resolution 18-08, adopting amendments to the Santa Cruz Port District's Salary Schedule.  
- *Motion carried unanimously.*

12. Approval of Resolution 18-09, Adopting the Santa Cruz Port District Debt Management Policy

Discussion: Port Director Olin stated that the District's bond counsel, Cameron Weist of Weist Law, has advised staff of the Port District's responsibilities in acquiring new debt per Government Code section 8855(i), which requires any issuer of public debt to provide a report of the proposed issuance (no later than 30 days prior to the sale of any debt), to the California Debt and Investment Advisory Commission (CDIAC). Additionally, the Port District is required to certify on the Report of Proposed Debt Issuance of a current debt policy that complies with policies set forth in Government Code section 8855(i).

Port Director Olin stated that staff recommends approval of Resolution 18-09 as presented, which approves a Debt Management Policy consistent with Government Code section 8855(i), policy requirements.

A discussion ensued regarding the proposed debt management policy.

Port Director Olin fielded a variety of questions from the Port Commission and highlighted the following:

- New requirements set forth in Government Code section 8855(i), were effective January 1, 2017;
- Adoption of the debt management policy allows the Port District's bond counsel to pursue financing in the amount of \$3,350,000 with BBVA Compass Bank (as directed by the Commission at the regular public session of June 26, 2018);
- The Commission can update the debt management policy as needed. The policy will be reviewed annually as part of the budget process;
- "Inter-fund Borrowing" does not refer to the transfer of Port District funds between capital and reserve accounts.

Commissioner Geisreiter stated that he is supportive of adoption of a debt management policy, adding that the proposed policy not only includes all elements required by CDIAC, but also includes best management practices for the Port District. He stated that the proposed policy does not present any potential restrictions and/or limitations to the Port District. Chairman Smith agreed, noting that approval of the policy enhances to the District's transparency.

Port Director Olin stated that the proposed debt management policy will help ensure that District debt is issued and managed prudently to maintain a sound fiscal position and protect its credit rating.

Commissioner Goddard stated that he is supportive of adoption of a debt management policy, but expressed concern regarding the language included in the "Investment of Proceeds" section, which states that, "all investments will be made in compliance with the District's investment policy objectives of safety, liquidity and then yield." Commissioner Goddard explained that he believes the proposed language establishes an unintended prioritization of investment policy objectives.

Commissioner Geisreiter suggested "then," be removed to eliminate prioritization of objectives. Commissioner Goddard stated that he is supportive of this modification, emphasizing that this change reflects that the objectives presented are co-equal goals. Chairman Smith and Port Director agreed.

MOTION: Motion made by Commissioner Goddard, seconded by Commissioner Geisreiter to approve Resolution 18-09, adopting the Santa Cruz Port District Debt Management Policy, with a language revision to the Investment of Proceeds section, eliminating the word, "then" from the sentence "...safety, liquidity, and then yield."

- *Motion carried unanimously.*

13. Approval of Allocation of PG&E's Easement Funds to Capital Improvement Fund

Discussion: Port Director Olin stated that PG&E has paid the Port District \$113,287 for two recently executed easement agreements.

Port Director Olin stated that staff recommends allocating all PG&E funding received for the permanent and temporary construction easements to the Unallocated CIP Fund. If approved, this allocation will increase the fund's balance to approximately \$259,523.

In response to a question posed by Commissioner Goddard, Port Director Olin stated allocating the PG&E funding to the Unallocated CIP Fund (rather than to a specific project), allows for more flexibility if unanticipated projects or project-related expenses arise. Commissioner Goddard agreed.

MOTION: Motion made by Commissioner Goddard, seconded by Vice-Chairman Reed to authorize transfer of funding received from Pacific Gas and Electric (PG&E) for easements from the general fund to Unallocated Capital Improvement Fund.

- *Motion carried unanimously.*

14. Update on Dock Upgrades Project – Southeast Brow Piers (N – S Docks)

Discussion: Facilities Maintenance and Engineering Manager (FME) Kerkes stated that staff discovered that significant repairs are needed on six brow piers in the southeast harbor (N - S Docks), prior to the installation of the new aluminum dock gates in the area.

FME Kerkes stated that staff estimates that the work to repair the six brow piers can be completed in-house for approximately \$120,000. The per brow pier repair cost is estimated at \$20,000, which is comprised of approximately \$16,000 in materials and approximately \$4,000 in labor. Staff estimates that it will take four crew members approximately three days to complete one brow pier.

FME Kerkes stated that staff solicited a preliminary estimate for the project from Bellingham Marine, who provided an estimate of \$328,500, which includes labor and materials for repair of the six brow piers.

Port Director Olin stated that staff is seeking direction on whether to pursue formal bidding on this project or complete the project in-house using funding from the unallocated CIP.

In response to a question posed by Commissioner Geisreiter, FME Kerkes confirmed that H-Dock and FF-Dock meet ADA accessibility standards.

Commissioner Goddard asked if the Port District needs to obtain building permits for repairs to the dock ramps. FME Kerkes stated that staff is repairing existing docks and expansion of the facilities is not proposed, so a building permit is not required.

In response to a question posed by Commissioner Goddard, FME Kerkes stated that dockside utilities will not be affected by construction on the brow piers.

A discussion ensued regarding the existing work load and feasibility of in-house maintenance crews completing the brow pier repairs in the southeast harbor. FME Kerkes stated that he is confident that staff will be able to complete the repairs in a timely manner.

MOTION: Motion made by Commissioner Geisreiter, seconded by Commissioner Goddard directing staff to complete the brow pier repairs (N – S-Docks), in-house, and authorize a transfer from the Unallocated CIP Fund to the Dock Upgrades Project up to \$120,000, based on actual expenditures.

– *Motion carried unanimously.*

15. Approval of Cash / Payroll Disbursements – June 2018

Discussion: Commissioner Gertler asked for additional information on Warrant #49960 – Salary Advance. Port Director Olin stated that the labor agreement between the Port District and the Harbor Employees Association/OE3 allows for employees to request salary advances, if needed.

Commissioner Goddard asked for additional information regarding the electronic fund transfer (EFT) payment for an ACH transaction fee. Accounting Technician Eldridge stated that there are associated fees with ACH payments, though they are significantly lower than credit card fees.

Commissioner Goddard asked why there are multiple EFT payments to CalPERS. Accounting Technician Eldridge explained that the contributions for each CalPERS tier are paid each pay period on behalf of employees, and the District currently has 3 CalPERS tiers. Port Director Olin explained that staff is now reconciling the bank statement using its financial software, Dynamics, so all EFT and manual payments which were previously compiled are now listed in more detail on the warrant list.

Chairman Smith asked for additional information on Warrant #49964 – Permit Fee, Aldo's Seawall Streambed Alteration. Port Director Olin stated that an application was submitted to the California Department of Fish and Wildlife for a streambed alteration permit, which is required for the Aldo's Seawall Replacement project.

MOTION: Motion made by Commissioner Goddard, seconded by Commissioner Geisreiter to approve the Cash / Payroll Disbursements for June 2018, in the amount of \$502,667.80.

- *Motion carried unanimously.*

## **INFORMATION**

16. Port Director's Report

Pacific Gas & Electric (PG&E) Pipeline Replacement Project in North Harbor

Port Director Olin stated that Pacific Gas and Electric (PG&E) will be conducting necessary pipeline replacement in the north harbor, in the area of G-Dock, beginning in August 2018. She stated that a definitive start date has not yet been established, but PG&E will provide the Port District with at least five days' notice prior to the commencement of work.

Chairman Smith suggested that staff reach out and provide advance notice to slip renters in the construction area.

#### FY18 Audit

Port Director Olin stated that the Port District's FY18 audit field work is currently underway. The draft audit will be presented to the full Commission in August.

#### Division of Boating and Waterways (DBW) Grant

Port Director Olin stated that the Division of Boating and Waterways (DBW) has denied the District's application for grant funding for a new patrol vessel due to a lack of program funding.

#### Authorization of Coastal Development Permit (CDP) 3-18-0160

Port Director Olin stated that the California Coastal Commission authorized a Coastal Development Permit (CDP) 3-18-0160, at its public hearing on July 12, 2018, which authorizes a 10-year of permit for annual maintenance dredging operations at Santa Cruz Harbor. She stated that the Port District has received permit authorization from the Monterey Bay National Marine Sanctuary.

#### Pappy Park

Port Director Olin stated that the ad hoc committee has identified a site for display of *Pappy* (located between the launch ramp parking lot and concession parking lot). Vice-Chairman Reed expressed support for the proposed location, noting that it is highly visible.

Port Director Olin stated that the ad hoc committee is working with former Commissioner and engineer, Jeff Martin, to develop conceptual designs for the display, which will be presented to the full Commission for consideration at a future meeting.

#### Twin Lakes Beachfront Improvement Project "Ribbon Cutting Ceremony"

Port Director Olin stated that the County of Santa Cruz Department of Public Works invites Commissioners and the public to attend the Twin Lakes Beachfront Ribbon Cutting Ceremony on Friday, July 27, 2018, from 12:00 p.m. to 1 p.m., on East Cliff Drive (between 5th and 7th Avenue).

#### Policy-Operations Committee Meeting

Port Director reported that a Policy-Operations Committee meeting was held on Thursday, July 19, 2018, to review the Port District's sublease, partnership and regular use of vessel policies and fees. She reported that the vessel use policy and enforcement of the policy were discussed. While the committee did not recommend any changes to the policy, the committee's discussion of administration and enforcement of the program will be presented at a future Port Commission meeting for review.

Port Director Olin reported that the committee also discussed subleases, including a review of the history and administration of the program and the fee. While the committee did not make a formal recommendation to change the fee, a future item will be presented to the Commission to consider adoption of a differential sublease fee for the north harbor area.

Port Director Olin also reported that the committee reviewed the history and administration of the partnership program, and the current fee. The committee did not recommend making



any changes to the program or the fee, though the Commission may wish to consider fee options as part of next year's budget deliberations.

#### Business-Finance Committee Meeting

Port Director Olin stated that a Business-Finance Committee meeting was held on Monday, July 23, 2018, to consider development of an investment policy. The committee recommended adopting an investment policy. Port Director Olin stated that further committee work is needed before this item is presented to the full Commission.

Chairman Smith stated that the committee review items (policy-operations and business-finance) can be removed from the Commission's follow-up calendar.

#### South Swell and High Surf Advisory

Port Director Olin stated that there is a large south swell and high surf advisory currently in effect for the area through Thursday, July 26 2018. She stated that the highest swell is expected to arrive late tonight, with surf ranging from 8 to 10 feet. Port Director Olin stated that Harbor Patrol has notified slip renters and secured dock lines throughout the harbor, and a deputy harbormaster is scheduled to work overnight. She stated that staff has issued an advisory on the U.S. Coast Guard's VHF Channel 16.

#### 17. Harbormaster's Report

In response to a question posed by Commissioner Goddard, Port Director Olin stated that Ryan Stephenson was promoted to Boatyard Supervisor effective August 1, 2018. She stated that staff is currently recruiting for the Boatyard Crew position.

#### 18. Facilities Maintenance & Engineering Manager's (FME) Report

Commissioner Goddard expressed appreciation for the repair at AA-Dock extension.

#### 19. O'Neill Sea Odyssey Annual Report

Administrative Services Manager Mac Laurie stated that O'Neill Sea Odyssey (OSO) has submitted its annual report, which reflects usage as 64% charter and 36% OSO.

In response to a question posed by Commissioner Geisreiter, Administrative Services Manager Mac Laurie confirmed that there has been an increase in charter use, and therefore a decrease in the discount percentage for OSO.

Vice-Chairman Reed asked if the purchase of a larger sailing vessel (with an increased charter rating), will affect OSO's slip rent and charter fee structure. Port Director Olin stated that the discount percentage is based on the number of transits rather than the number of passengers on the vessel.

#### 20. Review of Delinquent Accounts (*There was no discussion on this agenda item*)

21. Review of Financial Reports

- a) Comparative Seasonal Revenue Graphs
- b) Preliminary Budget Report as of June 30, 2018
- c) Quarterly Fuel Sales Report
- d) Quarterly Boatyard Report

In response to a question posed by Commissioner Goddard, Port Director Olin stated that the year-end budget report will be presented in the draft audit.

A discussion ensued regarding the slight decrease in Boatyard revenue.

22. Crime / Incident / Citation Report – June 2018. *(There was no discussion on this agenda item)*
23. Port Commission Review Calendar / Follow-Up Items

Chairman Smith adjourned the regular public session at 8:10 pm.

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Dennis Smith, Chairman

Santa Cruz Port District  
135 5th Avenue  
Santa Cruz, CA 95062  
831.475.6161  
831.475.9558 Fax  
www.santacruzharbor.org



PORT COMMISSIONERS:  
Toby Goddard  
Dennis Smith  
Reed Geisreiter  
Stephen Reed  
Darren Gertler

TO: Port Commission  
FROM: Holland Mac Laurie, Administrative Services Manager  
DATE: August 10, 2018  
SUBJECT: Public Hearing to Approve Resolution #18-11, Adopting a Conflict-of-Interest Code

**Recommendation: Conduct Public Hearing and approve Resolution #18-11, adopting a Conflict-of-Interest Code.**

The Political Reform Act requires every local government agency to review its conflict-of-interest code biennially and submit any changes to the County Board of Supervisors for adoption. The Port Commission originally adopted its Conflict-of-Interest Code ("Code") in February 1977, and adopted revisions to the document in 2006, 2008, 2010, 2012, and 2016.

Current law requires that the Code designate employees whose positions entail the making or participation in the making of governmental decisions that may foreseeably have a material effect on his or her financial interest.

The District's Conflict-of-Interest Code (Attachment "A") currently includes all titles of existing positions. Staff will file the required Biennial Notice with the County Clerk for this year's review, indicating that no amendment is required.

ATTACHMENTS – A. Resolution 18-11 and Conflict of Interest Code (Final)

Santa Cruz Port District

**RESOLUTION #18-11**

August 28, 2018

ON THE MOTION OF \_\_\_\_\_

DULY SECONDED BY \_\_\_\_\_

A resolution of the Santa Cruz Port District adopting the Agency's Conflict of Interest Code.

WHEREAS, the Santa Cruz Port District is a local governmental agency of the State of California; and,

WHEREAS, the Santa Cruz Port District is required to comply with the provisions of the Political Reform Act of 1974 and California Government Code Section 87100 et seq, pertaining to conflicts of interest; and,

WHEREAS, a public hearing has been held pursuant to notice; and,

WHEREAS, the Santa Cruz Port District has determined that the attached Exhibit "A" accurately sets forth those positions which are designated to report financial interests.

NOW, THEREFORE, BE IT RESOLVED THAT the Santa Cruz Port District Commission hereby adopts the Conflict of Interest Code for the Santa Cruz Port District.

PASSED AND ADOPTED this 28<sup>th</sup> day of August, 2018, by the following vote:

AYES: \_\_\_\_\_

NOES: \_\_\_\_\_

ABSENT: \_\_\_\_\_

\_\_\_\_\_  
Dennis Smith, Chairman  
Santa Cruz Port Commission

ATTEST:

\_\_\_\_\_  
Holland MacLaurie, Administrative Services Manager  
Santa Cruz Port District

**CONFLICT OF INTEREST CODE  
OF THE  
SANTA CRUZ PORT DISTRICT**

**Section 100. Purpose.**

Pursuant to the provisions of Government Code Sections 18730 and any amendments to it duly adopted by the Fair Political Practices Commission, the Santa Cruz Port District, a local governmental agency of the State of California, hereby adopts the following Conflict of Interest Code. Nothing contained herein is intended to modify or abridge the provisions of the Political Reform Act of 1974 (Government Code Section 81000 et seq.). The provisions of this Code are in addition to Government Code Section 87100 et seq. and other laws pertaining to conflicts of interest.

**Section 200. Designated Positions.**

The positions listed on Exhibit "A" are designated positions. Commissioners and employees holding these positions are deemed to make or participate in the making of decisions that may foreseeably have a material effect on his or her financial interest and that of the Santa Cruz Port District.

**Section 300. Disclosure Statements.**

A person holding a designated position shall file a Fair Political Practices Commission (FPPC) Form 700, "Annual Statement of Economic Interest," with the County of Santa Cruz.

**Section 400. Place and Time of Filing.**

- a) Filing Originals. All persons holding designated positions are required to submit a statement of financial interest with the Santa Cruz Port District.
- b) Filing Copies. This agency shall make and retain a copy and forward the originals of these statements to the County of Santa Cruz.
- c) Initial Statements. All other employees appointed, promoted or transferred to designated positions shall file initial statements within thirty (30) days thereafter, or as required on the Fair Political Practices Commission "FPPC" Form 700, "Annual Statement of Economic Interest."
- d) Annual Statements. Annual statements shall be filed by all designated employees by March 31 of each year, or as required on the Fair Political Practices Commission "FPPC" Form 700, "Annual Statement of Economic Interest," disclosing reportable investments in business entities, interests in real property, and income held or received in the period since the closing date of the employee's previously filed statement and the succeeding December 31<sup>st</sup>.
- e) Leaving Office Reports. Each person who leaves a designated position specified on Exhibit A shall file a leaving of office statement within thirty (30) days after leaving.

**Section 500. Contents of Disclosure Statements.**

Disclosure statements shall be made on Fair Political Practices Commission Form 700, "Annual Statement of Economic Interest," supplied by the County of Santa Cruz.

*CONFLICT OF INTEREST CODE OF THE SANTA CRUZ PORT DISTRICT*

**EXHIBIT "A"**

**DESIGNATED POSITIONS**

1. Santa Cruz Port District Board of Port Commissioners (five members), including the Chairman of the Board.
2. Port Director, appointed by and acting at the pleasure of the Board of Port Commissioners.
3. Harbormaster, hired by the Port Director.
4. Administrative Services Manager, hired by the Port Director.
5. Facilities, Maintenance and Engineering Manager, hired by the Port Director



TO: Port Commission  
FROM: Marian Olin, Port Director  
DATE: July 26, 2018  
SUBJECT: Award of Contract for Regular and On-Call Janitorial Services

**Recommendation:** *Authorize the Port Director to execute a contract with Bay Building Janitorial, Inc. for regular and on-call janitorial services in an amount not to exceed \$65,000 annually.*

## BACKGROUND

Bay Building Janitorial, Inc. has been providing regular and on-call janitorial services under contract with the District since prior to 2010. They have provided consistent and reliable service over the years, and are available on an on-call basis.

Bay Building Janitorial provided the District with notice that a rate increase was necessary to account for increased labor and material costs (contracted rates for janitorial services have not been adjusted since 2015). Bay Building Janitorial proposed to increase fees from \$2,850 to \$5,292 per month, indicating they were losing revenue due to the increase in minimum wage.

To ensure the District was receiving the best pricing available, a request for proposals for janitorial services was advertised. Three bids were received, with Bay Building Janitorial submitting the low bid of \$5,292 per month. The two remaining bids were submitted at rates of \$10,500 and \$14,398 per month.

## ANALYSIS

Attachment A provides the contract between the District and Bay Building Janitorial, and Exhibit A details the scope of work. The list is extensive and includes private and public restrooms, office space, meeting space and waste oil stations. The scheduling as outlined in the contract meets the District's needs.

## IMPACT ON PORT DISTRICT RESOURCES

Regular monthly services will increase from \$2,850 to \$5,292 per month, with on-call service billed at an hourly rate. The increased cost of services was not anticipated in the District's FY19 budget, but adequate funding is available in the Facilities Department to account for the increase. Appropriate funding will be allocated in the FY20 budget.

ATTACHMENT: A. Agreement with Independent Contractor – Bay Building Janitorial, Inc.

**AGREEMENT WITH INDEPENDENT CONTRACTOR**

No. \_\_\_\_\_

Contractor Name and Address

Bay Building Janitorial, Inc.  
834-17<sup>th</sup> Avenue  
Santa Cruz, California 95062  
(831) 476-4623 (office)  
(831) 476-4809 (FAX)

Contractor: Upon completion of work or agreed-upon work periods, mail invoice with above Agreement Number to:

Santa Cruz Port District  
Attention: Matt Kerkes, FME  
135 5<sup>th</sup> Avenue  
Santa Cruz, CA 95062  
(831) 475-6161

**Project Name: Regular and On-Call Janitorial Services**

It is agreed between the Santa Cruz Port District, Santa Cruz, California, and Contractor as follows:

1. Services to be performed by Contractor. In consideration of the payments hereinafter set forth, Contractor shall perform services for Port District in accordance with terms, conditions and specifications set forth herein and in Exhibit "A" attached hereto for the Santa Cruz Port District.
2. Contract Term. The term of this agreement shall be from September 1, 2018 to August 31, 2019, unless terminated earlier by the Port District.
3. Payments. In consideration of the services rendered in accordance with all terms, conditions and specifications set forth herein and in Exhibit "A," Port District shall make payment to Contractor in the manner specified herein and in Exhibit "B." In the event that the Port District makes any advance payments, Contractor agrees to refund any amounts in excess of the amount owed by the Port District at the time of contract termination. The Port District reserves the right to withhold payment if the Port District determines that the quantity or quality of the work performed is unacceptable. In no event shall total payment for all services under this agreement exceed **\$65,000.**
4. Relationship of the Parties. Contractor agrees and understands that the work/services performed under this agreement are performed as an Independent Contractor and not as an employee of the Port District and that Contractor acquires none of the rights, privileges, powers or advantages of Port District employees.
5. Insurance and Indemnity. Contractor, at its own expense, shall provide and keep in force, commercial liability insurance insuring against liability for bodily injury and property damage arising out of its work in an amount of not less than One Million Dollars (\$1,000,000.00) for injury to, or death of one person in any one accident or occurrence, and in an amount of not less than One Million Dollars (\$1,000,000.00) for injury to, or death of more than one person in any one accident or occurrence, and in the amount of not less than One Million Dollars (\$1,000,000.00) per occurrence in respect to damage to property. Port District shall be named as an additional insured on Contractor's insurance policy Contractor shall provide Port District with a certificate of insurance coverage evidencing said coverage, including a copy of all declarations of exclusions, prior to commencing work. The Contractor shall maintain Automobile Liability Insurance pursuant to this Contract in an amount of not less than One Million Dollars (\$1,000,000) for each occurrence combined single limit or not less than One Million Dollars (\$1,000,000) for any one (1) person, and one million dollars (\$1,000,000) for any one (1) accident, and three hundred thousand dollars, (\$300,000) property damage. To the full extent permitted by law Contractor agrees to defend, indemnify and hold Port District, its employees, agents, and officers, harmless from any and all claims, damages, and liability in any way occasioned by or arising out of the contractor's negligent performance of services under this agreement, breach of contract or construction defects arising out of Contractor's work.



6. Non-assignability. Contractor shall not assign this Agreement or any portion thereof to a third party without the prior written consent of Port District, and any attempted assignment without such prior written consent in violation of this Section shall automatically terminate this Agreement.

7. Termination of Agreement. The Port District may, at any time, terminate this Agreement, in whole or in part, for the convenience of Port District, by giving written notice specifying the effective date and scope of such termination. In the event of termination, all finished or unfinished documents, data, studies, maps, photographs, reports, and materials (hereinafter referred to as materials) prepared by Contractor under this Agreement shall become the property of the Port District and shall be promptly delivered to the Port District. Upon termination, the Contractor may make and retain a copy of such materials. Contractor shall be entitled to receive payment for work/services provided prior to termination of the Agreement. Such payment shall be that portion of the full payment which is determined by comparing the work/services completed to the work/services required by the Agreement.

9. Worker's Compensation Insurance. Contractor agrees and understands that the Port District does not provide Worker's Compensation Insurance to, or on behalf of, the Contractor for the work/services performed, but that said insurance is the sole responsibility of the undersigned.

10. Payment of Permits/Licenses. Contractor shall obtain any license, permit, or approval if necessary from any agency whatsoever for the work/services to be performed, at his/her own expense, prior to commencement of said work/services or forfeit any right to compensation under this Agreement.

11. Non-Discrimination. No person shall illegally be excluded from participation in, denied the benefits of, or be subjected to discrimination under this Agreement on account of their race, sex, color, national origin, religion, age, or disability. Contractor shall ensure full equal employment opportunity for all employees under this Agreement.

12. Retention of Records. Contractor shall maintain all required records for three years after the Port District makes final payment and all other pending matters are closed, and shall be subject to the examination and /or audit of the Port District, a federal agency, and the state of California.

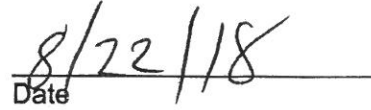
13. Merger Clause. This Agreement, and all exhibits and attachments thereto and incorporated herein by reference, constitute the sole Agreement of the parties hereto and correctly states the rights, duties, and obligations of each party as of this document's date. Any prior agreement, promises, negotiations, or representations between the parties not expressly stated in this document are not binding. All subsequent modifications shall be in writing and signed by the Port District. In the event of a conflict between the terms, conditions, or specifications set forth herein and those in Exhibit "A" attached hereto, the terms, conditions, or specifications set forth herein shall prevail.

**THIS CONTRACT IS NOT VALID UNTIL SIGNED BY BOTH PARTIES**

\_\_\_\_\_  
Marian Olin, Port Director

\_\_\_\_\_  
Date

  
Contractor's Signature

  
Date

56-2444019  
Contractor's Tax I.D. Number or Social Security Number

Attachments:      Exhibit A – Scope of Work  
                            Exhibit B – Schedule and Payment

**EXHIBIT A  
SCOPE OF WORK**

**Cleaning Locations and Frequency:**

Proposals should include all necessary labor, equipment, and cleaning supplies for regular cleaning at the following locations at the frequencies noted:

**Once daily, Monday-Friday:** Starting at 6 AM, to be cleaned in order listed.

Concession Lot	2 public restrooms
O dock	2 slip renter restrooms, 2 showers
Fishery	2 slip renter restrooms, 2 showers
V dock	2 slip renter restrooms, 2 showers
X dock	2 slip renter restrooms, 2 showers
J dock	2 slip renter restrooms, 2 showers
555 Brommer St.	1 restroom
Maint Bldg	2 locker rooms (restroom+shower), 1 restroom, offices, break room
I dock	2 slip renter restrooms, 2 showers
G dock	2 slip renter restrooms
FF dock	2 public restrooms
D dock	2 slip renter restrooms, 2 showers, 2 public restrooms

**Once daily, Monday-Sunday, from Labor Day through Memorial Day; Twice daily, Monday-Sunday, from Memorial Day through Labor Day (once early AM and once after 4 PM):**

2222 E. Cliff (first floor) 4 commercial restrooms

**Twice Weekly:**

Harbormaster Office	2 office restrooms, 1 shower, offices, break room (after regular business hours)
333 Lake	2 commercial restrooms
345 Lake	1 office restroom
365 Lake (Lower level)	1 restroom, public meeting room (after regular business hours)

Regular servicing and cleaning of **waste oil stations** at the following locations:

**Twice Weekly:**

Commercial Fishery area  
FF dock area  
X dock  
G dock

### Duties:

At a minimum, the following duties shall be performed at each cleaning or as noted. The Contractor shall supply all cleaning products and supplies except as noted.

#### **Restrooms:**

- Empty waste receptacles, replace plastic liners (liners supplied by Port District)
- Clean and sanitize counter tops, sinks, toilets, urinals
- Clean mirrors
- Clean and sanitize door handles and light switches
- Clean and dust partitions
- Spot clean walls and doors as needed
- Refill all paper towel, toilet tissue, seat cover, and hand soap dispensers (products supplied by Port District)
- Remove cobwebs
- Sweep and mop all floors
- Clean windows (once monthly)
- Deep clean showers by removing scale and scrubbing grout (quarterly)

#### **Shower rooms:**

- Clean and sanitize tile, valves, shower doors, and sinks (if applicable)
- Remove floor mats, mop floors, replace floor mats
- Clean windows (once monthly)

#### **Offices and Public Meeting Room:**

- Vacuum floors
- Dust desks, tables, and counter tops; remove cobwebs
- Clean restrooms as noted above
- Clean sink in Public Meeting Room

#### **Waste Oil Stations:**

- Empty filter and absorbent pad receptacles and place in disposal drums
- Replenish absorbent granules; re-stock absorbent pads (granules and pads supplied by Port District)
- Wipe down oil container, receptacles, and walls
- Report any spills or mis-use to the Facilities Manager for clean-up and disposal by Port District hazardous materials specialist

**NOTE:** The Port District prefers and encourages the use of environmentally friendly and non-toxic cleaning products. The proposal shall include a detailed list of products proposed to be used in all phases of cleaning. The Port District shall require submittal of Material Safety Data Sheets (MSDS) from the successful proposer for each product to be used.

**EXHIBIT B  
PAYMENT SCHEDULE**

1. The Contractor will perform the regular duties described in Exhibit A for the sum of \$5,292.00 per month.
2. On-call work shall be performed at the request of the Facilities Maintenance and Engineering Manager. The following rates apply for on-call work:

Straight Time (Monday through Friday)	\$18.00
Overtime (Monday through Friday)	\$27.00
Overtime (Weekends)	\$27.00
Holiday (Nationally Observed)	\$27.00
Supplies and Materials	At Cost

3. Overtime charges apply only on time beyond the employee's regular shift. The Contractor agrees to supply employee records in support of overtime charges upon request.
4. Charges for supplies and materials provided by Contractor shall be accompanied by invoices from Contract's vendors or suppliers. Payment shall be authorized only for those supplies and materials used for on-call service, or for those normally provided by the Port District as described in Exhibit A which are out of stock.
5. Contractor shall bill monthly for regular service, on-call services provided, and supplies and materials provided. Supporting information required for overtime shall be submitted with the monthly invoice.

Santa Cruz Port District  
135 5th Avenue  
Santa Cruz, CA 95062  
831.475.6161  
831.475.9558 Fax  
www.santacruzharbor.org



PORT COMMISSIONERS:  
Toby Goddard  
Dennis Smith  
Reed Geisreiter  
Stephen Reed  
Darren Gertler

TO: Port Commission  
FROM: Marian Olin, Port Director  
DATE: August 20, 2018  
SUBJECT: Approval of Amendment to the Port Director's Employment Agreement

**Recommendation:** *Approve amendment to the Port Director's employment agreement, and authorize the Port Commission Chairman to execute the amendment document.*

## BACKGROUND

Pursuant to a satisfactory performance appraisal, the Port Commission directed that the Port Director's Employment Agreement be modified to include a merit increase in 2018.

The salary increase falls within the pay rate already established for the Port Director position in the Port District's publicly available pay schedule required by Government Code Section 20636(b)(1) and further clarified by California Code of Regulations (CCR) Section 570.5. The current salary range for the Port Director position was established by the Commission in July 2016. No amendment of the publicly available pay schedule is necessary at this time.

The Port Director's Employment Agreement amendment is included as Attachment 'A'. The original agreement is included as Attachment 'B'. The Port District's pay schedule is included as Attachment 'C.'

ATTACHMENT –

- A. First Amendment to Employment Agreement
- B. Employment Agreement (2017)
- C. Santa Cruz Port District Pay Schedule – All Positions (revised July 24, 2018)

**FIRST AMENDMENT TO EMPLOYMENT AGREEMENT**

This Amended to the Employment Agreement, is entered into effective as of the 1<sup>ST</sup> day of July, 2018, by and between SANTA CRUZ PORT DISTRICT, a port district formed and operating pursuant to the provisions of Harbor and Navigation Code Section 6200 et seq., and a political subdivision of the State of California (hereinafter the "District") and MARIAN OLIN (hereinafter "Olin").

**Recitals:**

The District employed Olin, and Olin accepted employment, as the Port Director of District pursuant to an Employment Agreement dated July 1, 2017. The Parties desire to amend the Employment Agreement as stated below.

**THE PARTIES AGREE AS FOLLOWS:**

1. The Employment Agreement ("Agreement") dated July 1, 2017, remains in effect in its entirety except as amended herein.
2. Section 6.a. of the Agreement is hereby amended to read:

Salary in the amount of \$146,748 annually, payable consistent with District practices and in the same manner as other regular full-time employees of District are paid.

**SANTA CRUZ PORT DISTRICT**

By: \_\_\_\_\_  
Dennis Smith, Chair  
Santa Cruz Port Commission

Attest: \_\_\_\_\_  
Secretary of the Board of Commissioners

**MARIAN OLIN**

By: \_\_\_\_\_  
Marian Olin, Port Director

## EMPLOYMENT AGREEMENT

THIS AGREEMENT is entered into this 1st day of July, 2017, by and between SANTA CRUZ PORT DISTRICT, a port district formed and operating pursuant to the provisions of Harbor and Navigation Code Section 6200 et seq., and a political subdivision of the State of California (hereinafter "District") and MARIAN OLIN (hereinafter "Employee") who agree as follows:

1. Recitals. District is in need of a Port Director and desires to employ Employee as the Port Director of District. Employee desires to act as Port Director of District pursuant to the terms and conditions of this Agreement.

2. Employment. District hereby employs Employee as Port Director of District, subject to the terms and conditions of this Agreement. Employee hereby accepts such employment as Port Director of District subject to the terms and conditions of this Agreement.

3. Term. This Agreement is hereby acknowledged to have commenced July 1, 2017, and the initial term of this Agreement shall terminate on June 30, 2021, subject to the ability of either party to terminate this Agreement, and the ability of District to extend this Agreement as provided herein.

Employee shall serve a probationary period of twelve (12) months from the date of commencement of this Agreement. During the probationary period Employee shall receive a performance evaluation at six (6) months and twelve (12) months. Upon satisfactory completion of the probationary period, Employee will receive a written evaluation. If the written evaluation is satisfactory, the term of this Agreement shall be extended to June 30, 2021. As a probationary employee, Employee may be terminated for any lawful reason at any time during the probationary period, including without cause and without notice. If this Agreement is terminated during the probationary period by District, Employee will not be entitled to severance benefits pursuant to Section 8d of this Agreement.

This Agreement shall be automatically extended for consecutive additional two (2) year terms commencing July 1, 2021, without further action by District or Employee. Should District determine at any time during the term of this Agreement to decline to renew this Agreement for an additional two (2) year term, District shall provide written notice to Employee of the District's intent not to renew this Agreement no later than six (6) months prior to the expiration of the then current term.

4. Duties. Employee's duties under this Agreement shall be those assigned to the office of the Port Director as described in the job description for the Port Director position as adopted and amended from time to time by the District Board of Commissioners, and such other duties and responsibilities as assigned by the District Board of Commissioners. The Board of Commissioners will meet and confer with Employee regarding any revisions in said job description. The current job description is attached as Exhibit A. Employee acknowledges that the District can amend the job description at any time to either provide for additional duties and responsibilities, and/or delete existing duties and responsibilities of the Port Director. A revised job description will supersede and replace the existing Exhibit A upon its adoption by the Board of Commissioners.

Employee shall be the Chief Executive Officer of the District. As such, Employee shall have the primary responsibility for implementation and execution of policies adopted by the Board of Commissioners and the Board of Commissioners shall have the primary responsibility for formulating and adopting the policies of the District. Employee shall work under the direction and control of the District Board of Commissioners in the management and administration of the daily operations of the District, shall



serve at the pleasure of the Board of Commissioners, and shall be Clerk and Secretary of the District Board of Commissioners.

5. Hours. Employee shall devote her full time, attention, and energies to her duties. Employee shall be available to work such times as necessary to fully and competently perform the duties of the position, regardless of the number of hours involved. Employee acknowledges that the duties of the position will on the average require more than forty (40) hours per week, and that some day-to-day hours may vary from as high as twelve (12) to sixteen (16) hours to less than eight (8) hours per day. Therefore, it is acknowledged by the parties that the Port Director will establish her own work schedule. Employee acknowledges that the position of Port Director is exempt from federal and state overtime and wage laws, and that she is not entitled to compensation in the form of either overtime pay or compensatory time off for any hours worked in excess of forty (40) hours in one week, or in excess of eight (8) hours in any day.

It is recognized the Employee must devote time outside the normal office hours to conduct business of the Port District. Accordingly, Employee agrees to devote her full time and attention to the performance of Employee's responsibilities as Port Director and shall not engage in any other employment or the conduct of any other business during the term of this Agreement without prior approval having been granted by the Santa Cruz Port Commission.

The Port Director shall be governed by the terms and conditions of District's Personnel Policies and any subsequent revisions in the performance of her duties, including District's policy against conflicts of interest.

6. Compensation. For all services to be rendered by Employee under this Agreement, District shall provide to Employee the following salary and benefits:

a. Salary in the amount of \$138,000 annually, payable consistent with District practices and in the same manner as other regular full-time employees of District are paid.

b. Salary may be adjusted by the Board of Commissioners, per Section 7.c.

c. Vacation leave will accrue at the rate consistent with District practices and in the same manner as other regular full-time employees of District. Employee is currently earning 200 hours per year (25 days) of vacation, commensurate with her hire date of February 21, 1995. The Port Director shall be subject to a cap of a maximum of eighty (80) hours of accrued and unused vacation time per year that may be carried over to subsequent years; however, District and Employee agree that Employee may request that accrued vacation in excess of eighty (80) hours be carried over into subsequent years, which request is subject to the discretionary approval of the Board of Commissioners. If the Board of Commissioners rejects such request, then any accrued vacation in excess of eighty (80) hours per year shall be subject to either payment by District at Employee's then current rate of pay or by direction of District to Employee to utilize such excess accrued vacation time, at the discretion of District. In the event of termination of this Agreement, the Port Director shall be entitled to payment for all accrued and unused vacation leave at the then current rate of pay.

d. Employee shall be entitled to the same retirement plan which covers other "miscellaneous" employees of District, consisting of the CalPERS Retirement program (currently 2.5% at age 55 plan). Employee shall pay the required employee contribution on a tax deferred basis as provided under Section 414(h)(2) of the Internal Revenue Code.

e. Employee and dependent coverage for health, dental, vision, life, and all other group insurance programs offered by District to its regular full-time employees, including payment of employer contributions for such coverages on the same basis as District provides for its other regular full-time employees, as amended by District from time to time. Employee shall be entitled to post-retirement retiree medical benefits offered by District and as defined in the Personnel Policies handbook and any subsequent revisions. Such policies may change from time to time in accordance with the employee labor contract.

f. Employee shall be entitled to paid sick leave, holidays and other leaves of absence on the same basis as provided other regular full-time employees of District as set forth in the District's Personnel Policies handbook, and as amended from time to time in accordance with the employee labor contract.

g. District shall reimburse Employee for all actual and necessary expenses incurred within the scope of employment in accordance with District policies. Any request for reimbursement of such business expenses shall be supported by receipts documenting actual costs incurred in the course and scope of conducting District business pursuant to existing District policies.

h. Motor vehicle allowance of Two Hundred Dollars (\$200.00) per month. This payment shall be made consistent with District practices and on the same periodic basis as other regular full-time employees of District are paid.

i. Employee shall be entitled to 40 hours per year of administrative leave, in accordance with the Resolution 15-05 granting administrative leave to employees who are members of the Harbor Management Group. Administrative leave is granted on a use-it or lose-it basis. No cash-out or carry-over of unused administrative leave is authorized.

#### 7. Performance Evaluation.

a. Within 45 days of commencing employment, the Port Director shall provide the Board of Commissioners with a list of proposed goals and objectives for the ensuing one-year period. Said goals and objectives, and the relative priority of said goals and objectives, shall be discussed and mutually agreed upon in writing by the Board and the Port Director. Said goals and objectives may be considered by the Board of Commissioners in its annual performance evaluation of the Port Director. Within thirty (30) days of the completion of each annual performance evaluation of the Port Director by the Board of Commissioners, the Port Director shall provide the Board of Commissioners with an updated written list of proposed goals, objectives and priorities for the ensuing one (1) year period.

b. The Board of Commissioners shall evaluate the performance of the Port Director in writing not less than annually during each term of this Agreement. The evaluation shall include an assessment of the performance of the Port Director and fulfillment of the duties and responsibilities specified in the Job Description as well as the Port Director's performance and fulfillment of the goals, objectives and priorities established pursuant to Section 7a.

The format of the evaluation shall be as established by the Board of Commissioners from time to time and may include the Port Director's self-evaluation. The evaluation format shall include, but is not limited to, an assessment of the Port Director's performance in the following areas: (1) relationship with the Board of Commissioners; (2) relationship with the community; (3) relationship with other public agencies; (4) relationship with staff and independent contractors; (5) leadership qualities; (6) professional development; (7) accomplishment of specified goals and objectives.

c. Based upon positive results of each annual Performance Evaluation, the Board of Commissioners may award an increase in the Port Director's base salary, effective the date of each Performance Evaluation.

d. If in the evaluation process the Board of Commissioners determines that the performance of the Port Director is unsatisfactory in any respect, the written evaluation shall describe such unsatisfactory performance and may include recommendations for improvement. The Board at all times retains its right to terminate this Agreement for unsatisfactory performance as set forth in Section 8 below.

8. Termination. Notwithstanding the language of Section 3 concerning the effective term of this Agreement, Employee agrees that she serves at the will and sole pleasure of the Board of Commissioners of District, and is an at-will employee. By execution hereof, both District and Employee acknowledge that they each retain the right to terminate the employment relationship with or without cause, and with or without notice, at any time.

This Agreement may be terminated at any time in advance of the expiration of each of its terms in any one of the following ways:

- a. By mutual agreement of the parties.
- b. By retirement of the Port Director.
- c. By Employee, without cause, upon giving to the District not less than sixty (60) calendar days prior written notice of an election to terminate this Agreement.
- d. By District, without cause, upon giving Employee written notice of intent to terminate this Agreement. In such event, Employee shall be entitled to payment of severance pay in an amount equal to the lesser of Employee's current monthly base salary for six (6) months, or Employee's current monthly base salary for the number of months left on the unexpired term of the contract (the "Severance Period"). Monthly base salary does not include the value of benefits received by Employee, including but not limited to, vacation, retirement contributions, and payment of premiums for medical, dental, vision, life and other group insurance benefits offered by District. District shall not provide any noncash items or benefits, including medical, dental, and vision benefits, during the Severance Period. Such severance pay shall be payable upon Employee's last date of employment with District after such written notice of termination of this Agreement. Payment of such severance pay shall be deemed to constitute full, complete, and exclusive compensation and relief for termination of this Agreement together with all losses, damages, and injuries, whether economic or otherwise, which the Port Director may incur as a result of such termination of this Agreement.

Payment of such severance shall be conditional upon execution by Employee of a General Release and Severance Agreement with District. Said Severance Agreement shall provide as follows:

- (i) A general release of legal claims against District;
- (ii) A 21-day period to consider the terms and conditions of the proposed Severance Agreement prior to execution;
- (iii) A seven (7) day period for revocation of the Severance Agreement after it has

been executed by Employee;

- (iv) A provision that requires all terms and conditions of the Severance Agreement, and all discussions, communications, and correspondence pertaining thereto, to remain confidential and not to be disclosed by either District or Employee;
- (v) An agreement that Employee will mediate any dispute with District over issues regarding termination of employment or terms and conditions of the proposed Severance Agreement.

The parties hereto acknowledge and agree that upon payment of the severance payment by District to Employee, Employee will unconditionally and forever release District from any further obligations under this Agreement, as well as any claims of any nature that Employee may have against District by virtue of her employment or termination thereof. In partial consideration for such severance payment, Employee agrees to be reasonably available for consultation and assistance to District in training any employee of District designated by the Board to assume the duties of Port Director during the period covered by such severance payment.

e. By District, for cause, upon giving to Employee written notice of termination. The written notice of termination shall specify (1) the particular cause(s) and the facts and circumstances justifying the termination of the Agreement, and (2) the opportunity of Employee to be heard before the District Board of Commissioners on the reasons for her termination. If Employee requests a hearing, said hearing shall be held at the Board's earliest convenience in a closed session. The Port Director shall have the right to testify on her own behalf, call witnesses, and be represented by legal counsel at her own expense. District shall be responsible for the payment of the expenses of its legal counsel. If the notice of termination involves accusations against Employee by a third party, Employee shall have the option of having the hearing take place in open session. After the hearing, the Board of Commissioners may affirm, modify, or reverse any decision to terminate this Agreement or terminate the Port Director's employment for cause. The Board of Commissioners shall prepare written findings of fact, conclusions of law, and recommended action with respect to such hearing.

Employee shall not be entitled to any severance payments in the event of termination of this Agreement by District for cause as specified in this section.

Examples of conduct justifying termination for cause include, but are not limited to the following: harassment of employees and/or District customers; willful breach of duty; habitual neglect of duty; gross insubordination; conviction of a crime involving moral turpitude; conduct that makes it impossible or impracticable to perform the duties under this Agreement, or which seriously impede District operations; conduct that tends to bring discredit to District; conduct unbecoming of an employee in public service; mishandling of District funds; any intentional misrepresentation or fraud in connection with the performance of her duties; or theft of District property. Additional examples of conduct justifying termination for cause are specified in the District's Personnel Policies.

Notwithstanding the provision of any District rule, regulation, policy, procedure or practice to the contrary, upon early termination of this Agreement, whether with or without cause, Employee shall not be entitled to any compensation, damages, or other monetary award except as specifically authorized by this Agreement, and by execution of this Agreement, Employee waives any such claims and/or entitlement.

9. Professional Growth. District encourages the continuing professional growth of the Port Director. District hereby agrees to budget a reasonable amount of funds in order to reimburse the Port Director for all necessary professional license fees, membership registration, and travel and lodging expenses incurred pursuant to existing District policy in order to allow the Port Director to participate in special activities, including, but not limited to, the following:

a. Attendance at programs, seminars, conferences, and other activities conducted or sponsored by local, state, and/or national associations of public agencies who provide harbor and port services;

b. Attendance at conferences, seminars, training sessions, and other activities conducted by public agency professional associations, including professional licensing activities and courses;

c. Attendance at other seminars, conferences and courses designed to improve or enhance management and operational activities of District;

10 Indemnification. Employer shall defend, hold harmless and indemnify Employee against any tort, professional liability claim or demand, or other legal action, whether groundless or otherwise, arising out of an alleged negligent act or omission occurring in the performance of Employee's duties in accordance with the provisions of California Government Code section 810 et seq. In its sole discretion, Employer may compromise and settle any such claim or suit and pay the amount of any settlement or judgment rendered therefrom.

Pursuant to Government Code section 53243, et seq., if Employee is convicted of a crime involving an abuse of his office or position, all of the following shall apply upon final conviction: (1) if Employee is provided with administrative leave pay pending an investigation, Employee shall be required to fully reimburse such amounts paid; (2) if the City, in its discretion, pays for the criminal legal defense of Employee, Employee shall be required to fully reimburse such amounts paid; and (3) if Employee is provided with any severance pay and/or settlement pay, Employee shall be required to reimburse such pay. For purposes of this Section, "abuse of office or position" shall be as defined under California Government Code section 53243.4.

11. Entire Agreement. This writing constitutes the sole, entire, integrated, and exclusive contract between the parties respecting Employee's employment by the District as Port Director. There are no promises, covenants, conditions precedent, conditions subsequent, or other understandings between the parties regarding the employment relationship that are not expressed herein. Any other contracts, agreements, contract terms, understandings, promises, or representations not expressly set forth or referenced in this writing are null and void and of no force and effect.

12. Notices. Any notice to be given to Employee shall be sufficiently served if given to her personally, or if deposited in the United States Mail, regular certified mail, addressed to:

Marian Olin  
Address on file with the City  
Clerk's Office

Any notice to be given to District shall be addressed to:

Board Chairman  
Santa Cruz Port Commission  
135 Fifth Avenue Santa  
Cruz, CA 95062

13. Successors and Assigns. This Agreement is personal to Employee and may not be transferred or assigned. Subject to this restriction on transfer and assignment, this Agreement shall bind, and inure to the benefit of, the successors, assigns, heirs, and legal representatives of the parties, including any successor public agency to District.

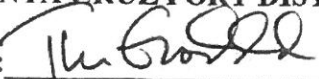
14. Amendments. This Agreement, other than provisions regarding changes in benefits subject to the discretion of the Board of Commissioners as part of a labor contract, may be amended only by a subsequent writing approved and executed by both parties. Any amendment by District must be approved by the District Board of Commissioners. Individual Board members do not have the authority, express or implied, to amend, modify, waive, or in any way alter this Agreement or the terms and conditions of Employee's employment.

15. Waiver. The waiver at any time by either party of its rights with respect to a default or other matter arising in connection with this Agreement shall not be deemed a waiver with respect to any subsequent default or matter.

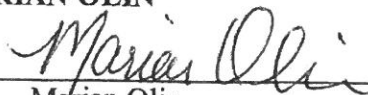
16. Public Record. Employee acknowledges that this Agreement constitutes a public record and a copy of said Agreement must be made available to the public by the District upon receipt of a request made pursuant to the California Public Records Act, Government Code Section 6250, et seq., and other provisions of California law.

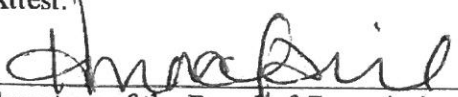
17. Construction and Interpretation. It is agreed and acknowledged by the parties that this Agreement has been arrived at through negotiation, and that each party has had a full and fair opportunity to revise the terms of this Agreement. Consequently, the normal rule of construction that any ambiguities are to be resolved against the drafting party shall not apply in construing or interpreting this Agreement.

**SANTA CRUZ PORT DISTRICT**

By:   
Toby Goddard, Chair  
Santa Cruz Port Commission

**MARIAN OLIN**

By:   
Marian Olin

Attest:   
Secretary of the Board of Commissioners or Designee

**Santa Cruz Port District**  
**2018 Unrepresented Positions Hourly and Salary Pay Rates (Part-time / Temporary / Seasonal / Provisional)**  
 Effective January 1, 2018\*\*\*

Job Classification*	Hourly Rate Semi-Monthly Payroll		Monthly Salary Semi-Monthly Payroll		Salary Grade(s)
	SCPD Minimum	SCPD Maximum	SCPD Minimum	SCPD Maximum	
Boatyard Worker**	\$11.00	\$17.50			
Dredge Monitor / Dredge Services I	\$11.00	\$16.00			
Dredge Monitor / Dredge Services II	\$13.00	\$18.00			
Front Desk Customer Service / Office Assistant	\$11.00	\$25.88			
Janitorial	\$11.00	\$15.00			
Harbor Maintenance Worker I - Provisional	\$20.05	\$26.87	\$3,475	\$4,658	16
Harbor Maintenance Worker II / III - Provisional	\$22.11	\$32.67	\$3,832	\$5,662	18-20
Marina Management Specialist**	\$30.00	\$40.00			
Operations Assistant	\$11.00	\$18.00			
Reserve Deputy Harbormaster / Operations Officer**	\$23.66	\$31.71			
Parking Control / Water Taxi Crew	\$11.00	\$15.00			
Water Taxi Operator**	\$12.00	\$18.00			

\*Employees working out of classification shall be paid their normal hourly pay rate, unless a differential hourly pay rate has been established.

\*\*Positions designated as eligible to be filled by retired annuitants for limited duration in accordance with PERL Sections 7522.56-57.

\*\*\* Revised July 24, 2018

Santa Cruz Port District  
MONTHLY SALARY RANGES BY POSITION  
2018

Santa Cruz Port District Full Time Equivalent Employees -- All Positions

Effective	Position	Bargaining Group	Salary Grade	Monthly Salary Range/Step*						
				1	2	3	4	5	6	7
8/1/2018	Accounting Technician I	HEA	20	\$4,225	\$4,436	\$4,658	\$4,891	\$5,135	\$5,392	\$5,662
8/1/2018	Accounting Technician II	HEA	22	\$4,658	\$4,891	\$5,135	\$5,392	\$5,662	\$5,945	\$6,242
1/1/2018	Administrative Assistant I	HEA	20	\$4,225	\$4,436	\$4,658	\$4,891	\$5,135	\$5,392	\$5,662
1/16/2018	Administrative Services Manager	HMG	29	\$6,554	\$6,882	\$7,226	\$7,587	\$7,967	\$8,365	\$8,783
8/1/2018	Assistant Harbormaster	HEA	24	\$5,135	\$5,392	\$5,662	\$5,945	\$6,242	\$6,554	\$6,882
1/1/2018	Boatyard Supervisor	HEA	22	\$4,658	\$4,891	\$5,135	\$5,392	\$5,662	\$5,945	\$6,242
1/1/2018	Boatyard Crew	HEA	17	\$3,650	\$3,832	\$4,024	\$4,225	\$4,436	\$4,658	\$4,891
1/1/2018	Customer Service Representative	HEA	19	\$4,024	\$4,225	\$4,436	\$4,658	\$4,891	\$5,135	\$5,392
1/1/2018	Deputy Harbormaster	HEA	20	\$4,225	\$4,436	\$4,658	\$4,891	\$5,135	\$5,392	\$5,662
1/1/2018	Facilities Coordinator	HEA	19	\$4,024	\$4,225	\$4,436	\$4,658	\$4,891	\$5,135	\$5,392
1/16/2018	Facilities Maintenance and Eng Manager	HMG	29	\$6,554	\$6,882	\$7,226	\$7,587	\$7,967	\$8,365	\$8,783
1/1/2018	Harbor Maintenance Worker I	HEA	16	\$3,475	\$3,650	\$3,832	\$4,024	\$4,225	\$4,436	\$4,658
1/1/2018	Harbor Dredge Worker I	OE3	16	\$3,475	\$3,650	\$3,832	\$4,024	\$4,225	\$4,436	\$4,658
1/1/2018	Harbor Maintenance Worker II	HEA	18	\$3,832	\$4,024	\$4,225	\$4,436	\$4,658	\$4,891	\$5,135
1/1/2018	Harbor Dredge Worker II	OE3	18	\$3,832	\$4,024	\$4,225	\$4,436	\$4,658	\$4,891	\$5,135
1/1/2018	Harbor Maintenance Worker III	HEA	20	\$4,225	\$4,436	\$4,658	\$4,891	\$5,135	\$5,392	\$5,662
1/1/2018	Harbor Dredge Worker III	OE3	20	\$4,225	\$4,436	\$4,658	\$4,891	\$5,135	\$5,392	\$5,662
1/16/2018	Harbormaster	HMG	29	\$6,554	\$6,882	\$7,226	\$7,587	\$7,967	\$8,365	\$8,783
4/1/2018	Parking Coordinator	HEA	19	\$4,024	\$4,225	\$4,436	\$4,658	\$4,891	\$5,135	\$5,392
7/29/2016	Port Director	NA	NA	\$9,167	NA	NA	NA	NA	NA	\$12,229
1/1/2018	Senior Deputy Harbormaster	HEA	22	\$4,658	\$4,891	\$5,135	\$5,392	\$5,662	\$5,945	\$6,242
1/1/2018	Supervising Harbor Maintenance Worker	HEA	22	\$4,658	\$4,891	\$5,135	\$5,392	\$5,662	\$5,945	\$6,242
1/1/2018	Supervising Harbor Dredge Worker	OE3	23	\$4,891	\$5,135	\$5,392	\$5,662	\$5,945	\$6,242	\$6,554

\*Ranges shown are paid semi-monthly

**Bargaining Groups:**

- HMG = Harbor Management Group
- HEA = Harbor Employees Association
- OE3 = Operating Engineers Local No. 3



Santa Cruz Port District  
MONTHLY SALARY RANGES BY POSITION  
2019

Santa Cruz Port District Full Time Equivalent Employees -- All Positions

Effective	Position	Bargaining Group	Salary Grade	Monthly Salary Range/Step*						
				1	2	3	4	5	6	7
1/1/2019	Accounting Technician I	HEA	20	\$4,352	\$4,570	\$4,798	\$5,038	\$5,290	\$5,554	\$5,832
1/1/2019	Accounting Technician II	HEA	22	\$4,798	\$5,038	\$5,290	\$5,554	\$5,832	\$6,124	\$6,430
1/1/2019	Administrative Assistant I	HEA	20	\$4,352	\$4,570	\$4,798	\$5,038	\$5,290	\$5,554	\$5,832
1/1/2019	Administrative Services Manager	HMG	30	\$7,089	\$7,443	\$7,815	\$8,206	\$8,617	\$9,048	\$9,501
1/1/2019	Assistant Harbormaster	HEA	24	\$5,290	\$5,554	\$5,832	\$6,124	\$6,430	\$6,751	\$7,089
1/1/2019	Boatyard Supervisor	HEA	22	\$4,798	\$5,038	\$5,290	\$5,554	\$5,832	\$6,124	\$6,430
1/1/2019	Boatyard Crew	HEA	17	\$3,760	\$3,947	\$4,145	\$4,352	\$4,570	\$4,798	\$5,038
1/1/2019	Customer Service Representative	HEA	19	\$4,145	\$4,352	\$4,570	\$4,798	\$5,038	\$5,290	\$5,554
1/1/2019	Deputy Harbormaster	HEA	20	\$4,352	\$4,570	\$4,798	\$5,038	\$5,290	\$5,554	\$5,832
1/1/2019	Facilities Coordinator	HEA	19	\$4,145	\$4,352	\$4,570	\$4,798	\$5,038	\$5,290	\$5,554
1/1/2019	Facilities Maintenance and Eng Manager	HMG	30	\$7,089	\$7,443	\$7,815	\$8,206	\$8,617	\$9,048	\$9,501
1/1/2019	Harbor Maintenance Worker I	HEA	16	\$3,579	\$3,760	\$3,947	\$4,145	\$4,352	\$4,570	\$4,798
1/1/2019	Harbor Dredge Worker I	OE3	16	\$3,579	\$3,760	\$3,947	\$4,145	\$4,352	\$4,570	\$4,798
1/1/2019	Harbor Maintenance Worker II	HEA	18	\$3,947	\$4,145	\$4,352	\$4,570	\$4,798	\$5,038	\$5,290
1/1/2019	Harbor Dredge Worker II	OE3	18	\$3,947	\$4,145	\$4,352	\$4,570	\$4,798	\$5,038	\$5,290
1/1/2019	Harbor Maintenance Worker III	HEA	20	\$4,352	\$4,570	\$4,798	\$5,038	\$5,290	\$5,554	\$5,832
1/1/2019	Harbor Dredge Worker III	OE3	20	\$4,352	\$4,570	\$4,798	\$5,038	\$5,290	\$5,554	\$5,832
1/1/2019	Harbormaster	HMG	30	\$7,089	\$7,443	\$7,815	\$8,206	\$8,617	\$9,048	\$9,501
1/1/2019	Parking Coordinator	HEA	19	\$4,145	\$4,352	\$4,570	\$4,798	\$5,038	\$5,290	\$5,554
7/29/2016	Port Director	NA	NA	\$9,167	NA	NA	NA	NA	NA	\$12,229
1/1/2019	Senior Deputy Harbormaster	HEA	22	\$4,798	\$5,038	\$5,290	\$5,554	\$5,832	\$6,124	\$6,430
1/1/2019	Supervising Harbor Maintenance Worker	HEA	22	\$4,798	\$5,038	\$5,290	\$5,554	\$5,832	\$6,124	\$6,430
1/1/2019	Supervising Harbor Dredge Worker	OE3	23	\$5,038	\$5,290	\$5,554	\$5,832	\$6,124	\$6,430	\$6,751

\*Ranges shown are paid semi-monthly

**Bargaining Groups:**

- HMG = Harbor Management Group
- HEA = Harbor Employees Association
- OE3 = Operating Engineers Local No. 3

Santa Cruz Port District  
MONTHLY SALARY RANGES BY POSITION  
2020

Santa Cruz Port District Full Time Equivalent Employees -- All Positions

Effective	Position	Bargaining Group	Salary Grade	Monthly Salary Range/Step*						
				1	2	3	4	5	6	7
1/1/2020	Accounting Technician I	HEA	20	\$4,417	\$4,639	\$4,870	\$5,114	\$5,369	\$5,638	\$5,920
1/1/2020	Accounting Technician II	HEA	22	\$4,870	\$5,114	\$5,369	\$5,638	\$5,920	\$6,217	\$6,526
1/1/2020	Administrative Assistant I	HEA	20	\$4,417	\$4,639	\$4,870	\$5,114	\$5,369	\$5,638	\$5,920
1/1/2020	Administrative Services Manager	HMG	30	\$7,195	\$7,555	\$7,933	\$8,330	\$8,747	\$9,184	\$9,644
1/1/2020	Assistant Harbormaster	HEA	24	\$5,369	\$5,638	\$5,920	\$6,218	\$6,526	\$6,852	\$7,195
1/1/2020	Boatyard Supervisor	HEA	22	\$4,870	\$5,114	\$5,369	\$5,638	\$5,920	\$6,217	\$6,526
1/1/2020	Boatyard Crew	HEA	17	\$3,816	\$4,006	\$4,207	\$4,417	\$4,639	\$4,870	\$5,114
1/1/2020	Customer Service Representative	HEA	19	\$4,207	\$4,417	\$4,639	\$4,870	\$5,114	\$5,369	\$5,638
1/1/2020	Deputy Harbormaster	HEA	20	\$4,417	\$4,639	\$4,870	\$5,114	\$5,369	\$5,638	\$5,920
1/1/2020	Facilities Coordinator	HEA	19	\$4,207	\$4,417	\$4,639	\$4,870	\$5,114	\$5,369	\$5,638
1/1/2020	Facilities Maintenance and Eng Manager	HMG	30	\$7,195	\$7,555	\$7,933	\$8,330	\$8,747	\$9,184	\$9,644
1/1/2020	Harbor Maintenance Worker I	HEA	16	\$3,633	\$3,816	\$4,006	\$4,207	\$4,417	\$4,639	\$4,870
1/2/2020	Harbor Dredge Worker I	OE3	16	\$3,633	\$3,816	\$4,006	\$4,207	\$4,417	\$4,639	\$4,870
1/1/2020	Harbor Maintenance Worker II	HEA	18	\$4,006	\$4,207	\$4,417	\$4,639	\$4,870	\$5,114	\$5,369
1/2/2020	Harbor Dredge Worker II	OE3	18	\$4,006	\$4,207	\$4,417	\$4,639	\$4,870	\$5,114	\$5,369
1/1/2020	Harbor Maintenance Worker III	HEA	20	\$4,417	\$4,639	\$4,870	\$5,114	\$5,369	\$5,638	\$5,920
1/2/2020	Harbor Dredge Worker III	OE3	20	\$4,417	\$4,639	\$4,870	\$5,114	\$5,369	\$5,638	\$5,920
1/1/2020	Harbormaster	HMG	30	\$7,195	\$7,555	\$7,933	\$8,330	\$8,747	\$9,184	\$9,644
1/1/2020	Parking Coordinator	HEA	19	\$4,207	\$4,417	\$4,639	\$4,870	\$5,114	\$5,369	\$5,638
7/29/2016	Port Director	NA	NA	\$9,167	NA	NA	NA	NA	NA	\$12,229
1/1/2020	Senior Deputy Harbormaster	HEA	22	\$4,870	\$5,114	\$5,369	\$5,638	\$5,920	\$6,217	\$6,526
1/1/2020	Supervising Harbor Maintenance Worker	HEA	22	\$4,870	\$5,114	\$5,369	\$5,638	\$5,920	\$6,217	\$6,526
1/1/2019	Supervising Harbor Dredge Worker	OE3	23	\$5,114	\$5,369	\$5,638	\$5,920	\$6,218	\$6,526	\$6,852

\*Ranges shown are paid semi-monthly

**Bargaining Groups:**

- HMG = Harbor Management Group
- HEA = Harbor Employees Association
- OE3 = Operating Engineers Local No. 3



TO: Port Commission  
FROM: Marian Olin, Port Director  
DATE: August 9, 2018  
SUBJECT: Approval of Lease Assignment – Johnny’s Harborside

**Recommendation:** *Approve assignment of the lease for 493 A Lake Avenue (Johnny’s Harborside Restaurant) from Richard Kash, dba Harbor Culinary Enterprises, to Daniel Agostinis, dba Harbor Culinary Enterprises and Ciera Kash, dba Harbor Culinary Enterprises.*

## BACKGROUND

In November 2010, the lease for 493 A Lake Avenue was assigned from owners (Jeff and Sheri Moise, dba Harbor Culinary Enterprises) to Richard Kash, Harbor Culinary Enterprises, Inc. In January 2016, the Commission approved the exercise of the fifth option, extending the lease through August 15, 2021.

In a letter dated September 30, 2017, Mr. Kash provided notice to the District that he transferred 33.33% of ownership interest in the business, Harbor Culinary Enterprises, Inc., to Mr. Daniel Agostinis, the general manager of Johnny’s Harborside. The Port District acknowledged this stock transfer, and informed Mr. Kash that provisions of the lease agreement stipulated that a lease Assignment was not required because the transfer of stock (whether a single transaction or a series of transactions) did not exceed fifty percent (50%).

In July 2018, Mr. Kash provided notice (Attachment A) to the District that he transferred an additional 16.67% of ownership interest in the business to Mr. Daniel Agostinis (combined for 50% of ownership), and 25% of ownership interest in the business to Ms. Ciera Kash.

## ANALYSIS

Section 14, “Assignment and Subletting,” of the lease states:

- (a) Permitted Assignments and Subleases. Tenant shall be entitled to sublease or assign its interest in this Lease provided if first obtains Landlord’s written consent thereto, which shall not unreasonably be withheld. In this connection, Tenant must demonstrate to Landlord’s reasonable satisfaction that the proposed transferee is financially creditworthy, has sufficient experience in running a restaurant as to make it at least as likely to achieve the level of Percentage Rents as Tenant has achieved, and will operate a restaurant of the type and quality that Landlord determines is consistent with the mix of restaurants in the Port District and that supports the good reputation and image of Port District restaurants. No assignment or sublease respecting all or any portion of the Premises shall operate to release (previous Tenant) or any guarantor of its obligations hereunder, from liability for full

performance of Tenant's obligations hereunder subsequent to the date of any assignment or sublease.

(c) Corporation or Partnership. The assignment, pledge for security purposes, or other transfer during the Lease term of any class of voting stock or other controlling interest in said corporation (whether in a single transaction or series of transfers) which in the aggregate exceeds fifty percent (50%) of such class of stock or other controlling interest shall be deemed to be an assignment within the meaning of this Lease. If Tenant becomes a partnership, and Landlord consents thereto, the assignment, pledge for security purposes, or other transfer during the Lease term of any interest in the partnership of a general or limited partner thereof, shall be deemed an assignment within the meaning of this Lease.

Pursuant to Paragraph 14(c) of the Lease, a lease assignment is necessary to document the 50% transfer of ownership from Mr. Kash to Mr. Agostinis and the 25% transfer of ownership from Mr. Kash to Ms. Kash.

Johnny's account remains in good standing with the Port District.

#### **IMPACT TO PORT DISTRICT RESOURCES**

There are no financial impacts to the District associated with approving this lease assignment. Richard Kash remains the guarantor on the lease.

ATTACHMENTS:      A.      Notice of Transfer of Ownership Interest in Harbor Culinary Enterprises dated June 30, 2018  
                             B.      Draft Assignment and Assumption of Lease

## Harbor Culinary Enterprises

Minutes of the Meeting of the Board of Directors of Harbor Culinary Enterprises, Inc. held on June 30, 2018 at 493 Lake Avenue, Santa Cruz, CA and consent to the holding of this meeting at that time and place and to the transaction of any and all business, including the electing officers, providing for the issuance/transfer of stock, and any other action that may be necessary or appropriate to complete the meeting and the organization of the Corporation.

### Attendance:

The following directors were present: Richard Kash, Daniel Agostinis

### Meeting matters:

Daniel Agostinis purchased 167 shares of Harbor Culinary Inc. stock from Richard Kash in accordance to the Stock Purchase Agreement dated January 1, 2017. As of July 1, 2018, Dan Agostinis will now hold 500 shares (50 percent) of Harbor Culinary Inc. stock.

All directors agree to the sale of 250 shares of the Harbor Culinary Inc. stock owned by Richard Kash to Ciera Kash (590 Olson Road., Soquel, CA) subject to the same terms and restrictions as the Stock Restriction and Buy-Sell Agreement signed by Daniel Agostinis dated January 1, 2017. The sale is effective July 1, 2018. It is additionally agreed to make Ciera Kash a signer for the business bank account.

A stock dividend is declared. Payment to holders of Harbor Culinary stock as of June 30, 2018 will occur no later than August 1, 2018. The stock dividend will be consistent to the stock dividend issued on January 1, 2018 and will cover the time period of January 1, 2018 to June 30, 2018.

### Adjournment


There being no further business, the meeting was adjourned.

### Secretary's Certification

I, Richard Kash, hereby certify that I acted as Secretary for this meeting of the Harbor Culinary Board of Directors meeting held this 30<sup>th</sup> day of June, 2018 and that the forgoing minutes constitute an accurate record of the meeting.

### Signatures

Richard Kash (President and Secretary)



Dan Agostinis (Vice President)



**ASSIGNMENT OF LEASE**

The following definitions and designations shall apply to this Assignment, without regard to number or gender.

ASSIGNOR: Richard Kash

ASSIGNEES: Daniel Agostinis  
Ciera Kash

LANDLORD: Santa Cruz Port District

PREMISES: 493 Lake Avenue, Santa Cruz, CA 95062

BUSINESS: Harbor Culinary Enterprises, Inc.  
dba Johnny's Harborside Restaurant

LEASE: That certain Fifth Amendment to Lease dated January 26, 2016, by and between Harbor Culinary Enterprises, Inc. ("Tenant") and Santa Cruz Port District Commission ("Landlord") modifying that certain Lease for the Premises dated February 16, 1994.

Assignor transferred a portion of their interest in the Business to Assignee Daniel Agostinis, who now holds 50% of the stock in the Business, Harbor Culinary Enterprises, Inc. and Assignee Ciera Kash, who now holds 25% of the stock in the Business, Harbor Culinary Enterprises, Inc.

Pursuant to Paragraph 14(c) of the Lease, if Tenant becomes a partnership, and Landlord consents thereto, the assignment, pledge for security purposes, or other transfer during the Lease term of any interest in the partnership of a general or limited partner thereof, shall be deemed an assignment within the meaning of this Lease.

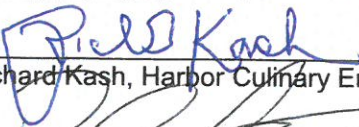
Assignees hereby assume obligations under the Lease, with assignor, Richard Kash. Assignor/Assignee(s) agree to comply with all the terms and obligations of said Lease.

Landlord consents to the foregoing Assignment on condition that Mr. Richard Kash remains the sole "Guarantor" for Guaranty of Lease dated October 1, 2014.

This consent to assignment shall not be deemed to be consent to any further or subsequent assignment of the Lease, and any further assignment of the Lease or subletting of the Premises shall require the prior written consent of Landlord.

Each party warrants that such party has carefully read and fully understands the provisions of said Lease.

Executed effective \_\_\_\_\_, 2018, at Santa Cruz, California

Assignor: By:   
Richard Kash, Harbor Culinary Enterprises, Inc.

Assignee: By:   
Daniel Agostinis, Harbor Culinary Enterprises, Inc.

Assignee: By:   
Ciera Kash, Harbor Culinary Enterprises, Inc.

Landlord: By: \_\_\_\_\_  
Santa Cruz Port District



TO: Port Commission  
FROM: Latisha Marshall, Harbormaster  
DATE: August 13, 2018  
SUBJECT: Approval of Business Use of Slip (B. Lee, Wizard Yachts)

**Recommendation: Approve business use of slip T-09.**

**BACKGROUND**

On April 1, 2016, Bill Lee accepted a south harbor 60' slip through the regular waiting list. Upon acceptance, Mr. Lee placed his 68' sailing vessel *Merlin* in the slip. Mr. Lee maintained personal continuous use of the vessel until it was sold in December 2017. Mr. Lee has been subleasing the slip since February 2018.

Mr. Lee has maintained a California yacht brokerage license since 1988, and has leased office space from the Port District for his business, Wizard Yachts, since 2000.

Mr. Lee is requesting that slip T-09 be designated as a business use slip for use in conjunction with his brokerage business. As outlined in the Business Use of Slip Application (Attachment A), Mr. Lee proposes to utilize the slip for berthing vessels that are listed for sale through his brokerage. Additionally, the slip may be used as a temporary berthing location for vessels subsequent to a sale.

**ANALYSIS**

The business use designation will provide Mr. Lee with the flexibility necessary to operate his brokerage business, without being constrained by registration, size, or personal use requirements.

In the early 1980's there were as many as 24 slips used for brokerage purposes. Currently there are none. The creation of a business use brokerage slip will expand the types of services offered to the Santa Cruz Harbor boating community. Slip renters may choose to list their vessels with Mr. Lee thus alleviating the logistical space problem if they are bringing in a new boat.

Mr. Lee's request does meet the criteria for business use designation as outlined in Ordinance Section 302 (e) – Business Use of Slip, which states the following:

*(e) Business Use Of Slips*

*Berths in Santa Cruz Harbor may be used for marine business purposes. Such use may include, but is not limited to:*

- *Public chartering operations*

- *Boat brokerage*
- *Boat rental – livery service*
- *Boating education / instruction / lessons*
- *Marine research*
- *Boating services such as engine repair, boat maintenance, diving services*
- *Other marine businesses which the Port Commission determines at the time can be of benefit to the boating public*

*Approval of such proposals will be determined by deliberation of: 1) the benefit of proposed business to the public; 2) the impact of the proposed business on:*

- *existing harbor operations;*
- *traffic and parking;*
- *environmental issues;*
- *financial benefit or impact to the Port District.*

While it may be difficult to predict how many vessels will be served on an annual basis by Mr. Lee's brokerage, he acknowledges that it is in his best interest to encourage swift turnover.

In the event Mr. Lee chooses to discontinue using the slip for business purposes, he will retain the right to place a personally owned/registered vessel, of no less than 54 feet in length, in the slip.

### **IMPACTS ON PORT DISTRICT RESOURCES**

Impacts on parking availability and other harbor facilities will be minimal, as the vessels occupying the slip will not be utilized for chartering purposes.

Business use slips are charged at a rate of 1.5X slip rent. Approval of the business use request will generate approximately \$4,600 per year in additional revenue.

ATTACHMENT:   A. Business Use of Slip Application



**BUSINESS USE OF SLIP / CHARTER PERMIT APPLICATION**

**CONTACT & BUSINESS INFORMATION**

Applicant Name:

Home Address:

Email Address:

Phone Number:

Assigned Slip #:  Slip Assigned through Port District Waiting List?  YES  NO

Vessel Pak Rating:  Vessel Type:  Vessel Size:

Vessel Draw:  Operating Schedule:

**THE FOLLOWING INFORMATION MUST BE SUBMITTED AS PART OF THE APPLICATION PROCESS. THE INFORMATION WILL ASSIST IN THE APPROVAL PROCESS. ADDITIONAL INFORMATION MAY BE SUBMITTED, IF DESIRED.**

**PROPOSED OPERATING PLAN**

Include days, times, and seasons of planned operation. Please note that any changes to the operating plan, including changes to the vessel's pak rating or size, will require additional Port Commission approval.

**PROPOSED PARKING PLAN**

Parking within the harbor is limited. Please address how parking will be utilized and any steps you will take to minimize parking impacts.

**SAFETY PLAN**

A comprehensive safety plan, outlining courses, certifications, licensing of each qualified vessel operator and/ or skipper.

**INSURANCE REQUIREMENTS**

Liability insurance, in the amount of \$1 million, naming the Santa Cruz Port District as additional insured, must be provided.

**SIGNATURE**

Owner hereby agrees that, to the full extent permitted by law, Port District shall not be liable or responsible for any claims, demands, damages, debts, liabilities, obligations, costs, expenses, liens, actions or causes of action of any kind whatsoever, resulting (1) from any collision with any of the dredging equipment or any other boat, (2) from any collision or contact with the bottom of the Harbor or any obstructions on the bottom of the Harbor, (3) from any collision or contact with the jetties or surrounding beaches, or (4) from, or in any way relating to, the dredging operations or the lack of dredging operations, including, but not limited to, the closure of the Harbor entrance for any reason or under any circumstances.

NAME:  SIGNATURE:

SIGNATURE:  DATE:

PRIMARY BANKING INSTITUTION:

**FOR PORT DISTRICT USE**

Application Fee:  Insurance Req't (Date Submitted):

Received Date:  Other Special Conditions:

Approval Date:

Page 2

Business use request for Slip T9

I sold MERLIN last November and at this point I have not obtained a replacement boat which meets the slip size requirement, and within the normal 6 months. However, I am an active licensed yacht salesman in the State of California. My license is currently with Yachtfinders/Windseakers in San Diego.  
[www.yachtfinders.biz](http://www.yachtfinders.biz)

This slip would be very useful in the brokerage. T9 works well because it is wide and two smaller boats can fit in the slip and can pass each other.

#### **PROPOSED OPERATING PLAN**

The use will be for boats that are listed for sale, or boats which have been sold and need a place to stay. From a marketing standpoint, the intent is to rotate boats through the slip. The time can vary depending on the demand by boats listed for sale or recently sold. Demand is also variable, and if I don't have any boats listed for sale or recently sold who want the slip, I may sublet.

No additional impact is expected in excess of an individual boat owner in the slip. In brokerage, we don't do a test sail until we have a deposit, so there will be occasional, but not a lot of use for purposes of demonstrating vessels.

#### **PROPOSED PARKING PLAN**

No expected demand beyond an individual boat owner.

#### **SAFETY PLAN**

All USCG requirements shall be met. Nothing additional safety should be necessary.

#### **INSURANCE REQUIREMENTS**

Yachtfinders/Windseakers insurance covers demonstration sails. Boats in the slip will be required to meet the District's new insurance requirements to \$1m.



TO: Port Commission

FROM: Marian Olin / Port Director

DATE: August 22, 2018

SUBJECT: Authorize Financing for Pile Replacement Project and Aldo's Seawall Projects totaling \$3,350,000 and take action:

1. Declaring District's Intention to Reimburse Certain Expenditures from the Proceeds of Tax-Exempt Obligations – Adoption of Resolution 18-10; and
2. Authorizing the Form of All Financing Documents – Adoption of Ordinance 18-03

**Recommendation:**

1. ***Adopt Resolution No. 18-10, which (i) authorizes commencement of proceedings in connection with the financing of certain project improvements, (ii) declares District's intention to reimburse certain expenditures from the proceeds of tax-exempt obligations, and appoints The Weist Law Firm to provide necessary bond counsel services in connection therewith.***
2. ***Adopt Ordinance 18-03, which (i) authorizes the form and execution of two separate installment sale agreements, which, in turn, provide for the execution and delivery of "Santa Cruz Port District, Series 2018A Revenue Obligations (Santa Cruz Harbor Pile Replacement Project), Bank Qualified," in an amount not to exceed \$1,750,000, and the "Santa Cruz Port District, Series 2018B Revenue Obligations (Santa Cruz Harbor Seawall Replacement Project), Bank Qualified," in an amount not to exceed \$1,600,000, (ii) amends the loan agreements dated as of September 1, 2013 (the "2013 Loan Agreements"), by providing approval the form of two separate Supplements, (iii) approves and directs execution of the corresponding Term Sheets provided by the BBVA, (iv) authorizes and directs cancellation of the line of credit established under the 2013 Loan Agreements, and (v) provides for other matters properly related thereto.***

## BACKGROUND

The Commission, after due investigation and deliberation, has expressed its desire to undertake proceedings for the financing (the "Financing") of two separate capital improvement projects commonly referred to as (i) the Pile Repair and Replacement Project, as generally described in Exhibit A of Resolution No. 18-10 (the "Pile Replacement Project"), and (ii) the Aldo's Seawall Replacement Project, as general described in Exhibit A of Resolution No. 18-10 (the "Seawall Project,") and together with the Pile Replacement Project, the "Projects".

In order to provide for the Financing of the Projects the Commission is being presented with Ordinance No. 18-03, which, among other things, authorizes the execution and delivery of (i) the "Santa Cruz Port District, Series 2018A Revenue Obligations (Santa Cruz Harbor Pile Replacement Project), Bank Qualified," in an amount not to exceed \$1,750,000 (the "2018A Revenue Obligations"), and (ii) the "Santa Cruz Port District, Series 2018B Revenue Obligations (Santa Cruz Harbor Seawall Replacement Project), Bank Qualified," in an amount not to exceed \$1,600,000 (the "2018B Revenue Obligations"), and together with the 2018A Revenue Obligations, the "2018 Revenue Obligations" appended as Attachments E.1 and E.2.

2018A Revenue Obligations will be consummated pursuant to terms and conditions of a Series 2018A Installment Sale Agreement (the "2018A Installment Sale Agreement"), dated as of September 1, 2018, by and between the District and Compass Bank (the "Bank"), and the 2018B Revenue Obligations will be consummated pursuant to terms and conditions of a Series 2018B Installment Sale Agreement (the "2018B Installment Sale Agreement," and together with the 2018A Installment Sale Agreement, the "Installment Sale Agreements"), dated as of September 1, 2018, by and between the District and the Bank.

On September 5, 2013, the District executed and consummated (i) \$14,418,960.43 aggregate principal amount of the Santa Cruz Port District, Series 2013 Tax-Exempt Enterprise Revenue Loan (the "Tax-Exempt Loan") pursuant to a Loan Agreement, dated as of September 1, 2013, by and between the District and BBVA Bank (the "2013 Tax-Exempt Loan Agreement"), and (ii) \$2,384,445.08 aggregate principal amount of the Santa Cruz Port District, Series 2013 Taxable Enterprise Revenue Loan (the "Taxable Loan," and together with the Tax-Exempt Loan, the "2013 Loans") pursuant to a Loan Agreement, dated as of September 1, 2013, by and between the District and BBVA Bank (the "2013 Taxable Loan Agreement," and together with the 2013 Tax-Exempt Loan Agreement, the "2013 Loan Agreements").

The 2018 Revenue Obligations are structured to be of legal and financial equal parity with the 2013 Loans.

## **ANALYSIS**

Based on the term sheets provided by BBVA (the "Term Sheets"), the Projects will be financed at fixed rate of approximately (exact rate cannot be determined until the time of closing because BBVA's proposal is tied to an index) 129 bps over 79% of the prevailing 7-year LIBOR swap rate over a 15 year fully-amortizing payback period. As of August 17, 2018, the projected interest rate was 3.56%. The 2018 Revenue Obligations will be prepayable at any time without penalty. Attached are the most recent draft preliminary debt service calculations ("Debt Service Schedules") as of August 17, 2018. The Terms Sheets and Debt Service Schedules are appended as Attachment A.

Ordinance 18-03 (Attachment C) being recommended for adoption authorizes and directs the Port Director to provide for the cancellation of the Line of Credit that was established under the 2013 Loan Agreements (Attachment B), and also authorizes and approves the form of all the essential

legal documents necessary to provide for the successful execution and delivery of the 2018 Revenue Obligations, each of which are briefly described below:

1. 2018A Installment Sale Agreement: This is an agreement between the District and the Bank, providing for the sale and purchase of the Santa Cruz Harbor Pile Replacement Project as well as the construction thereof. This agreement also establishes legal and financial details pertaining to the 2018A Revenue Obligations, including the flow of funds, establishment and management of the corresponding Reserve Fund and all other funds and accounts, the duties of the District, repayment mechanisms and the Bank's rights and remedies in the event of default by the District.
2. 2018B Installment Sale Agreement: This is an agreement between the District and the Bank, providing for the sale and purchase of the Santa Cruz Seawall Pile Replacement Project as well as the construction thereof. This agreement also establishes legal and financial details pertaining to the 2018B Revenue Obligations, including the flow of funds, establishment and management of the corresponding Reserve Fund and all other funds and accounts, the duties of the District, repayment mechanisms and the Bank's rights and remedies in the event of default by the District.
3. Supplements: The Supplements (Attachments F.1 and F.2) amend Section 5.13(a)(2) of each of the Loan Agreements in order to relax the Parity Obligations Coverage Requirements from 1.40 to 1.25.

Resolution No. 18-10 satisfies certain IRS tax code requirements by stating the following:

- The District's intention to finance expenditures related to the Projects;
- A statement that any such expenditures would be financed through the issuance of a tax-exempt Debt Obligations;
- A qualitative description of the proposed Projects whose expenditures would be reimbursed from the proceeds of Debt Obligations; and
- Identification of the expected source(s) of funds, which would initially pay for such expenditures and ultimately be utilized to repay the Debt Obligations.

Passage of the attached Resolution does not irrevocably bind the District to issue Debt Obligations, rather it merely spells out the District's intent to do so at some future date and preserves the District's right to reimburse itself for Reimbursable Expenditures.

In order to move forward with the Financing of the Projects, it is also necessary to procure the services of Bond Counsel necessary to structure and issue the 2018 Revenue Obligations, and the Resolution appoints The Weist Law Firm in that regard.

## **IMPACT ON PORT DISTRICT RESOURCES**

The Debt Service Schedules indicate that combined annual debt service over the 15-year loan terms is approximately \$290,000. A Debt Service Coverage Ratio Projection (Attachment H) is

appended which applies the annual debt service to audited FY17 and draft audited FY18 numbers. The projection shows that the District meets and exceeds the minimum debt covenants.

Financing the Projects will allow the District to consider how to reallocate funding set aside in the FY18 and FY19 budgets for the Pile Replacement Project (\$680,650) and Aldo’s Seawall Project (\$1,600,000).

The Agreement for Bond Counsel Services is appended as Attachment G. Weist Law’s fee is \$37,500 plus out-of-pocket expenses capped at \$2,250. Bond counsel fees are paid out of closing loan proceeds.

**ATTACHMENTS**      *(available online)*

- Attachment A            Term Sheets and Debt Service Schedules
- Attachment B            Mutual Consent to Cancellation of Line of Credit
- Attachment C            Ordinance 18-03
- Attachment D            Resolution 18-10
- Attachment E.1          Series 2018A Installment Sale Agreement
- Attachment E.2          Series 2018B Installment Sale Agreement
- Attachment F.1          First Supplement to Tax-Exempt Loan Agreement
- Attachment F.2          First Supplement to Taxable Loan Agreement
- Attachment G            Agreement for Bond Counsel Services
- Attachment H            Debt Service Coverage Ratio Projection



Santa Cruz Port District, California  
 Summary of Non-Binding Indicative Terms and Conditions  
 for the Proposed Tax Exempt Term Loan  
 August 20, 2018

*This summary of indicative terms and conditions is not a commitment to lend, purchase or to provide any other service related to a financing and does not impose any other obligation on Lender. Any such commitment or undertaking will be issued only in writing subject to appropriate documentation, the terms of which are not limited to those set forth herein. This summary of indicative terms and conditions is intended as an outline of certain of the material terms of a proposed financing and is not intended to summarize all of the conditions, covenants, representations, warranties and other provisions that would be contained in definitive documents, and is subject to, among other things, completion of due diligence and final credit approval by Lender.*

- Borrower:** Santa Cruz Port District, California (the "Borrower").
- Lender:** BBVA Compass d/b/a Compass Bank, an Alabama banking corporation (the "Lender" or the "Bank").
- Steven Zari, Senior Vice President  
 Northern California Commercial Banking  
 1490 Stone Point Drive, Suite 250  
 Roseville, CA 95661  
 Ph: (916) 945-3844  
[steven.zari@bbva.com](mailto:steven.zari@bbva.com)
- James Manning, Senior Vice President  
 Government & Institutional Banking  
 2850 E. Camelback Rd., Ste 140  
 Phoenix, AZ 85016  
 Ph: (602) 300-0759  
[james.manning@bbva.com](mailto:james.manning@bbva.com)
- Obligation Type:** Tax Exempt Bank Qualified Term Loan.
- Obligation Amount:** Up to \$1,750,000 (the "Obligation" or "Financing").
- Purpose:** To finance the pile removal and replacement project which will replace up to 220 worn and aging piles.
- Maturity:** 08/01/2033 or approximately 15 years from closing.
- Repayment:** The Obligation will amortize over 15 years, calling for semi-annual principal and interest payments due on each 02/01 and 08/01 over the Obligation's tenor.

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- Interest Rate:** Tax Exempt Fixed Rate of 3.56% fixed for the full tenor of the Obligation.\*\* This rate is indicative and subject to change daily depending on market conditions. Upon formal credit approval and at the Borrower's option, subject to break-funding, fixed rate may be locked up to 30 days prior to closing.
- \*\* Indexed to 129 bps over 79% of the prevailing 7-year LIBOR swap rate. Based on the current rate of 2.87% for the swap index as of 08/20/2018, the interest rate on funded balances today would be 3.56%.
- Covenants:** Covenants to mirror existing covenants with BBVA Compass, including but not limited to the following:
- Reducing the existing parity debt test of 1.40x to 1.25x.
  - Rate and Coverage Covenant of 1.25x;
  - Industry standard debt service reserve fund fully funded at closing at the lesser of 1)10% of par amount, 2) maximum annual debt service, or 3) 125% of average annual debt service.
  - Allowing, for purposes of the annual DSCR calculation, to add back the "non-cash" unfunded pension liability expense, to the extent that non-cash expense was run through the income statement.
- Credit Line:** In consideration of concession allowed, as noted in covenant subject above, customer agrees to allow the Bank to cancel and terminate the existing line of credit.
- Financial Reporting:**
- Annual audited financial statements due within 210 days of fiscal year end.
  - Annual approved operating budget due within 30 days of fiscal year end.
  - Borrower shall furnish at Lender's request such additional information that Lender may from time to time reasonably request.
- Annual disclosure information may be provided via EMMA.
- Tax Exempt Status / Yield Adjustment Event:** The quoted tax exempt interest rate will be subject to gross-up upon an event of taxability.
- Closing Costs:** Borrower will pay all reasonable, out-of-pocket costs and expenses incurred by Lender in connection with due diligence and the preparation of documentation, regardless of whether or not the Obligation is closed, including but not limited to, financial advisory and placement agent fees if applicable, bond counsel, Lender's counsel, UCC searches, and CDIAC fees. It is anticipated that lender's counsel will be reviewing documents prepared by district engaged bond counsel. If District would like lender's counsel to also draft the documents, please let the bank know and we can provide a quote. Lender's counsel limited to \$7,500.





- Conditions Precedent:** Prior to the consummation of the Credit Facility, the following conditions precedent shall have occurred, all of which shall be in form and substance satisfactory to the Lender and its counsel.
- Formal credit approval from the Bank.
  - Satisfactory review of applicable Insurance Policies.
  - Opinion addressed to the Bank, from counsel to Borrower reasonably acceptable to the Bank, setting forth such opinions as the Bank may require, including opinions concerning the legal status of Borrower, the due authorization, execution and delivery of the Obligation documents, the enforceability of the private placement/lease documents, no conflict with law, no litigation, and the receipt of all necessary governmental approvals.
  - Tax Opinion addressed to the Bank from counsel reasonably acceptable to the Bank that interest payable with respect to the debt service payments is excludable from gross income for federal income tax purposes under Section 103 of the Internal Revenue Service Code and such interest is not an item of tax preference for purposes of the federal alternative minimum tax imposed on individuals and corporations, although for purposes of computing the alternative minimum tax imposed on certain corporations, such interest is taken into account in determining certain income and earnings.
  - Properly executed documents in form and substance satisfactory to Bank and/or Bank's counsel evidencing or supporting the Credit Facility.
  - Additional conditions precedent that Bank considers customary and reasonably appropriate for the Credit Facility, including further information disclosures.
- Ancillary Business:** The structure, pricing, and terms contained herein are conditioned upon the establishment of a banking relationship that includes the opportunity to reasonably bid on ancillary financial services in good faith.
- Governing Law:** This transaction shall be governed by and construed in accordance with the laws of the State of California.
- Expiration:** This term sheet shall expire by 4:00pm on 08/30/2018 unless previously accepted.

*This term sheet is issued in reliance on the accuracy of all information, representations, schedules, and other data and materials submitted by Borrower, all of which are deemed material. This term sheet does not contain all of the terms and conditions or other provisions that may be included in the final documents evidencing the Obligation, and is issued at a time before Lender has undertaken a full business, credit, and legal analysis of Borrower and the Obligation.*

*The terms and provisions of this correspondence are **confidential** and may not be disclosed by Borrower to any other person or entity. However, the foregoing restrictions on disclosure shall not apply to disclosure(s): (i) to Borrower's legal counsel or financial advisor for purposes of advising Borrower with respect hereto and provided, however, that such counsel and financial advisor agree to preserve the confidentiality of this correspondence; or (ii) in response to any properly issued subpoena from any court or other governmental authority with jurisdiction over Borrower, provided that Lender has been furnished reasonable advance notice of the intended disclosure and the opportunity to prevent or limit the scope of any such disclosure.*



*Lender is providing the information contained in the document for discussion purposes only in connection with a proposed arm's-length commercial banking transaction between Borrower and Lender. This information is provided to you pursuant to and in reliance upon the "independent municipal investment advisor exemption" or "request for proposals exemption" provided under the municipal advisor rules of the Securities and Exchange Commission, 17 C.F.R. § 240.15Ba1-1 et seq. (the "Municipal Advisor Rules").*

*Lender is acting for its own interest and has financial or other interests that differ from yours. Lender is not acting as a municipal advisor or financial advisor, and has no fiduciary duty to you or any other person pursuant to Section 15B of the Securities Exchange Act of 1934 or otherwise. The information provided in this document is not intended to be and should not be construed as "advice" within the meaning of Section 15B of the Securities Exchange Act of 1934 and the Municipal Advisor Rules.*

*Lender is not recommending that you take any action with respect to the information contained in this document. Before acting on this information, you should discuss it with your own financial and/or municipal, legal, accounting, tax, and other advisors as you deem appropriate. If you would like a municipal advisor in this transaction that has legal fiduciary duties to you, then you are free to engage a municipal advisor to serve in that capacity.*

*Lender does not provide legal, compliance, tax or accounting advice. Accordingly, any statements contained herein as to tax matters are not intended by Lender to be used and cannot be used by any taxpayer for the purpose of avoiding tax penalties that may be imposed on such taxpayer.*

*This term sheet is intended for the sole and exclusive benefit of Borrower and Lender and may not be relied upon by third parties.*

Sincerely,  
**BBVA COMPASS**

By: \_\_\_\_\_

**Steve Zari**

**Steve Zari**  
Relationship Manager

AGREED AND ACCEPTED:

By: \_\_\_\_\_

Title: \_\_\_\_\_ Date: \_\_\_\_\_, \_\_\_\_\_

**Break-Funding Fee Calculation**

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If Borrower elects to not go through with the Financing after rate lock other than due to a Force Majeure Event (as defined below), Borrower shall pay to Bank a break-funding fee equal to the Annual Yield Differential (as defined below) multiplied by the Percent Being Prepaid (as defined below), multiplied by the Average Remaining Outstanding Principal Amount (as defined below) multiplied by the number of days the Financing was to be outstanding (the "Maturity Date"), divided by 360.

The "Annual Yield Differential" is the difference (but not less than zero) between the U.S. Treasury yield (from the Federal Reserve daily H.15 report) on the maturity closest to the final maturity of the note at time of rate lock, and the U.S Treasury yield (from the Federal Reserve daily H.15 report) on the maturity closest to the final maturity of the note at the date of notification of election to not enter into the Financing. The Average Remaining Outstanding Principal Amount of the loan is defined as the simple average of the original principal loan balance and the loan balance due at the maturity date. The Percent Being Prepaid shall be determined by dividing the principal amount being prepaid by the existing principal loan amount.

If treasury rates are equal or higher, the customer will incur no charge. The Federal Reserve H.15 report for treasury rates can be accessed from the Fed's website currently @ <http://www.federalreserve.gov/releases/h15/current/default.htm>.

Loan amount at origination: \$5.0 million  
 Final maturity: 15 years  
 Amount Remaining at Maturity: \$0.0  
 15-year US Treasury Rate at time of rate lock: 2.50%

Scenario: 15 days prior to closing and funding, the customer elects to not enter into the financing after previously locking the rate. 15-year Treasury rate at the time of notification is 2.45%.

**Prepayment Fee Calculation:**

Annual Yield Differential = 5 bps (2.50% - 2.45%)

Percent Being Prepaid = 100%

Average Remaining Outstanding Principal Amount = \$2.5 million (average of existing \$5.0 million and \$0 at maturity)

Days to Maturity / 360 = 15.21 ((15 x 365)/360)

**Break Funding Fee = .05% \* 100% \* \$2.5 million \* 15.21 = \$19,010.42**

"Force Majeure Event" means acts of God; acts of public enemies; orders of any kind of the government of the United States of America or the State of California or any political subdivision thereof, or any of their departments, agencies or officials; any outbreak of civil or military insurrections, riots or epidemics; landslides; lightning; earthquake; fire; hurricanes; tornadoes; floods; or any other cause or event not insurable or reasonably within the control of Borrower which makes Borrower unable to consummate the Financing or perform its obligations thereunder.

## Santa Cruz Port District - 15 year

\$1,750,000 Tax Exempt Loan

Dated September 13, 2018

### Debt Service Schedule

Part 1 of 2

Date	Principal	Coupon	Interest	Total P+I	Fiscal Total
09/13/2018	-	-	-	-	-
02/01/2019	51,603.00	3.560%	23,881.67	75,484.67	-
06/30/2019	-	-	-	-	75,484.67
08/01/2019	45,253.00	3.560%	30,231.47	75,484.47	-
02/01/2020	46,058.00	3.560%	29,425.96	75,483.96	-
06/30/2020	-	-	-	-	150,968.43
08/01/2020	46,878.00	3.560%	28,606.13	75,484.13	-
02/01/2021	47,713.00	3.560%	27,771.70	75,484.70	-
06/30/2021	-	-	-	-	150,968.83
08/01/2021	48,562.00	3.560%	26,922.41	75,484.41	-
02/01/2022	49,426.00	3.560%	26,058.01	75,484.01	-
06/30/2022	-	-	-	-	150,968.42
08/01/2022	50,306.00	3.560%	25,178.22	75,484.22	-
02/01/2023	51,201.00	3.560%	24,282.78	75,483.78	-
06/30/2023	-	-	-	-	150,968.00
08/01/2023	52,113.00	3.560%	23,371.40	75,484.40	-
02/01/2024	53,040.00	3.560%	22,443.79	75,483.79	-
06/30/2024	-	-	-	-	150,968.19
08/01/2024	53,985.00	3.560%	21,499.68	75,484.68	-
02/01/2025	54,946.00	3.560%	20,538.74	75,484.74	-
06/30/2025	-	-	-	-	150,969.42
08/01/2025	55,924.00	3.560%	19,560.70	75,484.70	-
02/01/2026	56,919.00	3.560%	18,565.26	75,484.26	-
06/30/2026	-	-	-	-	150,968.96
08/01/2026	57,932.00	3.560%	17,552.10	75,484.10	-
02/01/2027	58,963.00	3.560%	16,520.91	75,483.91	-
06/30/2027	-	-	-	-	150,968.01
08/01/2027	60,013.00	3.560%	15,471.37	75,484.37	-
02/01/2028	61,081.00	3.560%	14,403.14	75,484.14	-
06/30/2028	-	-	-	-	150,968.51
08/01/2028	62,168.00	3.560%	13,315.90	75,483.90	-
02/01/2029	63,275.00	3.560%	12,209.30	75,484.30	-
06/30/2029	-	-	-	-	150,968.20
08/01/2029	64,401.00	3.560%	11,083.01	75,484.01	-
02/01/2030	65,548.00	3.560%	9,936.67	75,484.67	-
06/30/2030	-	-	-	-	150,968.68
08/01/2030	66,714.00	3.560%	8,769.92	75,483.92	-
02/01/2031	67,902.00	3.560%	7,582.41	75,484.41	-
06/30/2031	-	-	-	-	150,968.33
08/01/2031	69,111.00	3.560%	6,373.75	75,484.75	-
02/01/2032	70,341.00	3.560%	5,143.58	75,484.58	-
06/30/2032	-	-	-	-	150,969.33
08/01/2032	71,593.00	3.560%	3,891.51	75,484.51	-

## Santa Cruz Port District - 15 year

\$1,750,000 Tax Exempt Loan

Dated September 13, 2018

## Debt Service Schedule

Part 2 of 2

Date	Principal	Coupon	Interest	Total P+I	Fiscal Total
02/01/2033	72,867.00	3.560%	2,617.15	75,484.15	-
06/30/2033	-	-	-	-	150,968.66
08/01/2033	74,164.00	3.560%	1,320.12	75,484.12	-
06/30/2034	-	-	-	-	75,484.12
<b>Total</b>	<b>\$1,750,000.00</b>	<b>-</b>	<b>\$514,528.76</b>	<b>\$2,264,528.76</b>	<b>-</b>

### Yield Statistics

Bond Year Dollars	\$14,453.05
Average Life	8.259 Years
Average Coupon	3.5600001%
Net Interest Cost (NIC)	3.5600001%
True Interest Cost (TIC)	3.5604050%
Bond Yield for Arbitrage Purposes	3.5604050%
All Inclusive Cost (AIC)	3.5604050%

### IRS Form 8038

Net Interest Cost	3.5600001%
Weighted Average Maturity	8.259 Years



Santa Cruz Port District, California  
Summary of Non-Binding Indicative Terms and Conditions  
for the Proposed Tax Exempt Term Loan  
August 20, 2018

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**Borrower:** Santa Cruz Port District, California (the "Borrower").

**Lender:** BBVA Compass d/b/a Compass Bank, an Alabama banking corporation (the "Lender" or the "Bank").

Steven Zari, Senior Vice President  
Northern California Commercial Banking  
1490 Stone Point Drive, Suite 250  
Roseville, CA 95661  
Ph: (916) 945-3844  
[steven.zari@bbva.com](mailto:steven.zari@bbva.com)

James Manning, Senior Vice President  
Government & Institutional Banking  
2850 E. Camelback Rd., Ste 140  
Phoenix, AZ 85016  
Ph: (602) 300-0759  
[james.manning@bbva.com](mailto:james.manning@bbva.com)

**Obligation Type:** Tax Exempt Bank Qualified Term Loan.

**Obligation Amount:** Up to \$1,600,000 (the "Obligation" or "Financing").

**Purpose:** To finance the Aldo's Seawall replacement project. This will repair and replace the seawall at the southwest side of the port, the portion of seawall essentially in front of and bordering Aldo's restaurant.

**Maturity:** 08/01/2033 or approximately 15 years from closing.

**Repayment:** The Obligation will amortize over 15 years, calling for semi-annual principal and interest payments due on each 02/01 and 08/01 over the Obligation's tenor.

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<b>Interest Rate:</b>	<p>Tax Exempt Fixed Rate of 3.56% fixed for the full tenor of the Obligation.** This rate is indicative and subject to change daily depending on market conditions. Upon formal credit approval and at the Borrower's option, subject to break-funding, fixed rate may be locked up to 30 days prior to closing.</p> <p>** Indexed to 129 bps over 79% of the prevailing 7-year LIBOR swap rate. Based on the current rate of 2.87% for the swap index as of 08/20/2018, the interest rate on funded balances today would be 3.56%.</p>
<b>Covenants:</b>	<p>Covenants to mirror existing covenants with BBVA Compass, including but not limited to the following:</p> <ul style="list-style-type: none"> <li>• Reducing the existing parity debt test of 1.40x to 1.25x.</li> <li>• Rate and Coverage Covenant of 1.25x;</li> <li>• Industry standard debt service reserve fund fully funded at closing at the lesser of 1)10% of par amount, 2) maximum annual debt service, or 3) 125% of average annual debt service.</li> <li>• Allowing, for purposes of the annual DSCR calculation, to add back the "non-cash" unfunded pension liability expense, to the extent that non-cash expense was run through the income statement.</li> </ul>
<b>Credit Line:</b>	<p>In consideration of concession allowed, as noted in covenant subject above, customer agrees to allow the Bank to cancel and terminate the existing line of credit.</p>
<b>Financial Reporting:</b>	<ul style="list-style-type: none"> <li>• Annual audited financial statements due within 210 days of fiscal year end.</li> <li>• Annual approved operating budget due within 30 days of fiscal year end.</li> <li>• Borrower shall furnish at Lender's request such additional information that Lender may from time to time reasonably request.</li> </ul> <p>Annual disclosure information may be provided via EMMA.</p>
<b>Tax Exempt Status / Yield Adjustment Event:</b>	<p>The quoted tax exempt interest rate will be subject to gross-up upon an event of taxability.</p>
<b>Closing Costs:</b>	<p>Borrower will pay all reasonable, out-of-pocket costs and expenses incurred by Lender in connection with due diligence and the preparation of documentation, regardless of whether or not the Obligation is closed, including but not limited to, financial advisory and placement agent fees if applicable, bond counsel, Lender's counsel, UCC searches, and CDIAAC fees. It is anticipated that lender's counsel will be reviewing documents prepared by district engaged bond counsel. If District would like lender's counsel to also draft the documents, please let the bank know and we can provide a quote. Lender's counsel limited to \$7,500.</p>
<b>Conditions Precedent:</b>	<p>Prior to the consummation of the Credit Facility, the following conditions precedent shall have</p>

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occurred, all of which shall be in form and substance satisfactory to the Lender and its counsel.

- Formal credit approval from the Bank.
- Satisfactory review of applicable Insurance Policies.
- Opinion addressed to the Bank, from counsel to Borrower reasonably acceptable to the Bank, setting forth such opinions as the Bank may require, including opinions concerning the legal status of Borrower, the due authorization, execution and delivery of the Obligation documents, the enforceability of the private placement/lease documents, no conflict with law, no litigation, and the receipt of all necessary governmental approvals.
- Tax Opinion addressed to the Bank from counsel reasonably acceptable to the Bank that interest payable with respect to the debt service payments is excludable from gross income for federal income tax purposes under Section 103 of the Internal Revenue Service Code and such interest is not an item of tax preference for purposes of the federal alternative minimum tax imposed on individuals and corporations, although for purposes of computing the alternative minimum tax imposed on certain corporations, such interest is taken into account in determining certain income and earnings.
- Properly executed documents in form and substance satisfactory to Bank and/or Bank's counsel evidencing or supporting the Credit Facility.
- Additional conditions precedent that Bank considers customary and reasonably appropriate for the Credit Facility, including further information disclosures.

**Ancillary Business:** The structure, pricing, and terms contained herein are conditioned upon the establishment of a banking relationship that includes the opportunity to reasonably bid on ancillary financial services in good faith.

**Governing Law:** This transaction shall be governed by and construed in accordance with the laws of the State of California.

**Expiration:** This term sheet shall expire by 4:00pm on 08/30/2018 unless previously accepted.

*This term sheet is issued in reliance on the accuracy of all information, representations, schedules, and other data and materials submitted by Borrower, all of which are deemed material. This term sheet does not contain all of the terms and conditions or other provisions that may be included in the final documents evidencing the Obligation, and is issued at a time before Lender has undertaken a full business, credit, and legal analysis of Borrower and the Obligation.*

*The terms and provisions of this correspondence are **confidential** and may not be disclosed by Borrower to any other person or entity. However, the foregoing restrictions on disclosure shall not apply to disclosure(s): (i) to Borrower's legal counsel or financial advisor for purposes of advising Borrower with respect hereto and provided, however, that such counsel and financial advisor agree to preserve the confidentiality of this correspondence; or (ii) in response to any properly issued subpoena from any court or other governmental authority with jurisdiction over Borrower, provided that Lender has been furnished reasonable advance notice of the intended disclosure and the opportunity to prevent or limit the scope of any such disclosure.*

*Lender is providing the information contained in the document for discussion purposes only in connection with a proposed arm's-length commercial banking transaction between Borrower and Lender. This information is provided to you pursuant to and in reliance upon the "independent municipal investment advisor exemption" or "request for*

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*proposals exemption" provided under the municipal advisor rules of the Securities and Exchange Commission, 17 C.F.R. § 240.15Ba1-1 et seq. (the "Municipal Advisor Rules").*

*Lender is acting for its own interest and has financial or other interests that differ from yours. Lender is not acting as a municipal advisor or financial advisor, and has no fiduciary duty to you or any other person pursuant to Section 15B of the Securities Exchange Act of 1934 or otherwise. The information provided in this document is not intended to be and should not be construed as "advice" within the meaning of Section 15B of the Securities Exchange Act of 1934 and the Municipal Advisor Rules.*

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*This term sheet is intended for the sole and exclusive benefit of Borrower and Lender and may not be relied upon by third parties.*

Sincerely,  
**BBVA COMPASS**

By: \_\_\_\_\_

*Steve Zari*

**Steve Zari**  
Relationship Manager

AGREED AND ACCEPTED:

By: \_\_\_\_\_

Title: \_\_\_\_\_ Date: \_\_\_\_\_, \_\_\_\_\_

#### **Break-Funding Fee Calculation**

If Borrower elects to not go through with the Financing after rate lock other than due to a Force Majeure Event (as defined below), Borrower shall pay to Bank a break-funding fee equal to the Annual Yield Differential (as defined below) multiplied by the Percent Being Prepaid (as defined below), multiplied by the Average Remaining Outstanding Principal Amount (as defined below) multiplied by the number of days the Financing was to be outstanding (the "Maturity Date"), divided by 360.

**CONFIDENTIAL**

*This term sheet does not represent a commitment to lend and may not be relied upon as such.*



The "Annual Yield Differential" is the difference (but not less than zero) between the U.S. Treasury yield (from the Federal Reserve daily H.15 report) on the maturity closest to the final maturity of the note at time of rate lock, and the U.S Treasury yield (from the Federal Reserve daily H.15 report) on the maturity closest to the final maturity of the note at the date of notification of election to not enter into the Financing. The Average Remaining Outstanding Principal Amount of the loan is defined as the simple average of the original principal loan balance and the loan balance due at the maturity date. The Percent Being Prepaid shall be determined by dividing the principal amount being prepaid by the existing principal loan amount.

If treasury rates are equal or higher, the customer will incur no charge. The Federal Reserve H.15 report for treasury rates can be accessed from the Fed's website currently @ <http://www.federalreserve.gov/releases/h15/current/default.htm>.

Loan amount at origination: \$5.0 million  
 Final maturity: 15 years  
 Amount Remaining at Maturity: \$0.0  
 15-year US Treasury Rate at time of rate lock: 2.50%

Scenario: 15 days prior to closing and funding, the customer elects to not enter into the financing after previously locking the rate. 15-year Treasury rate at the time of notification is 2.45%.

Prepayment Fee Calculation:

Annual Yield Differential = 5 bps (2.50% - 2.45%)

Percent Being Prepaid = 100%

Average Remaining Outstanding Principal Amount = \$2.5 million (average of existing \$5.0 million and \$0 at maturity)

Days to Maturity / 360 = 15.21 ((15 x 365)/360)

**Break Funding Fee = .05% \* 100% \* \$2.5 million \* 15.21 = \$19,010.42**

"Force Majeure Event" means acts of God; acts of public enemies; orders of any kind of the government of the United States of America or the State of California or any political subdivision thereof, or any of their departments, agencies or officials; any outbreak of civil or military insurrections, riots or epidemics; landslides; lightning; earthquake; fire; hurricanes; tornadoes; floods; or any other cause or event not insurable or reasonably within the control of Borrower which makes Borrower unable to consummate the Financing or perform its obligations thereunder.

CONFIDENTIAL

*This term sheet does not represent a commitment to lend and may not be relied upon as such.*

## Santa Cruz Port District - 15 year

\$1,600,000 Tax Exempt Loan

Dated September 13, 2018

### Debt Service Schedule

Part 1 of 2

Date	Principal	Coupon	Interest	Total P+I	Fiscal Total
09/13/2018	-	-	-	-	-
02/01/2019	47,180.00	3.560%	21,834.67	69,014.67	-
06/30/2019	-	-	-	-	69,014.67
08/01/2019	41,374.00	3.560%	27,640.20	69,014.20	-
02/01/2020	42,111.00	3.560%	26,903.74	69,014.74	-
06/30/2020	-	-	-	-	138,028.94
08/01/2020	42,860.00	3.560%	26,154.16	69,014.16	-
02/01/2021	43,623.00	3.560%	25,391.26	69,014.26	-
06/30/2021	-	-	-	-	138,028.42
08/01/2021	44,399.00	3.560%	24,614.77	69,013.77	-
02/01/2022	45,190.00	3.560%	23,824.46	69,014.46	-
06/30/2022	-	-	-	-	138,028.23
08/01/2022	45,994.00	3.560%	23,020.08	69,014.08	-
02/01/2023	46,813.00	3.560%	22,201.39	69,014.39	-
06/30/2023	-	-	-	-	138,028.47
08/01/2023	47,646.00	3.560%	21,368.12	69,014.12	-
02/01/2024	48,494.00	3.560%	20,520.02	69,014.02	-
06/30/2024	-	-	-	-	138,028.14
08/01/2024	49,357.00	3.560%	19,656.82	69,013.82	-
02/01/2025	50,236.00	3.560%	18,778.27	69,014.27	-
06/30/2025	-	-	-	-	138,028.09
08/01/2025	51,130.00	3.560%	17,884.07	69,014.07	-
02/01/2026	52,040.00	3.560%	16,973.96	69,013.96	-
06/30/2026	-	-	-	-	138,028.03
08/01/2026	52,967.00	3.560%	16,047.64	69,014.64	-
02/01/2027	53,909.00	3.560%	15,104.83	69,013.83	-
06/30/2027	-	-	-	-	138,028.47
08/01/2027	54,869.00	3.560%	14,145.25	69,014.25	-
02/01/2028	55,846.00	3.560%	13,168.58	69,014.58	-
06/30/2028	-	-	-	-	138,028.83
08/01/2028	56,840.00	3.560%	12,174.52	69,014.52	-
02/01/2029	57,851.00	3.560%	11,162.77	69,013.77	-
06/30/2029	-	-	-	-	138,028.29
08/01/2029	58,881.00	3.560%	10,133.02	69,014.02	-
02/01/2030	59,929.00	3.560%	9,084.94	69,013.94	-
06/30/2030	-	-	-	-	138,027.96
08/01/2030	60,996.00	3.560%	8,018.21	69,014.21	-
02/01/2031	62,082.00	3.560%	6,932.48	69,014.48	-
06/30/2031	-	-	-	-	138,028.69
08/01/2031	63,187.00	3.560%	5,827.42	69,014.42	-
02/01/2032	64,312.00	3.560%	4,702.69	69,014.69	-
06/30/2032	-	-	-	-	138,029.11
08/01/2032	65,456.00	3.560%	3,557.94	69,013.94	-

## Santa Cruz Port District - 15 year

\$1,600,000 Tax Exempt Loan

Dated September 13, 2018

## Debt Service Schedule

Part 2 of 2

Date	Principal	Coupon	Interest	Total P+I	Fiscal Total
02/01/2033	66,621.00	3.560%	2,392.82	69,013.82	-
06/30/2033	-	-	-	-	138,027.76
08/01/2033	67,807.00	3.560%	1,206.96	69,013.96	-
06/30/2034	-	-	-	-	69,013.96
<b>Total</b>	<b>\$1,600,000.00</b>	<b>-</b>	<b>\$470,426.06</b>	<b>\$2,070,426.06</b>	<b>-</b>

### Yield Statistics

Bond Year Dollars	\$13,214.21
Average Life	8.259 Years
Average Coupon	3.5600001%
Net Interest Cost (NIC)	3.5600001%
True Interest Cost (TIC)	3.5604051%
Bond Yield for Arbitrage Purposes	3.5604051%
All Inclusive Cost (AIC)	3.5604051%

### IRS Form 8038

Net Interest Cost	3.5600001%
Weighted Average Maturity	8.259 Years

**MUTUAL CONSENT TO  
TERMINATE LINE OF CREDIT**

WHEREAS, the Santa Cruz Port District (the "District") and Compass Bank, an Alabama banking corporation (the "Bank"), entered into a Taxable Loan Agreement dated as of September 1, 2013 (the "Loan Agreement"); and

WHEREAS, pursuant to the Loan Agreement, the District and the Bank established the Santa Cruz Port District, 2013 Line of Credit (the "Line of Credit"); and

WHEREAS, all amounts owed under the Line of Credit have been paid and there is no balance outstanding as of the date hereof; and

WHEREAS, the District and the Bank desire to enter into a Series 2018A Installment Sale Agreement and a Series 2018B Installment Sale Agreement (collectively, the "Installment Sale Agreements"), each dated as of September 1, 2018, for the purpose of financing certain improvements for the District; and

WHEREAS, as a condition of entering into the Installment Sale Agreements, the District and the Bank desire to terminate the Line of Credit;

NOW THEREFORE, the parties hereto do hereby terminate the Line of Credit as of the date hereof.

Dated: \_\_\_\_\_, 2018

SANTA CRUZ PORT DISTRICT

By: \_\_\_\_\_  
Authorized Officer

COMPASS BANK, an Alabama banking corporation

By: \_\_\_\_\_  
Authorized Officer

**SANTA CRUZ PORT DISTRICT**

**ORDINANCE 18-03**

**AN ORDINANCE OF THE SANTA CRUZ PORT DISTRICT  
COMMISSION OF THE SANTA CRUZ PORT DISTRICT AUTHORIZING  
THE FORM, EXECUTION AND DELIVERY OF TWO SEPARATE  
INSTALLMENT SALE AGREEMENTS, AND SETTING FORTH THE  
FINAL TERMS AND CONDITIONS THEREOF; AUTHORIZING THE  
EXECUTION AND DELIVERY OF ANY AND ALL DOCUMENTS,  
INSTRUMENTS OR CERTIFICATES NECESSARY OR DESIRABLE TO  
ACCOMPLISH THE FOREGOING; AMENDING CERTAIN LOAN  
AGREEMENTS DATED AS OF SEPTEMBER 1, 2013; AND PROVIDING  
FOR OTHER MATTERS PROPERLY RELATED THERETO**

**WHEREAS**, the Santa Cruz Port District (the "District") presently owns and operates certain facilities and property for its harbor enterprise and recreation system commonly known as the Santa Cruz Harbor (the "Enterprise"); and,

**WHEREAS**, the District is authorized to exercise powers pursuant to the Port District Law of the State of California, being Sections 6200 et seq. of the Harbors and Navigation Code of the State of California, and all laws amendatory thereof or supplemental thereto, including the power to purchase and sell real and personal property of every kind, and to issue or incur revenue debt obligations, within or without the District, necessary to the full or convenient exercise of its powers; and,

**WHEREAS**, the District has determined that it is in the public interest at this time to provide for the financing of two separate capital improvement projects commonly known as (i) the Pile Repair and Replacement Project (the "Pile Replacement Project"), and (ii) the Aldo's Seawall Replacement Project (the "Seawall Replacement Project," and together with the Pile Replacement Project, the "Projects"); and,

**WHEREAS**, to provide for the financing of the Pile Replacement Project the Santa Cruz Port District Commission (the "Commission") desires to authorize the execution and delivery of its "Santa Cruz Harbor District, Series 2018A Revenue Obligations (Santa Cruz Harbor Pile Replacement Project), Bank Qualified" (the "2018A Revenue Obligations"), in an amount not to exceed \$1,750,000 pursuant to terms and conditions of a Series 2018A Installment Sale Agreement (the "2018A Installment Sale Agreement"), dated as of September 1, 2018, by and between the District and Compass Bank (the "Bank"); and

**WHEREAS**, to provide for the financing of the Seawall Replacement Project the Commission desires to authorize the execution and delivery of its "Santa Cruz Harbor District, Series 2018B Revenue Obligations (Santa Cruz Harbor Seawall Replacement Project), Bank Qualified" (the "2018B Revenue Obligations," and together with the

2018A Revenue Obligations, the “2018 Revenue Obligations”), in an amount not to exceed \$1,600,000 pursuant to terms and conditions of a Series 2018B Installment Sale Agreement (the “2018B Installment Sale Agreement,” and together with the 2018A Installment Sale Agreement, the “Installment Sale Agreements”), dated as of September 1, 2018, by and between the District and the Bank; and,

**WHEREAS**, on August 27, 2013 the Commission unanimously adopted Ordinance No. 13-02 (the “2013 Ordinance”) which, among other things, authorized the execution and delivery of a 2013 Tax-Exempt Loan Agreement (the “2013 Tax-Exempt Loan Agreement”) and a 2013 Taxable Loan Agreement (the “2013 Taxable Loan Agreement,” and together with the 2013 Tax-Exempt Loan Agreement, the “2013 Loan Agreements”); and,

**WHEREAS**, the District wishes at this time to amend the 2013 Loan Agreements by approving (i) a First Supplement to the Tax-Exempt Loan Agreement, dated as of September 1, 2018, in the form presented at this meeting and attached hereto as Exhibit A (the “First Supplement to the Tax-Exempt Loan Agreement”), and (ii) a First Supplement to the Taxable Loan Agreement, dated as of September 1, 2018, in the form presented at this meeting and attached hereto as Exhibit B (the “First Supplement to the Taxable Loan Agreement,” and together with the First Supplement to the Tax-Exempt Loan Agreement, the “Supplements”); and,

**WHEREAS**, the principal of and interest and redemption premium (if any) on the 2018 Revenue Obligations, the 2013 Loan Agreements, and any bonds or other obligations issued on a parity therewith, will be payable from and secured by a pledge of and lien on the Net Revenues (as defined in the Installment Sale Agreements) derived from the Enterprise, as expressly set forth in the Installment Sale Agreements; and,

**WHEREAS**, each of the respective 2018 Revenue Obligations shall include the all terms and conditions of each of the respective corresponding Installment Sale Agreements as well as those set forth in the term sheets dated August 28, 2018 by and between the District and Compass Bank (the “Term Sheets”), form copies of which have been presented at this meeting, and are on file with the Port Director; and,

**WHEREAS**, the Commission, with the aid of its staff, has reviewed the Installment Sale Agreements and Supplements, the forms of which are on file with the Port Director, and the Commission wishes at this time to approve the foregoing documents in the public interests of the District; and,

**NOW, THEREFORE, BE IT ORDAINED**, by the Santa Cruz Port District Commission as follows:

**Section 1.** The Commission hereby specifically finds and declares that each of the statements, findings and determinations of the District set forth in the recitals set forth

above, and in the preambles of the Installment Sale Agreements and Supplements approved herein, are true and correct as of the date hereof.

**Section 2.** The Commission hereby declares and determines that it is necessary and desirable to provide for the execution, sale and delivery of the Installment Sale Agreements and Supplements, and that the execution and delivery of Installment Sale Agreements and Supplements by the District is hereby authorized and approved by this Commission, and that this Commission does hereby consent to the application of the proceeds of the 2018 Revenue Obligations for the purposes contemplated by the District, as provided for in the Installment Sale Agreements and this Ordinance.

**Section 3.** The Chairman, Vice-Chairman, Port Director and any other person authorized by the Commission to act on behalf of the District shall each be an "Authorized Representative" of the District for the purposes of structuring and providing for the execution and delivery of the 2018 Revenue Obligations.

**Section 4.** The 2018 Revenue Obligations shall be issued at a fixed rate of interest not to exceed 3.50%, paid semi-annually over a fifteen year period on a fully amortized level debt service basis, in the amounts, denominations, and for the purposes set forth in each of the respective Installment Sale Agreements and this Ordinance, and shall be sold on a private placement basis to the Bank, in accordance with the Installment Sale Agreements and the Term Sheets, together with any additions thereto or changes therein deemed necessary or advisable by an Authorized Representative of the District, the execution of which shall be conclusive evidence of the Commission's approval of any such additions and changes. Any Authorized Representative of the District, acting singly, is hereby authorized and directed to execute the final form of the Term Sheets for and in the name and on behalf of the District and the execution thereof shall be conclusive evidence of the Commission's approval of any such additions and changes.

**Section 5.** The 2018A Revenue Obligations shall be executed and delivered to the Bank in accordance with the terms and conditions set forth in the Series 2018A Installment Sale Agreement in substantially the form on file with the Port Director, and incorporated by reference as if fully set forth herein, together with any additions thereto or changes therein deemed necessary or advisable by an Authorized Representative of the District. Any Authorized Representative of the District, acting singly, is hereby authorized and directed to execute, and to attest and affix the seal of the District to, the final form of the Series 2018A Installment Sale Agreement for and in the name and on behalf of the District and the execution thereof shall be conclusive evidence of the Commission's approval of any such additions and changes. The Commission hereby authorizes the delivery and performance of the Series 2018A Installment Sale Agreement.

**Section 6.** The 2018B Revenue Obligations shall be executed and delivered to the Bank in accordance with the terms and conditions set forth in the Series 2018B Installment Sale Agreement in substantially the form on file with the Port Director, and



incorporated by reference as if fully set forth herein, together with any additions thereto or changes therein deemed necessary or advisable by an Authorized Representative of the District. Any Authorized Representative of the District, acting singly, is hereby authorized and directed to execute, and to attest and affix the seal of the District to, the final form of the Series 2018B Installment Sale Agreement for and in the name and on behalf of the District and the execution thereof shall be conclusive evidence of the Commission's approval of any such additions and changes. The Commission hereby authorizes the delivery and performance of the Series 2018B Installment Sale Agreement.

**Section 7.** The Commission hereby approves the First Supplement to the Tax-Exempt Loan Agreement in the form presented at this meeting and attached hereto as Exhibit A, together with any additions thereto or changes therein deemed necessary or advisable by an Authorized Representative of the District. Any Authorized Representative of the District, acting singly, is hereby authorized and directed to execute, and to attest and affix the seal of the District to, the final form of each of the First Supplement to the Tax-Exempt Loan Agreement for and in the name and on behalf of the District and the execution thereof shall be conclusive evidence of the Commission's approval of any such additions and changes. The Commission hereby authorizes the delivery and performance of each of the First Supplement to the Tax-Exempt Loan Agreement.

**Section 8.** The Commission hereby approves the First Supplement to the Taxable Loan Agreement in the form presented at this meeting and attached hereto as Exhibit B, together with any additions thereto or changes therein deemed necessary or advisable by an Authorized Representative of the District. Any Authorized Representative of the District, acting singly, is hereby authorized and directed to execute, and to attest and affix the seal of the District to, the final form of each of the First Supplement to the Taxable Loan Agreement for and in the name and on behalf of the District and the execution thereof shall be conclusive evidence of the Commission's approval of any such additions and changes. The Commission hereby authorizes the delivery and performance of each of the First Supplement to the Taxable Loan Agreement.

**Section 9.** The Authorized Representatives and any and all other officers of the District are hereby authorized and directed, for and in the name and on behalf of the District, to do any and all things and take any and all actions, including the execution and delivery of any and all assignments, certificates, requisitions (including requisitions for the payment of costs of issuance associated with the procurement of the 2018 Revenue Obligations), agreements, notices, consents, instruments of conveyance, warrants and other documents, which they, or any of them, may deem necessary or advisable in order to consummate the execution and delivery of the 2018 Revenue Obligations in accordance with the Installment Sale Agreements approved herein. Whenever in this Ordinance any officer of the District is authorized to execute or countersign any document or take any action, such execution, countersigning or action may be taken on behalf of such officer by any person designated and confirmed in a closing certificate by

such officer to act on his or her behalf in the case such officer shall be absent or unavailable.

**Section 10.** This Ordinance shall take effect from and after the date of publication.

**THE FOREGOING ORDINANCE** of the Santa Cruz Port District Commission was duly and regularly introduced, passed and adopted at a regular meeting of the Santa Cruz Port District on the 28<sup>th</sup> day of August 2018, by the following vote:

AYES: \_\_\_\_\_

NOES: \_\_\_\_\_

ABSENT: \_\_\_\_\_

APPROVED:

\_\_\_\_\_  
Dennis Smith, Chairman  
Santa Cruz Port District Commission

ATTEST:

\_\_\_\_\_  
Marian Olin, Port Director

**Exhibit A**

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**FIRST SUPPLEMENT TO TAX-EXEMPT LOAN AGREEMENT**

by and between

**SANTA CRUZ PORT DISTRICT**

And

**COMPASS MORTGAGE CORPORATION, an Alabama Corporation,**

Dated as of September 1, 2018

**Relating to and Supplementing the**

**LOAN AGREEMENT  
(THE "ORIGINAL TAX-EXEMPT LOAN AGREEMENT")**

by and between

Santa Cruz Port District

and

Compass Mortgage Corporation, an Alabama Corporation

Dated as of September 1, 2013

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## FIRST SUPPLEMENT TO TAX-EXEMPT LOAN AGREEMENT

**THIS FIRST SUPPLEMENT TO TAX-EXEMPT LOAN AGREEMENT** (this “First Supplement”), dated as of September 1, 2018, between the **SANTA CRUZ PORT DISTRICT** (the “District”), a public body, corporate and politic, duly organized and validly existing under the laws of the State of California (the “State”), and **COMPASS MORTGAGE CORPORATION**, a corporation duly organized and existing under the laws of the State of Alabama, with all right and authority to conduct business in the State of California (the “Bank”).

### WITNESSETH:

**WHEREAS**, in order to finance and refinance certain projects relating to the District’s harbor enterprise and recreation system commonly known as the Santa Cruz Harbor (the “Enterprise”), on September 5, 2013, the District executed and consummated \$14,418,960.43 aggregate principal amount of the Santa Cruz Port District, Series 2013 Tax-Exempt Enterprise Revenue Loan (the “Tax-Exempt Loan”) pursuant to a Loan Agreement, dated as of September 1, 2013, by and between the District and the Bank (the “Original Tax-Exempt Loan Agreement”); and

**WHEREAS**, Section 5.13 of the Original Tax-Exempt Loan Agreement provides that Parity Obligations (as defined in the Original Tax-Exempt Loan Agreement) cannot be incurred unless specific conditions are satisfied, including satisfaction of the Parity Obligations Coverage Requirement (as defined in Section 5.13(a)(2) the Original Tax-Exempt Loan Agreement); and

**WHEREAS**, the District wishes to amend the Original Tax-Exempt Loan Agreement in order to change the definition of the Parity Obligations Coverage Requirement; and

**WHEREAS**, pursuant to Section 8.1 of the Original Tax-Exempt Loan Agreement, the Original Tax-Exempt Loan Agreement may be modified or amended at any time by a written supplemental agreement entered into by the District and the Bank; and

### **NOW, THEREFORE, THIS FIRST SUPPLEMENT TO TAX-EXEMPT LOAN AGREEMENT WITNESSETH:**

That in consideration of the premises, and the mutual covenants contained in Original Tax-Exempt Loan Agreement and the consummation of the Tax-Exempt Loan by the District and Bank, and for other valuable consideration, the receipt of which is hereby acknowledged, and in order to secure the payment of the principal of, premium, if any, and interest on the Tax-Exempt Loan according to their tenor and effect, and the performance and observance by the District of all of the covenants and conditions in the Original Tax-Exempt Loan Agreement contained on its part to be performed, it is agreed by and between the District and the Bank as follows:

**Section 1. Supplement to Original Tax-Exempt Loan Agreement.** The District and Bank each affirm that the Original Tax-Exempt Loan Agreement is hereby amended pursuant to Section 8.1 thereof, and, unless otherwise required by the context or as amended pursuant to this First Supplement, all terms used herein which are

defined in the Original Tax-Exempt Loan Agreement shall have the meanings assigned to them therein.

**Section 2. Amendment of Section 5.13(a)(2) to the Original Tax-Exempt Loan Agreement.** Section 5.13(a)(2) of the Original Tax-Exempt Loan Agreement is hereby amended in its entirety to read as follows: “The Net Revenues (calculated without taking into account any amounts transferred into the Revenue Fund from the Rate Stabilization Fund pursuant to Section 5.3(d) hereof), calculated in accordance with Generally Accepted Accounting Principles, either (i) as shown by the books of the District for the latest Fiscal Year, as verified by a certificate of an Authorized Representative of the District, or (ii) as shown by the books of the District for any more recent twelve (12) month period selected by the District, as verified by a certificate or opinion of an Independent Certified Public Accountant employed by the District, plus in either case (at the option of the District) the Additional Revenues, shall be at least equal to one hundred twenty-five percent (125%) of the amount of Maximum Annual Debt Service on all outstanding Parity Obligations and the Parity Obligations to be issued (the “Parity Obligations Coverage Requirement”).”

**Section 3. Effective Date.** This First Supplement shall become effective upon execution by the District and the Bank.

**Section 4. Original Tax-Exempt Loan Agreement to Remain in Effect.** Save and except as amended by this First Supplement, the Original Tax-Exempt Loan Agreement shall remain in full force and effect.

**Section 5. Governing Law.** This First Amendment is governed by the laws of the State of California.

**Section 6. Counterparts.** This First Supplement may be executed in any number of counterparts, each of which, when so executed and delivered, shall be an original, but such counterparts shall together constitute but one and the same instrument.

\*\*\*\*\*

**IN WITNESS WHEREOF**, the Santa Cruz Port District has caused this First Supplement to Tax-Exempt Loan Agreement to be signed in its name by the Port Director, and Compass Mortgage Corporation, has caused this First Supplement to Tax-Exempt Loan Agreement to be signed in its corporate name by its officers thereunto duly authorized, all as of the date first above written.

**SANTA CRUZ PORT DISTRICT**

By \_\_\_\_\_  
Marian Olin, Port Director

**COMPASS MORTGAGE CORPORATION,**  
an Alabama Corporation

By \_\_\_\_\_  
Authorized Officer

**Exhibit B**

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**FIRST SUPPLEMENT TO TAXABLE LOAN AGREEMENT**

by and between

**SANTA CRUZ PORT DISTRICT**

And

**COMPASS BANK, an Alabama Corporation,**

Dated as of September 1, 2018

**Relating to and Supplementing the**

**LOAN AGREEMENT  
(THE "ORIGINAL TAXABLE LOAN AGREEMENT")**

by and between

Santa Cruz Port District

and

Compass Bank, an Alabama Corporation

Dated as of September 1, 2013

---

## FIRST SUPPLEMENT TO TAXABLE LOAN AGREEMENT

**THIS FIRST SUPPLEMENT TO TAXABLE LOAN AGREEMENT** (this “First Supplement”), dated as of September 1, 2018, between the **SANTA CRUZ PORT DISTRICT** (the “District”), a public body, corporate and politic, duly organized and validly existing under the laws of the State of California (the “State”), and **COMPASS BANK**, a corporation duly organized and existing under the laws of the State of Alabama, with all right and authority to conduct business in the State of California (the “Bank”).

### WITNESSETH:

**WHEREAS**, in order to finance and refinance certain projects relating to the District’s harbor enterprise and recreation system commonly known as the Santa Cruz Harbor (the “Enterprise”), on September 5, 2013, the District executed and consummated \$2,384,445.08 aggregate principal amount of the Santa Cruz Port District, Series 2013 Taxable Enterprise Revenue Loan (the “Taxable Loan”) pursuant to a Loan Agreement, dated as of September 1, 2013, by and between the District and the Bank (the “Original Taxable Loan Agreement”); and

**WHEREAS**, Section 5.13 of the Original Taxable Loan Agreement provides that Parity Obligations (as defined in the Original Taxable Loan Agreement) cannot be incurred unless specific conditions are satisfied, including satisfaction of the Parity Obligations Coverage Requirement (as defined in Section 5.13(a)(2) the Original Taxable Loan Agreement); and

**WHEREAS**, the District wishes to amend the Original Taxable Loan Agreement in order to change the definition of the Parity Obligations Coverage Requirement; and

**WHEREAS**, pursuant to Section 8.1 of the Original Taxable Loan Agreement, the Original Taxable Loan Agreement may be modified or amended at any time by a written supplemental agreement entered into by the District and the Bank; and

### **NOW, THEREFORE, THIS FIRST SUPPLEMENT TO TAXABLE LOAN AGREEMENT WITNESSETH:**

That in consideration of the premises, and the mutual covenants contained in Original Taxable Loan Agreement and the consummation of the Taxable Loan by the District and Bank, and for other valuable consideration, the receipt of which is hereby acknowledged, and in order to secure the payment of the principal of, premium, if any, and interest on the Taxable Loan according to their tenor and effect, and the performance and observance by the District of all of the covenants and conditions in the Original Taxable Loan Agreement contained on its part to be performed, it is agreed by and between the District and the Bank as follows:

**Section 1. Supplement to Original Taxable Loan Agreement.** The District and Bank each affirm that the Original Taxable Loan Agreement is hereby amended pursuant to Section 8.1 thereof, and, unless otherwise required by the context or as



amended pursuant to this First Supplement, all terms used herein which are defined in the Original Taxable Loan Agreement shall have the meanings assigned to them therein.

**Section 2. Amendment of Section 5.13(a)(2) to the Original Taxable Loan Agreement.** Section 5.13(a)(2) of the Original Taxable Loan Agreement is hereby amended in its entirety to read as follows: "The Net Revenues (calculated without taking into account any amounts transferred into the Revenue Fund from the Rate Stabilization Fund pursuant to Section 5.3(d) hereof), calculated in accordance with Generally Accepted Accounting Principles, either (i) as shown by the books of the District for the latest Fiscal Year, as verified by a certificate of an Authorized Representative of the District, or (ii) as shown by the books of the District for any more recent twelve (12) month period selected by the District, as verified by a certificate or opinion of an Independent Certified Public Accountant employed by the District, plus in either case (at the option of the District) the Additional Revenues, shall be at least equal to one hundred twenty-five percent (125%) of the amount of Maximum Annual Debt Service on all outstanding Parity Obligations and the Parity Obligations to be issued (the "Parity Obligations Coverage Requirement")."

**Section 3. Effective Date.** This First Supplement shall become effective upon execution by the District and the Bank.

**Section 4. Original Taxable Loan Agreement to Remain in Effect.** Save and except as amended by this First Supplement, the Original Taxable Loan Agreement shall remain in full force and effect.

**Section 5. Governing Law.** This First Amendment is governed by the laws of the State of California.

**Section 6. Counterparts.** This First Supplement may be executed in any number of counterparts, each of which, when so executed and delivered, shall be an original, but such counterparts shall together constitute but one and the same instrument.

\* \* \* \* \*

**IN WITNESS WHEREOF**, the Santa Cruz Port District has caused this First Supplement to Taxable Loan Agreement to be signed in its name by the Port Director, and Compass Bank, has caused this First Supplement to Taxable Loan Agreement to be signed in its corporate name by its officers thereunto duly authorized, all as of the date first above written.

**SANTA CRUZ PORT DISTRICT**

By \_\_\_\_\_  
Marian Olin, Port Director

**COMPASS BANK,**  
an Alabama Corporation

By \_\_\_\_\_  
Authorized Officer

Santa Cruz Port District  
**RESOLUTION 18-10**  
August 28, 2018

On the motion of \_\_\_\_\_

Duly seconded by \_\_\_\_\_

A Resolution of the Santa Cruz Port District Commission Authorizing Commencement of Proceedings in Connection with the Financing of Certain Pile Replacement Project Improvements and Seawall Replacement Project Improvements; Declaring its Intention to Reimburse Certain Expenditures from the Proceeds of Tax-Exempt Obligations and Directing Certain Actions with Respect thereto as Required by United States Department of Treasury Regulations Section 1.150-2; and Appointing The Weist Law Firm to Provide Necessary Bond Counsel Services in Connection therewith.

WHEREAS, the Santa Cruz Port District (the "District") presently owns and operates certain facilities and property for its harbor enterprise and recreation system commonly known as the Santa Cruz Harbor (the "Enterprise"); and,

WHEREAS, the Santa Cruz Port District Commission (the "Commission"), after due investigation and deliberation, desires to undertake proceedings for the financing (the "Financing") of two separate capital improvement projects commonly known as (i) the Pile Repair and Replacement Project, as generally described in Exhibit A attached hereto and incorporated herein (the "Pile Replacement Project"), and (ii) the Aldo's Seawall Replacement Project, as generally described in Exhibit A attached hereto and incorporated herein (the "Seawall Project," and together with the Pile Replacement Project, the "Projects"); and,

WHEREAS, the District intends to finance the construction, repairing, expanding, modernizing, and/or equipping of the Projects or portions of the Projects with the proceeds of tax-exempt bonds, notes, certificates of participation, revenue bonds or other forms of tax-exempt debt (the "Debt Obligations"); and,

WHEREAS, prior to the issuance of any Debt Obligations the District desires to incur certain capital expenditures (the "Reimbursable Expenditures") with respect to the Projects from available moneys of the District; and,

WHEREAS, the Commission has determined that those moneys which will be advanced on and after the date hereof to pay Reimbursable Expenditures are available only for a temporary period, and it is necessary to reimburse the District for such Reimbursable Expenditures from the proceeds of the Debt Obligations, all as set forth pursuant to Section 1.150-2 of the regulations (the "Treasury Regulations") promulgated under the Internal Revenue Code of 1986, as amended (the "Tax Code"); and,

WHEREAS, this Resolution will be reasonably available for public inspection within a reasonable period of time after its date of adoption and in the same manner governing the public availability of records of other official acts of the Commission; and,

WHEREAS, this Resolution is intended to be a "declaration of official intent" in accordance with Section 1.150-2 of the Treasury Regulations; and,

WHEREAS, in order to efficiently accomplish the Financing and issuance of the Debt Obligations, the District desires to engage The Weist Law Firm as Bond Counsel to provide the necessary professional services in connection therewith; and,

WHEREAS, this action does not constitute a "Project" under California Environmental Quality Act (CEQA) Guidelines Section 15378; and,

NOW, THEREFORE, BE IT RESOLVED, by the Santa Cruz Port District Commission as follows:

Section 1. The foregoing recitals are adopted as findings of the Commission as though set forth fully herein.

Section 2. The District reasonably expects to reimburse itself for the Reimbursable Expenditures made by the District in anticipation of the issuance of the Debt Obligations with proceeds of Debt Obligations. The reimbursement of Reimbursable Expenditures is consistent with the District's budgetary and financial circumstances.

Section 3. The Commission hereby determines that it is necessary and desirable to proceed with the Financing and procurement of the Debt Obligations, subject to final authorization thereof by resolution of the Commission at a subsequent meeting held for such purpose. This Resolution does not bind the District to make any expenditure, incur any indebtedness or ultimately provide for the Financing and procurement of the Debt Obligations.

Section 4. The maximum principal amount of the Debt Obligations from which Reimbursable Expenditures are to be made (i) in relation to the Pile Replacement Project is reasonably expected to be \$1,750,000, and (ii) in relation to the Seawall Replacement Project is reasonably expected to be \$1,600,000. The obligation to be represented by the Debt Obligations may be incurred by the District by means of the execution and delivery of installment sale agreements and/or revenue obligations.

Section 5. The proceeds from the Debt Obligations are to be used for the financing, acquisition, design and/or construction of the Projects, the funding of reserve funds, and for the payment of certain costs of issuance related thereto.

Section 6. To the best of the District's knowledge, the District is not aware of the previous adoption of official intents by the District that have been made as a matter of course for the purpose of reimbursing expenditures and for which tax-exempt obligations have not been issued.

Section 7. This Resolution is adopted for purposes of establishing compliance with the requirements of section 1.150-2 of the Treasury Regulations, and any other regulations of the Internal Revenue Service relating to the qualification for reimbursement of costs relating to the Projects. This Resolution does not bind the District to make any expenditure, incur any indebtedness or proceed with the Financing of the Projects. All Reimbursable Expenditures covered by this Resolution were made not earlier than 60 days prior to the date of adoption hereof.

Section 8. The District, for the purposes set forth herein, hereby designates and appoints The Weist Law Firm to serve as Bond Counsel in connection with the structuring, execution and consummation of the Debt Obligations. The Port Director is authorized and directed to execute an agreement with such firm in the form on file with the Port Director.

Section 9. The Chairman, Vice-Chairman, Port Director and any other person authorized by the Commission to act on behalf of the District are hereby authorized and directed, for and in the name and on behalf of the District, to do any and all things and take any and all actions, including execution and delivery of any and all assignments, certificates, requisitions, agreements, notices, consents, instruments of conveyance, warrants and other documents, which they, or any of them, may deem necessary or advisable in order to consummate any of the transactions contemplated by this Resolution.

Section 10. Effective Date. This Resolution shall take effect from and after the date of its passage and adoption.

\*\*\*\*\*

THE FOREGOING RESOLUTION of the Santa Cruz Port District Commission was duly and regularly introduced, passed and adopted at a regular meeting of the Santa Cruz Port District on the 28<sup>th</sup> day of August 2018, by the following vote:

AYES: \_\_\_\_\_

NOES: \_\_\_\_\_

ABSENT: \_\_\_\_\_

APPROVED:

\_\_\_\_\_  
Dennis Smith, Chairman  
Santa Cruz Port District Commission

ATTEST:

\_\_\_\_\_  
Marian Olin, Port Director

## EXHIBIT A

### GENERAL DESCRIPTION OF THE PROJECTS

#### **General Description of the Pile Replacement Project**

The Pile Replacement Project includes the removal and replacement of up to 220 worn / aging piles ranging in length from 50 to 75 feet, as well as all necessary piles guides and appurtenant hardware with hollow, spun concrete piles and/or steel sleeve piles, as well as any necessary permits, rights of way and other real or personal property useful in connection therewith, together with all additions, extensions, expansions, improvements and betterments thereto and equipments thereof.

#### **General Description of the Seawall Replacement Projects**

The Seawall Replacement Project includes the replacement of the sheet pile seawall that formerly supported Aldo's Harbor Restaurant at 616 Atlantic Avenue. This project includes steel sheet pile walls with supplemental tie-backs installed at the top of wall, mobilization/demobilization work, stone backfill, and removal and reinstallation of rip-rap, as well as any necessary permits, rights of way and other real or personal property useful in connection therewith, together with all additions, extensions, expansions, improvements and betterments thereto and equipments thereof.

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**SERIES 2018A INSTALLMENT SALE AGREEMENT**

By and Between

**SANTA CRUZ PORT DISTRICT**

And

**COMPASS MORTGAGE CORPORATION, an Alabama Corporation**

Dated as of September 1, 2018

Relating to

**\$1,750,000**  
**SANTA CRUZ PORT DISTRICT**  
**SERIES 2018A REVENUE OBLIGATIONS**  
**(Santa Cruz Harbor Pile Replacement Project)**  
**BANK QUALIFIED**



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## **SERIES 2018A INSTALLMENT SALE AGREEMENT**

**THIS SERIES 2018A INSTALLMENT SALE AGREEMENT**, (this "Installment Sale Agreement"), dated for convenience as of September 1, 2018, is by and between COMPASS MORTGAGE CORPORATION, a corporation duly organized and existing under the laws of the State of Alabama, with all right and authority to conduct business in the State of California (the "Bank"), and the SANTA CRUZ PORT DISTRICT, a port district and public corporation duly organized and existing under the laws of the State of California (the "District");

### **W I T N E S S E T H:**

**WHEREAS**, the District presently owns and operates certain facilities and property for its harbor enterprise and recreation system commonly known as the Santa Cruz Harbor (the "Enterprise") and desires and intends to finance the (i) Acquisition and Construction of the Project (as defined herein), (ii) Reserve Fund (as defined herein), and (iii) associated costs of issuance (collectively, the "Financing"); and

**WHEREAS**, the District is authorized to exercise powers pursuant to the Port District Law of the State of California, being Sections 6200 et seq. of the Harbors and Navigation Code of the State of California, and all laws amendatory thereof or supplemental thereto, including the power to purchase and sell real and personal property of every kind, within or without the District, necessary to the full or convenient exercise of its powers; and

**WHEREAS**, the District has determined that it is in the public interest at this time to provide for the execution and delivery of its "Santa Cruz Harbor District, Series 2018A Revenue Obligations (Santa Cruz Harbor Pile Replacement Project), Bank Qualified" (the "2018A Revenue Obligations"), pursuant to terms and conditions of this Installment Sale Agreement, the proceeds of which will be used to provide the Financing; and

**WHEREAS**, the principal of and interest and redemption premium (if any) on this Installment Sale Agreement, and any bonds or other obligations issued on a parity therewith as provided herein, will be payable from and secured by a pledge of and lien on the Net Revenues (as defined herein) derived from the Enterprise, as expressly set forth in this Installment Sale Agreement; and

**WHEREAS**, all things necessary to make 2018A Revenue Obligations when executed and delivered, the valid and binding obligation of the District, and to constitute this Installment Sale Agreement as a valid pledge of the revenues herein pledged to the payment of the principal of, prepayment premium, if any, and interest on the 2018A Revenue Obligations have been done and performed, as required by law, and the District is now fully authorized to enter into this Installment Sale Agreement, subject to the terms hereof; and

**NOW, THEREFORE, THIS INSTALLMENT SALE AGREEMENT WITNESSETH**, that in order to secure the payment of the principal of and the interest and premium (if any) on the 2018A Revenue Obligations at any time Outstanding under this Installment Sale Agreement, and to secure the performance and observance of all the covenants

and conditions therein and herein set forth, and to declare the terms and conditions upon and subject to which the 2018A Revenue Obligations are premised, and in consideration of the premises and of the mutual covenants herein contained, and for other valuable considerations, the receipt whereof is hereby acknowledged, the District does hereby covenant and agree, for the benefit of the Bank from time to time, as follows:

## ARTICLE I

### DEFINITIONS AND OTHER PROVISIONS OF GENERAL APPLICABILITY

Section 1.1. Definitions. Unless the context otherwise requires, the terms defined in this section shall for all purposes hereof and of any amendment hereof or supplement hereto and of any report or other document mentioned herein or therein have the meanings defined herein, the following definitions to be equally applicable to both the singular and plural forms of any of the terms defined herein.

“Acquisition,” “Acquire” or “Acquisition and Construction” means, with respect to any portion of the Pier Project, the acquisition, construction, improvement, equipping, renovation, remodeling or reconstruction thereof.

“Additional Revenues” means, with respect to the issuance of any Parity Obligations, any or all of the following amounts:

(a) An allowance for Net Revenues from any additions or improvements to or extensions of the Harbor Enterprise to be made with the proceeds of such Parity Obligations and also for Net Revenues from any such additions, improvements or extensions which have been made from moneys from any source but in any case which, during all or any part of the latest Fiscal Year or for any more recent consecutive twelve (12) month period selected by the District, were not in service, all in an amount equal to seventy percent (70%) of the estimated additional average annual Net Revenues to be derived from such additions, improvements and extensions, as verified by an Independent Financial Consultant, for the first thirty-six (36) month period in which each addition, improvement or extension is respectively to be in operation, all as shown by the certificate or opinion of a qualified Independent Engineer. Notwithstanding the foregoing, one hundred percent (100%) of revenues associated with California Emergency Management Agency and Federal Emergency Management Agency grants or other such emergency grants and aid shall be counted as Additional Revenues.

(b) An allowance for Net Revenues arising from any increase in the charges made for service from the Harbor Enterprise which has become effective (or adopted but not yet effective) prior to the incurring of such Parity Obligations but which, during all or any part of the latest Fiscal Year or for any more recent consecutive twelve (12) month period selected by the District, was not in effect, in an amount equal to the total amount by which the Net Revenues would have been increased if such increase in charges had been in effect during the whole of such Fiscal Year or twelve (12) month period, all as shown by the certificate or opinion of an Independent Certified Public Accountant or Independent Financial Consultant.

“Authorized Representative” means the District’s Chairman, Vice-Chairman, or Port Director, or any other person designated as an Authorized Representative of the District by a Certificate of the District signed by its Chairman, Vice-Chairman, or Port Director and filed with the District and the Bank.

“Bank” means (a) initially, Compass Mortgage Corporation, an Alabama corporation, or (b) any assignee or transferee of any right, title or interest hereunder.

“Board” means the Board of Port Commissioners of the District.

“Bond Counsel” means The Weist Law Firm, or another firm of nationally-recognized attorneys experienced in the issuance of obligations the interest on which is excludable from gross income under Section 103 of the Code.

“Business Day” means any day other than (a) a Saturday or Sunday or a day on which banking institutions in the State or the State of New York are authorized to close or (b) a day on which the New York Stock Exchange is closed.

“Certificate,” “Request” and “Requisition” of the District means a written certificate, request or requisition signed in the name of the District by its Authorized Representative. Any such instrument and supporting opinions or representations, if any, may, but need not, be combined in a single instrument with any other instrument, opinion or representation, and the two or more so combined shall be read and construed as a single instrument.

“Code” means the Internal Revenue Code of 1986, as amended. Each reference to a section of the Code herein shall be deemed to include the United States Treasury regulations, including temporary and proposed regulations relating to each such section that are applicable to the Parity Obligations or the use of the proceeds thereof.

“Costs of Issuance” means all expenses incurred in connection with the authorization, execution and delivery of this Installment Sale Agreement, including but not limited to all compensation, fees and expenses (including but not limited to fees and expenses for legal counsel) of the District, compensation to Bond Counsel and any financial consultants, insurance premiums, rating agency fees, other legal fees and expenses, filing and recording costs, CDIAC fees, costs of preparation and reproduction of documents and costs of printing and binding.

“Costs of Issuance Fund” means the fund by that name established and maintained pursuant to Section 3.7 hereof

“Closing Date” means September \_\_, 2018, being the date on which the 2018A Revenue Obligations are funded by the Bank.

“Debt Service” means, for any Fiscal Year, the sum of (I) the interest falling due during such Fiscal Year on all Parity Obligations (including, but not limited to Interest Components of Installment Payments made pursuant to this Installment Sale Agreement) that are outstanding under the documents or agreements pursuant to which they were issued, assuming that all outstanding serial Parity Obligations are retired as scheduled and that all outstanding term Parity Obligations are redeemed from sinking fund payments as scheduled (except to the extent that such

interest has been fully capitalized and is invested in Federal Securities that mature at times and in such amounts as are necessary to pay the interest to which such amounts are pledged), (2) the principal amount of all serial Parity Obligations (that are outstanding under the documents or agreements pursuant to which they were issued) falling due by their terms during such Fiscal Year (including, but not limited to Principal Components of Installment Payments made pursuant to this Installment Sale Agreement), and (3) the minimum amount of term Parity Obligations (that are outstanding under the documents or agreements pursuant to which they were issued) required to be paid or called and redeemed during such Fiscal Year, together with the redemption premiums, if any, thereon; *provided that*, (A) whenever interest as described herein accrues at other than a fixed rate, such interest shall be assumed to be a rate equal to the greater of (i) the actual rate on the date of calculation, or if the Parity Obligations are not yet outstanding, the initial rate (if established and binding), (ii) if the Parity Obligations have been outstanding for at least twelve months, the average rate over the twelve months immediately preceding the date of calculation, and (iii) (x) if interest on the Parity Obligations is excludable from gross income under the applicable provisions of the Code, the most recently published The Bond Buyer Bond Revenue Index (or comparable index if no longer published) plus one hundred fifty (150) basis points, or (y) if interest is not so excludable, the interest rate on direct U.S. Treasury Obligations with comparable maturities, plus one hundred fifty (150) basis points, and (B) for purposes of calculating the Debt Service on any Parity Obligation requiring a balloon payment at maturity, such interest shall be assumed to be a rate equal to the greater of (i) the actual rate on the date of calculation, or (ii) six percent (6%), and the principal shall be assumed to be fully amortized, solved for substantially level debt service, over a period of fifteen (15) years from the date of calculation.

“Default Rate” means the principal and interest due on a particular date, plus 5% if payment due is not made within ten (10) calendar day of its respective due date.

“District” means the Santa Cruz Port District, a port district and public corporation duly organized and existing under and by virtue of the laws of the State of California.

“Enterprise,” or “Harbor Enterprise” means, collectively, the entire works, properties and facilities now owned or leased by the District, or hereafter acquired by the District and determined to be a part of the Harbor Enterprise, including, but not limited to, any and all properties and assets, real and personal, tangible and intangible, of the District, now or hereafter existing, used or pertaining to a commercial harbor commonly known as the Santa Cruz Small Craft Harbor, comprising all harbor works and facilities of the District, including all slips and docks, wharfs, lighthouses, buildings, parking and boat launch facilities, electrical and lighting facilities, fueling facilities, towage facilities, equipment and watercraft owned, controlled or operated by the District in or upon or pertaining to the lands, improvements and waters of the District used or useful for, or necessary for or incidental to, the development and operation of the Santa Cruz Small Craft Harbor and the provision of Harbor Services, together with all improvements to such works, property and facilities or any part thereof hereafter acquired or constructed by the District.

“Enterprise Fund” means the District’s existing general fund established and held by the District with respect to the Harbor Enterprise.

“Enterprise Services,” or “Harbor Services” means the use of any of the Harbor Enterprise facilities or the services furnished or provided by any of the Harbor Enterprise.

“Event of Default” means an event described in Section 6.1 hereof.

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

“Fiscal Year” means any twelve-month period extending from April 1 in one calendar year to March 31 of the succeeding calendar year, both dates inclusive, or any other twelve-month period selected and designated by the District, as applicable, as its official fiscal year period.

“Generally Accepted Accounting Principles” means the uniform accounting and reporting procedures prescribed by the California State Controller or his or her successor for special districts in the State of California, or failing the prescription of such procedures means generally accepted accounting principles as presented and recommended by the American Institute of Certified Public Independent Certified Public Accountants or its successor, or by any other generally accepted authority on such procedures, and includes, as applicable, the standards set forth by the Governmental Accounting Standards Board or its successor.

“Governmental Authority” means any governmental or quasi-governmental entity, including any court, department, commission, board, bureau, agency, administration, central bank, service, district or other instrumentality of any governmental entity or other entity exercising executive, legislative, judicial, taxing, regulatory, fiscal, monetary or administrative powers or functions of or pertaining to government, or any arbitrator, mediator or other person with authority to bind a party at law.

“Improvements,” or “Project Improvements” means the Project improvements described more fully in Exhibit B hereto.

“Independent Certified Public Accountant” means any certified public accountant or firm of certified public accountants appointed and paid by the District, and who, or each of whom:

- (a) is in fact independent and not under domination of the District;
- (b) does not have any substantial interest, direct or indirect, in the District; and
- (c) is not connected with the District as an officer or employee of the District but who may be regularly retained to make annual or other audits of the books of or reports to the District.

“Independent Engineer” means any registered engineer or firm of engineers generally recognized to be well-qualified in engineering matters relating to water systems similar to the Enterprise, appointed and paid by the District, and who or each of whom:

- (1) is in fact independent and not under the domination of the District;



(2) does not have a substantial financial interest, direct or indirect, in the District; and

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

“Independent Financial Consultant” means a financial consultant qualified in the field of municipal finance, appointed and paid by the District, and who:

(1) is in fact independent and not under the domination of the District or any member thereof;

(2) does not have a substantial financial interest, direct or indirect, in the operations of the District; and

(3) is not connected with the District as an officer or employee of the District or any member thereof, but may be regularly retained to audit the accounting records of and make reports thereon to the District; and

(4) is not a customer or patron of the District, or currently on the waiting list.

“Insurance Consultant” means any nationally recognized independent actuary, insurance company or broker that has actuarial personnel knowledgeable with respect to insurance carried, by, required for and available to special districts operating facilities similar to the Enterprise, including a pooled self-insurance program in which premiums are established on the basis of the recommendation of an actuary of national reputation.

“Interest Component” means the portion of each Installment Payment designated as Interest Component, as such is set forth on Exhibit A hereto.

“Installment Payments” means all payments required to be paid by the District, as such is set forth on Exhibit A hereto, on each Installment Payment Date pursuant to Section 4.2, and including any prepayment thereof pursuant to Section 3.4 or 3.5 hereof.

“Installment Payment Date” or “Payment Date” means February 1 and August 1 in each year, commencing February 1, 2019 and continuing to and including the date on which the Installment Payments have been paid in full.

“Installment Sale Agreement” means this Series 2018A Installment Sale Agreement, dated as of September 1, 2018, by and between the Bank and the District.

“2018B Installment Sale Agreement” means the Series 2018B Installment Sale Agreement, dated as of September 1, 2018, by and between the Bank and the District, relating to the 2018B Revenue Obligations.

“Maintenance and Operation Costs” means the reasonable and necessary costs paid or incurred by the District for maintaining and operating the Harbor Enterprise, determined in accordance with Generally Accepted Accounting Principles, including all reasonable expenses of management and repair and all other expenses necessary to maintain and preserve the Harbor Enterprise in good repair and working order, and including all administrative costs of the District

that are charged directly or apportioned to the operation of the Harbor Enterprise, such as salaries and wages of employees, overhead, taxes (if any) and insurance premiums, and including all other reasonable and necessary costs of the District or charges required to be paid by it to comply with the terms hereof and of all Parity Obligations, such as fees and expenses of Independent Certified Public Accountants and Independent Engineers; but excluding in all cases (i) debt service payable on Obligations incurred by the District with respect to the Harbor Enterprise, (ii) depreciation, replacement and obsolescence charges or reserves therefor, (iii) amortization of intangibles and any other non-cash charges or other bookkeeping entries of a similar nature, and (iv) non-cash unfunded pension liability.

“Material Litigation” means any action, suit, proceeding, inquiry or investigation against the District in any court or before any arbitrator of any kind or before or by any Governmental Authority, of which the District has notice or knowledge and which, (i) if determined adversely to the District, may have a Material Adverse Effect, (ii) seek to restrain or enjoin any of the transactions contemplated hereby, or (iii) may adversely affect (A) the exclusion of interest with respect to the Installment Payments from gross income for federal income tax purposes or the exemption of such interest for state income tax purposes or (B) the ability of the District to perform its obligations under this Installment Sale Agreement.

“Material Adverse Effect” means an event or occurrence which adversely affects in a material manner (a) the assets, liabilities, condition (financial or otherwise), business, facilities or operations of the District, (b) the ability of the District to carry out its business in the manner conducted as of the date of this Installment Sale Agreement or to meet or perform its obligations under this Installment Sale Agreement on a timely basis, (c) the validity or enforceability of this Installment Sale Agreement or any other Parity Obligation, or (d) the exclusion of interest with respect to the Installment Payments from gross income for federal income tax purposes or the exemption of such interest for state income tax purposes.

“Maximum Annual Debt Service” means the greatest amount of Debt Service with respect to the Parity Obligations to which reference is made coming due in any Fiscal Year including the Fiscal Year in which the calculation is made or any subsequent Fiscal Year.

“Net Proceeds” means, when used with respect to any condemnation award or with respect to any insurance proceeds, the amount of such condemnation award or such insurance proceeds remaining after payment of all reasonable expenses (including attorneys’ fees) incurred in the collection of such award or such proceeds.

“Net Revenues” means for any period, all of the Revenues during such period less all of the Maintenance and Operation Costs during such period.

“Obligations” means all Parity Obligations and all Subordinate Obligations.

“Ordinance” means the Ordinance No. 18-\_\_, adopted by the Board of Port Commissioners of the District on August 28, 2018, authorizing the execution and delivery of this Installment Sale Agreement.

“Parity Obligations” means the 2018A Revenue Obligations, 2018B Revenue Obligations, the 2013 Tax-Exempt Loan, the 2013 Taxable Loan, and all other bonds, notes, loan agreements,

installment sale agreements, leases, or other obligations of the District payable from and secured by a pledge of and lien upon any of the Net Revenues incurred on a parity with this Installment Sale Agreement, issued in accordance with Section 5.13 hereof.

“Parity Payments” means all payments scheduled to be paid by the District under Parity Obligations.

“Permitted Investments” means any of the following which at the time of investment are legal investments under the laws of the State of California for the moneys proposed to be invested therein:

- (a) Federal Securities;
- (b) Any direct or indirect obligations of an agency or department of the United States of America whose obligations represent the full faith and credit of the United States of America, or which are rated A or better by S&P.
- (c) Interest-bearing deposit accounts (including certificates of deposit) in federal or State chartered savings and loan associations or in federal or State of California banks (including the Trustee), provide that: (i) the unsecured obligations of such commercial bank or savings and loan association are rated A or better by S&P; or (ii) such deposits are fully insured by the Federal Deposit Insurance Corporation.
- (d) Commercial paper rated in the highest short-term rating category by S&P.
- (e) Federal funds or bankers acceptances with a maximum term of one year of any bank with an unsecured, uninsured and unguaranteed obligation rating in the highest rating category of S&P.
- (f) Money market funds registered under the Federal Investment Company Act of 1940, whose shares are registered under the Federal Securities Act of 1933, and having a rating in the highest rating category of S&P (such funds may include funds for which the Bank, its affiliates, parent or subsidiaries provide investment advisory or other management services).
- (g) Obligations the interest on which is excludable from gross income pursuant to Section 103 of the Tax Code and which are either (a) rated A or better by S&P, or (b) fully secured as to the payment of principal and interest by Federal Securities.
- (h) Bonds or notes issued by any state or municipality which are rated by S&P in one of the two highest rating categories assigned by S&P.
- (i) Any investment agreement with, or guaranteed by, a financial institution the long-term unsecured obligations or the claims paying ability of which are rated A or better by S&P at the time of initial investment.
- (j) The Local Agency Investment Fund of the State of California, created under Section 16429.1 of the California Government Code, to the extent the District is authorized to register such investment in its name.

“Principal Component” means the portion of each Installment Payment designated as Principal Component, as such is set forth on Exhibit A hereto.

“Proceeds” means the \$1,750,000 amount received by the District from the Bank on the Closing Date.

“Project” or “Pier Project” means the acquisitions and improvements and other property comprising the Project described more fully in Exhibit B attached hereto and by this reference incorporated herein, as such description may be amended by the District from time to time pursuant to and in accordance with the terms hereof.

“Project Costs” means the costs of acquisition, construction, implementing and equipping either the Pier Project, or the application of the Proceeds to the costs and expenses which are incidental or related to the Acquisition and Construction of additions to such Pier Project, including amounts payable to the District as reimbursement for any of the foregoing.

“Project Fund” means the fund by that name established pursuant to Section 3.3.

“Rate Stabilization Fund” means the fund by that name established pursuant to Section 5.3(d).

“Registration Books” means the records maintained by the District pursuant to Section 2.06.

“Reserve Fund” means the fund by that name established pursuant to Section 3.8.

“Reserve Requirement” means the lesser of (i) 10% of the original par amount of the 2018A Revenue Obligations, (ii) 100% of maximum annual debt service on the 2018A Revenue Obligations, or (iii) 125% of average annual debt service on the 2018A Revenue Obligations.

“Revenue Fund” means the fund by that name established and maintained pursuant to Section 4.4 hereof.

“2018A Revenue Obligations” means the Santa Cruz Port District, Series 2018A Revenue Obligations (Santa Cruz Harbor Pile Replacement Project), Bank Qualified, consummated pursuant to this Installment Sale Agreement in the original aggregate principal amount of \$1,750,000.

“2018B Revenue Obligations” means the Santa Cruz Port District, Series 2018B Revenue Obligations (Santa Cruz Harbor Seawall Replacement Project), Bank Qualified, consummated pursuant to the 2018B Installment Sale Agreement in the original aggregate principal amount of \$1,600,000.

“Revenues” means for any Fiscal Year or other period, all gross income and revenue received by the District from the ownership and operation of the Harbor Enterprise, including, without limiting the generality of the foregoing, (a) all rates, fees and charges received for, and all other income and receipts derived by the District from the operation of the Harbor Enterprise or arising from the Harbor Enterprise determined in accordance with generally accepted accounting

principles, including all rates, fees and charges received by the District for the Harbor Services and any other services of the Harbor Enterprise, (b) all proceeds of insurance (if any) covering business interruptions loss relating to the Harbor Enterprise, (c) the earnings on and income derived from the investment of such income, rents, rates, fees, charges or other monies to the extent that the use of such earnings and income is limited by or pursuant to law to the Harbor Enterprise, including all income from the investment of amounts on deposit in the Enterprise Fund and the Rate Stabilization Fund, (d) the proceeds derived by the District directly or indirectly from the sale, lease or other disposition of a part of the Harbor Enterprise, and (e) all other monies howsoever derived by the District from the operation of the Harbor Enterprise or arising from the Harbor Enterprise, including major facility charges; provided, that the term "Revenues" shall not include contributions in aid of construction or refundable customers' deposits or any other deposits subject to refund until such deposits have become the property of the District. Notwithstanding the foregoing, there shall be deducted from Revenues any amounts (of Revenues) transferred into the Rate Stabilization Fund as contemplated by Section 5.3(d) hereof, and there shall be added to Revenues any amounts transferred out of the Rate Stabilization Fund and into the Revenue Fund, as contemplated by Section 5.3(d) hereof.

"State" means the State of California.

"Subordinate Obligations" means indebtedness or other obligations (including but not limited to leases and installment sale agreements) hereafter issued or incurred and secured by a pledge of and lien on Net Revenues subordinate to the pledge and lien securing the Parity Obligations.

"2013 Loan Agreements" means, collectively, the 2013 Tax-Exempt Loan Agreement and the 2013 Taxable Loan Agreement.

"2013 Taxable Loan" means the Santa Cruz Port District, Series 2013 Taxable Enterprise Revenue Loan (Santa Cruz Harbor Refunding Projects), issued pursuant to the Taxable Loan Agreement in the original aggregate principal amount of \$2,384,445.08.

"2013 Taxable Loan Agreement" means the Loan Agreement, dated as of September 1, 2013, by and between the District and Bank, relating to the issuance of the 2013 Taxable Loan, as originally executed or as it may from time to time be supplemented, modified or amended pursuant to the provisions thereof.

"2013 Tax-Exempt Loan" means the Santa Cruz Port District, Series 2013 Tax-Exempt Enterprise Revenue Loan (Santa Cruz Harbor Refunding Projects), made pursuant to the 2013 Tax-Exempt Loan Agreement in the original aggregate principal amount of \$14,418,960.43.

"2013 Tax-Exempt Loan Agreement" means the Loan Agreement, dated as of September 1, 2013, by and between the District and Bank, relating to the issuance of the Taxable Loan, as originally executed or as it may from time to time be supplemented, modified or amended pursuant to the provisions thereof.

"Tax Regulations" means temporary and permanent regulations promulgated under or with respect to Sections 103, 141, 148 and all related sections of the Code.

“Term” means the time during which this Installment Sale Agreement is in effect, as provided in Section 3.1 hereof.

Section 1.2. Liability of District Limited to Net Revenues. Notwithstanding anything to the contrary contained in this Installment Sale Agreement, the District shall not be required to advance any money derived from the proceeds of any taxes collected for the use and benefit of the District, or from any source of income other than the Net Revenues, for the payment of the principal of or interest or prepayment premiums, if any, on the 2018A Revenue Obligations or for the performance of any covenants herein contained, nor for the maintenance and operation of the Enterprise from any source of income other than the Revenues. The District may, however, advance funds for any such purpose so long as such funds are derived from a source legally available for such purpose without incurring any indebtedness.

This Installment Sale Agreement represents an issue of revenue obligations (the “2018A Revenue Obligations”), payable exclusively from the Net Revenues as in this Installment Sale Agreement provided. The credit or taxing power of the District is not pledged for the payment of the 2018A Revenue Obligations or the interest thereon. The Bank shall never have the right to compel the exercise of the taxing power of the District. The principal of and interest on the 2018A Revenue Obligations and any prepayment premiums upon the prepayment thereof shall not be a debt of the District, nor a legal or equitable pledge of, or charge, lien or encumbrance upon, any of the property of the District or any of its income, receipts, or revenues, except the Net Revenues pledged to the payment thereof as provided in this Installment Sale Agreement.

Section 1.3. Benefits of Installment Sale Agreement Limited to Parties. Nothing contained herein, expressed or implied, is intended to give to any person other than the District and the Bank any right, remedy or claim under or pursuant hereto. Any agreement or covenant required herein to be performed by or on behalf of the District shall be for the sole and exclusive benefit of the Bank.

Section 1.4. Successor Is Deemed Included in all References to Predecessor. Whenever the District is named or referred to herein, such reference shall be deemed to include the successor to the powers, duties and functions that are presently vested in the District, and all agreements and covenants required hereby to be performed by or on behalf of the District shall bind and inure to the benefit of the successors thereof whether so expressed or not.

Section 1.5. Waiver of Personal Liability. No member of the Board and no officer, agent, or employee of the District, or of any department or agency thereof, shall be individually or personally liable for the payment of the principal of or interest on the 2018A Revenue Obligations, but nothing contained herein shall relieve any such member, officer, agent or employee from the performance of any official duty provided by law or hereby.

Section 1.6. Article and Section Headings, Gender and References. The headings or titles of the several articles and sections hereof and the table of contents appended hereto shall be solely for convenience of reference and shall not affect the meaning, construction or effect hereof. Words of any gender shall be deemed and construed to include all genders. All references herein to “Articles,” “Sections” and other subdivisions or clauses are to the corresponding articles, sections, subdivisions or clauses hereof; and the words “hereby,” “herein,” “hereof,” “hereto,”

“herewith” and other words of similar import refer to this Installment Sale Agreement as a whole and not to any particular article, section, subdivision or clause hereof.

Section 1.7. Partial Invalidity. If any one or more of the agreements or covenants or portions thereof required hereby to be performed by or on the part of the District shall be contrary to law, then such agreement or agreements, such covenant or covenants or such portions thereof shall be null and void and shall be deemed separable from the remaining agreements and covenants or portions thereof and shall in no way affect the validity hereof or the 2018A Revenue Obligations; but the Bank shall retain all the rights and benefits accorded to it under any applicable provisions of law. The Board hereby declares that it would have adopted this Installment Sale Agreement and each and every other article, section, paragraph, subdivision, sentence, clause and phrase hereof irrespective of the fact that any one or more articles, sections, paragraphs, subdivisions, sentences, clauses or phrases hereof or the application thereof to any person or circumstance may be held to be unconstitutional, unenforceable or invalid

Section 1.8. Term of this Installment Sale Agreement. The Term of this Installment Sale Agreement shall commence on the Closing Date, and shall end on the date on which the 2018A Revenue Obligations shall be paid in full or provision for such payment shall be made as provided herein.

## ARTICLE II

### REPRESENTATIONS OF THE DISTRICT

Section 2.1. Representations of the District. The District makes the following representations:

- (a) The District is a port district and public corporation duly organized and existing under and pursuant to the laws of the State of California.
- (b) The District has full legal right, power and authority to enter into this Installment Sale Agreement, and to enter into the transactions contemplated hereby and to carry out its obligations hereunder, and to carry out its obligations hereunder.
- (c) With the exception of the pledge of the Net Revenues hereunder and under the Parity Obligations, the Net Revenues have not otherwise been pledged and there are no other liens against the Net Revenues, senior to, or on parity with the Installment Payments.
- (d) The District is not currently, and has not been at any time, in default under the Parity Obligations.
- (e) The District’s comprehensive annual financial report for the period ended March 31, 2018, presents fairly the financial condition of the District and the Enterprise as of the date hereof and the results of operation for the period covered thereby. Except as has been disclosed to the Bank, there has been no change in the financial condition of the District or the Enterprise since March 31, 2018, that will in the reasonable opinion of the District materially impair its ability to perform its obligations under this Installment Sale Agreement. All information provided by the District to the Bank with respect to the

financial performance of the Enterprise is accurate in all material respects as of its respective date and does not omit any information necessary to make the information provided not misleading.

- (f) As currently conducted, the District's activities with respect to the Enterprise are in all material respects in compliance with all applicable laws, administrative regulations of the State of California and of the United States and any agency or instrumentality of either, and any judgment or decree to which the District is subject.
- (g) The District has never non-appropriated or defaulted under any of its payment or performance obligations or covenants, either with respect to the Parity Obligations or any obligation of the same general nature as the 2018A Revenue Obligations, or under any of its bonds, notes, or other obligations of indebtedness for which its revenues or general credit are pledged.
- (h) Neither the execution and delivery of this Installment Sale Agreement, nor the fulfillment of or compliance with the terms and conditions hereof or thereof, nor the consummation of the transactions contemplated hereby or thereby, conflicts with or results in a material breach of the terms, conditions or provisions of any restriction or any agreement or instrument to which the District is now a party or by which the District is bound or constitutes a default under any of the foregoing.
- (i) There is no action, suit, proceeding, inquiry or investigation, at law or in equity, before or by any court, public board or body pending or, to the best knowledge of the District, threatened against or affecting the District or affecting the corporate existence of the District or the titles of its officers to their respective offices or seeking to prohibit, restrain or enjoin the entering into of this Installment Sale Agreement, or in any way contesting or affecting the transactions contemplated hereby or thereby or the validity or enforceability of this Installment Sale Agreement, or contesting the powers of the District or any authority for the execution and delivery of this Installment Sale Agreement.
- (j) The Installment Sale Agreement is a valid and binding obligation of the District enforceable in accordance with its terms.
- (k) The District has duly authorized and executed this Installment Sale Agreement in accordance with the laws of the State.
- (l) No consent or approval of any trustee or holder of any indebtedness of the District or of the voters of the District, and no consent, permission, authorization, order or license of, or filing or registration with, any governmental authority is necessary in connection with the execution and delivery of this Installment Sale Agreement, or the consummation of any transaction herein contemplated, except as have been obtained or made and as are in full force and effect.
- (m) Since the most current date of the information, financial or otherwise, supplied by the District to the Bank:



- (i) There has been no change in the assets, liabilities, financial position or results of operations of the District which might reasonably be anticipated to cause a Material Adverse Effect;
- (ii) The District has not incurred any obligations or liabilities which might reasonably be anticipated to cause a Material Adverse Effect; and
- (iii) The District has not (A) incurred any material indebtedness, other than the 2018A Revenue Obligations, 2018B Revenue Obligations, the Tax-Exempt Loan, Taxable Loan and trade accounts payable arising in the ordinary course of the District's business and not past due, or (B) guaranteed the indebtedness of any other person.

### ARTICLE III

#### TERMS OF THE 2018A REVENUE OBLIGATIONS

##### Section 3.1. Installment Sale; Purchase Price; Acquisition of Project.

(a) *Installment Sale.* As consideration for the District's agreement to make Installment Payments in accordance with Section 4.2 hereof, the Bank hereby sells and conveys the Project to the District, and the District hereby purchases the Project from the Bank. All right, title and interest in each component of the Project shall vest in the District immediately upon Acquisition and Construction thereof. Such vesting shall occur without further action by the Bank or the District and the Bank shall, if requested by the District, or if necessary to assure such automatic vesting, deliver any and all documents required to assure such vesting.

(b) *Purchase Price.* The Purchase Price to be paid by the District to the Bank is the sum of the principal amount of the District's obligations hereunder plus the interest to accrue on the unpaid balance of such principal amount from the effective date hereof over the Term hereof, subject to prepayment as provided in Sections 3.4 and 3.5 hereof.

(c) *Acquisition and Construction of the Project.* The Bank hereby appoints the District as its agent to carry out all phases of the Acquisition and Construction of the Project under and in accordance with the provisions hereof. The District hereby accepts such appointment and assumes all rights, liabilities, duties and responsibilities of the Bank regarding the Acquisition and Construction of the Project. As agent of the Bank hereunder, the District shall enter into, administer and enforce all purchase orders or other contracts relating to the Project.

Payment of Project Costs shall be made by the District from amounts held in the Project Fund in accordance with the provisions of Section 4.4 of this Installment Sale Agreement. If and to the extent the amounts on deposit in the Project Fund are insufficient to enable the District to complete the Project in full, the District has the sole responsibility for completing the Project and the District will finance such completion from any source of legally available funds of the District. The District hereby agrees to diligently supervise and provide for, or cause to be diligently supervised and provided for, the Acquisition and Construction of the Project in accordance with the plans and specifications, purchase orders, construction contracts and other documents relating

thereto and approved by the District under all applicable requirements of law. All contracts for, and all work relating to, the Acquisition and Construction of the Project are subject to all applicable provisions of law relating to the acquisition and construction of public works by the District, including, but not limited to, California Environmental Quality Act and prevailing labor code laws.

The District has the right to specify the exact scope, nature and identification of the Project and the respective components thereof, and to modify the description of the Project or any component thereof. The District shall have the right from time to time in its sole discretion to amend the description of the Project. In the event of such amendment to the description of the Project, the District shall file with the Bank an amended Exhibit B hereto.

The failure to complete the Project by its estimated completion date does not constitute an Event of Default hereunder or a grounds for termination hereof, nor will any such failure result in the diminution, abatement or extinguishment of the obligations of the District hereunder to pay the Installment Payments when due. Nothing contained herein shall be deemed to be waiver of the Bank's rights and remedies should the District fail to complete the Project and to complete other improvement and modification of the Project as represented, warranted and covenanted herein. All amounts in the Project Fund not required for payment of future Project Costs will be applied by the District to pay the Installment Payments next coming due and payable.

It is hereby expressly understood and agreed that the Bank shall be under no liability of any kind or character whatsoever for the payment of any cost of the Project and that all such costs and expenses shall be paid by the District.

Section 3.2. Deposit and Application of Proceeds. The Proceeds shall be made available by the Bank to the District in immediately available funds on the Closing Date. On the Closing Date, the Bank shall transfer a portion of the Proceeds in the amount of (i) \$\_\_\_\_\_ to the District for deposit in the Project Fund, and (ii) \$\_\_\_\_\_ to the District for deposit in the Reserve Fund. The Bank hereby agrees to apply the balance of the Proceeds in the amount of \$\_\_\_\_\_ to be deposited in the Costs of Issuance Fund to be applied as provided in Section 3.7 to pay the Costs of Issuance in connection with the Financing, as directed in writing by the District.

Section 3.3. Project Fund.

(a) The District shall establish, maintain and hold in trust a separate fund to be known as the "Santa Cruz Port District 2018A Revenue Project Fund." There shall be deposited in the Project Fund the applicable amount indicated in Section 3.2 of this Installment Sale Agreement.

(b) Except as otherwise provided herein, moneys in the Project Fund shall be used solely for the payment of the Project Costs. The District shall disburse moneys in the Project Fund from time to time to pay Project Costs (or to reimburse the District for payment of Project Costs) upon execution of a Requisition of the District, substantially in the form attached hereto as Exhibit C, which: (A) states with respect to each disbursement to be made (i) the requisition number, (ii) the name and address of the person, firm or corporation to whom payment will be made, (iii) the amount to be disbursed, (iv) that each obligation mentioned therein is a proper charge against the Project Fund and has not previously been disbursed from amounts in the Project Fund, and (v) that the amount of such disbursement is for a Project Cost; (B) specifies in reasonable detail the nature

of the obligation; and (C) is accompanied by a bill or invoice for each obligation. Upon the execution of a Certificate of the District stating that the Project has been completed or that all Requisitions intended to be filed by the District have been filed, the District shall withdraw all amounts then on deposit in the Project Fund and transfer such amounts to the Revenue Fund, and the Project Fund shall thereupon be closed.

(c) The District expects that the Acquisition and Construction of the Project will be completed on or before September 1, 2020; provided, however, that the failure to complete any Project by September 1, 2020 shall not constitute an Event of Default hereunder or a grounds for termination hereof, nor shall such failure result in the diminution, abatement or extinguishment of the obligations of the District hereunder.

(d) The District shall have the right from time to time in its sole discretion to amend the description of the Project to be financed by the District hereunder. In order to exercise such right, the District shall file with the Bank (i) an opinion of Bond Counsel that such contemplated amendment will not adversely affect the tax-exempt status of the Interest Components on the 2018A Revenue Obligations for federal income tax purposes, and (ii) an amended Exhibit B hereto.

Section 3.4. Optional Prepayment. At its option, and upon thirty (30) days' notice to the Bank, the District may prepay the Principal Components maturing on or after November 1, 2018, in whole or in part in integral multiples of \$25,000, pro rata among Principal Components, from any source of available funds, on any date, at a redemption price equal to the principal amount of the Principal Components to be redeemed, plus accrued interest thereon to the date fixed for prepayment, without premium.

Section 3.5. Prepayment upon Casualty Loss or Governmental Taking. At its option, and upon thirty (30) days' prior written notice to the Bank, the 2018A Revenue Obligations shall be subject to prepayment in the same manner as set forth in Section 3.4, from the Net Proceeds of casualty insurance or a governmental taking of the Enterprise or portions thereof by eminent domain proceedings, under the circumstances and upon the conditions and terms prescribed herein.

Section 3.6. Execution of this Installment Sale Agreement. The execution of this Installment Sale Agreement by an Authorized Representative shall constitute conclusive evidence of such officers' and the Board's approval hereof, including any changes, insertions, revisions, corrections, or amendments as may have been made hereto.

Section 3.7. Establishment and Application of Costs of Issuance Fund. The Bank shall establish, maintain and hold in trust a separate fund designated as the "Costs of Issuance Fund." The moneys in the Costs of Issuance Fund shall be used and withdrawn by the Bank to pay the Costs of Issuance upon submission of sequentially numbered written Requisitions of the District, substantially in the form attached hereto as Exhibit D. Upon the Request of the District, but in no event later than five (5) Business Days after the execution and delivery of the 2018A Revenue Obligations, all amounts remaining in the Costs of Issuance Fund shall be transferred by the Bank to the District for deposit in the Revenue Fund.

Section 3.8. Establishment and Application of Reserve Fund. The District shall establish, maintain and hold in trust a separate fund designated as the “Reserve Fund” which shall be held with the Bank, and shall be invested in Permitted Investments. The District, on or before the fifteenth (15th) day of each month next succeeding the determination of a deficiency in the Reserve Fund, shall transfer for deposit in the Reserve Fund an amount of money in the Revenue Fund (or other authorized deposit of security, as contemplated by the definition of Reserve Requirement) necessary to restore the amount in the Reserve Fund to the Reserve Requirement; provided, that no deposit of money from the Revenue Fund need be made into the Reserve Fund so long as there shall be on deposit therein an amount of money equal to the Reserve Requirement. All money in the Reserve Fund shall be used and withdrawn by the District solely for the purpose of replenishing the Interest Account or the Principal Account (in such order) in the event of any deficiency at any time in any of such accounts, or for the purpose of paying the interest on or principal of or redemption premiums, if any, on the 2018A Revenue Obligations in the event that no other money of the District is lawfully available therefor, but shall not be made available for any other purpose, including payment with respect to any other Parity Obligations.

Section 3.9. Validity of this Installment Sale Agreement. It is hereby found and determined that this Installment Sale Agreement is being executed and delivered pursuant to the Constitution and statutes of the State of California.

Section 3.10 Assignment by the Bank. The Bank’s right, title and interest in and to this Installment Sale Agreement and all proceeds, with prior written notice to the District, may be assigned and reassigned in whole to one or more assignees or subassignees by Bank, without the necessity of obtaining the consent of District; provided, that any such assignee or subassignee represents that (i) such assignee or subassignee has sufficient knowledge and experience in financial and business matters to be able to evaluate the risks and merits of the investment, (ii) such assignee or subassignee understands that neither the Installment Sale Agreement or the 2018A Revenue Obligations will be registered under the Securities Act of 1933, (iii) such assignee or subassignee is either an “accredited investor” within the meaning of Regulation D under the Securities Act of 1933, or a “qualified institutional buyer” within the meaning of Rule 144A, and (iv) it is the present intention of such purchaser to acquire such interest (A) for investment for its own account or (B) for resale in a transaction exempt from registration under the Securities Act of 1933.

Section 3.11 Closing Conditions. The Bank has entered into this Installment Sale Agreement in reliance upon the representations and warranties of the District contained in this Installment Sale Agreement and to be contained in the documents and instruments to be delivered on the Closing Date and upon the performance by the District of the obligations of the District pursuant to this Installment Sale Agreement at or prior to the Closing Date. Accordingly, the obligation of Bank to execute this Installment Sale Agreement is subject to the fulfillment to the reasonable satisfaction of the Bank of the following conditions:

(a) The representations and warranties of the District contained in this Installment Sale Agreement shall be true, complete and correct on the Closing Date.

(b) All representations, warranties and covenants made herein, and in certificates or other instruments delivered pursuant hereto or in connection herewith, shall be deemed to have

been relied upon by the Bank notwithstanding any investigation heretofore or hereafter made by the Bank or on their behalf.

(c) On the Closing Date, the Ordinance and this Installment Sale Agreement shall be in full force and effect and shall not have been amended, modified or supplemented, except as may have been agreed to in writing by the Bank.

(d) On the Closing Date, the District will have adopted and there will be in full force and effect such resolutions as in the opinion of Bond Counsel and counsel to the Bank shall be necessary in connection with the transactions contemplated by this Installment Sale Agreement, and all necessary action of the District relating to this Installment Sale Agreement will have been taken, will be in full force and effect and will not have been amended, modified or supplemented, except as may have been agreed to in writing by the Bank.

(e) At or prior to the Closing Date, the Bank will have received the following documents:

(i) the approving opinions, dated the Closing Date and addressed to the Bank, of Bond Counsel in form and content satisfactory to the Bank and its counsel, (I) addressing the tax-exempt status of the interest paid on this Installment Sale Agreement, and (II) this Installment Sale Agreement has been duly authorized, executed and delivered by the District and is the legal, valid and binding obligation of the District, enforceable in accordance with its terms subject to customary exceptions for bankruptcy and judicial discretion.

(ii) a certificate or certificates, dated the date of the Closing and signed on behalf of the District by an Authorized Representative, to the effect that (I) the representations and warranties contained in this Installment Sale Agreement are true and correct in all material respects on and as of the date of the Closing with the same effect as if made on the date of the Closing; (II) no litigation of any nature is then pending or, to his or her knowledge, threatened, seeking to restrain or enjoin the issuance and delivery of this Installment Sale Agreement or the levy or collection of revenues to pay the principal thereof and interest thereon, questioning the proceedings and authority by which such pledge is made, affecting the validity of the 2018A Revenue Obligations or contesting the existence or boundaries of the District or the title of the present officers to their respective offices; (III) no authority or proceedings for the issuance of the 2018A Revenue Obligations has been repealed, revoked or rescinded and no petition or petitions to revoke or alter the authorization to issue the 2018A Revenue Obligations has been filed with or received by the District; and (IV) the District has complied with all the agreements and covenants and satisfied all the conditions on its part to be performed or satisfied at or prior to, and to the extent possible before, the Closing Date.

(iii) a certified copy of the Ordinance;

(iv) the items required by the Ordinance as conditions for execution and delivery of the 2018A Revenue Obligations;

(v) copies of all insurance policies required by Section 5.6 hereof;

(vi) a non-arbitrage tax certificate of the District, in form and substance satisfactory to Bond Counsel;

(vii) the filing copy of the Information Return Form 8038-G; and

(viii) such additional legal opinions, certificates, instruments and other documents as the Bank or its counsel may reasonably request to evidence the truth and accuracy, as of the date of this Installment Sale Agreement and as of the Closing Date, of the representations, warranties, agreements and covenants of the District contained herein and the due performance or satisfaction by the District at or prior to the Closing Date of all agreements then to be performed and all conditions then to be satisfied by the District.

(f) The Bank has not become aware of any information not previously known to the Bank affecting the District or the financing contemplated by this Installment Sale Agreement that, in the Bank's reasonable judgment, is inconsistent in a material and adverse manner with any such information disclosed to the Bank prior to the Closing Date.

## ARTICLE IV

### SECURITY

Section 4.1. Pledge of Net Revenues. The District hereby irrevocably pledges all of the Net Revenues to the punctual payment of the Installment Payments. This pledge shall constitute a first lien on the Net Revenues for the payment of the Installment Payments in accordance with the terms hereof, which lien is on parity with the lien on Net Revenues that secures the payment of Parity Obligations. The Net Revenues will not be used for any other purpose while any of the Installment Payments are unpaid.

Section 4.2. Repayment of the 2018A Revenue Obligations. The District hereby agrees to repay the 2018A Revenue Obligations from Net Revenues in the aggregate principal amount of \$1,750,000 together with interest (calculated at the rate of 3. \_\_%) on the basis of a 360-day year of twelve 30-day months) on the unpaid principal balance thereof, payable in semiannual Installment Payments in the respective amounts and on the respective Installment Payment Dates specified in Exhibit A hereto, and by this reference made a part hereof; provided that in the event that any payment under the 2018A Revenue Obligations becomes due and payable on any day which is not a Business Day, the due date thereof shall be extended to the next succeeding Business Day, and, to the extent applicable, interest shall continue to accrue and be payable thereon during such extension at the rates set forth in this Installment Sale Agreement.

The Installment Payments shall be paid by the District to the Bank as follows, or at such other place as the Bank may designate in writing:

Payments by check:  
Compass Mortgage Corporation  
Attn: Nancy Allen  
P.O. Box 1190

Leander, TX 78646  
(512) 421-5715

Payments by wire:

Compass Mortgage Corporation  
ABA#: 113-010-547  
For Credit to: 90124099  
BBI: DO NOT POST. CONTACT LDFC  
PublicFinance@BBVACompass.com  
Reference: \_\_\_\_\_

Section 4.3. Revenues; Application of Enterprise Fund. The District hereby covenants and agrees that all Revenues, when and as received, will be received and held by the District in trust for the benefit of the Bank and owners of any Parity Obligations, and will be allocated and deposited by the District in the Enterprise Fund (which the District hereby covenants and agrees to establish and maintain so long as the 2018A Revenue Obligations and any Parity Obligations remains outstanding). All Revenues shall be disbursed, allocated and applied solely to the uses and purposes set forth as follows:

(a) Notwithstanding any other provision of this Installment Sale Agreement, the Series 2018B Installment Sale Agreement or the 2013 Loan Agreements to the contrary, so long as the 2018A Revenue Obligations or any other Parity Obligations remains outstanding, all Revenues in the Enterprise Fund shall be set aside or used by the District or deposited by the District with the trustee or fiscal agent with respect to Parity Obligations, as the case may be, as follows and in the following order of priority:

(1) Maintenance and Operation Costs. In order to carry out and effectuate the pledge and lien contained herein, the District agrees and covenants to pay all Maintenance and Operation Costs of the Enterprise (including amounts reasonably required to be set aside in contingency reserves for the maintenance and operation of the Enterprise, the payment of which is not then immediately required) as they become due and payable. The District shall annually prepare a budget for Maintenance and Operation Costs.

(2) Debt Service. Debt Service shall be paid in accordance with Section 4.4 and the terms hereof, and Section 4.4 of the 2013 Loan Agreements, and any other applicable provisions of legal agreements providing for the issuance of other Parity Obligations, respectively, without preference or priority, and, in the event of any insufficiency of such moneys, ratably based on the respective principal amounts (including any accreted value) without any discrimination or preference.

(3) Reserve Fund and Reserve Accounts. Payments required to replenish the amount on deposit in the Reserve Fund to the Reserve Requirement, and any other debt service reserve accounts established for Parity Obligations, shall be made in accordance with the terms hereof and such Parity Obligations, without preference or priority, and in the event of any insufficiency of such moneys, ratably without any discrimination or preference.

(4) Subordinate Obligation Repayment. Payments relating to principal and interest on or with respect to Subordinate Obligations in accordance with the terms of such Subordinate Obligations, without preference or priority, and in the event of any insufficiency of such moneys, ratably based on the respective principal amounts (including any accreted value) without any discrimination or preference.

(5) Subordinate Obligations Reserve Accounts. To make payments required with respect to Subordinate Obligations to replenish reserve accounts established therefor in accordance with the terms of such Subordinate Obligations, without preference or priority, and in the event of any insufficiency of such moneys, ratably based on the respective principal amounts (including any accreted value) without any discrimination or preference.

(6) General Expenditures. For any lawful purpose of the District, including, but not limited to, any costs of capital improvements to the Enterprise, or deposits to the Rate Stabilization Fund.

Section 4.4. Revenue Fund; Allocation of Net Revenues.

(a) *Deposits into Revenue Fund; Transfers of Net Revenues*. In order to carry out and effectuate the pledge, charge and lien contained herein, the District agrees and covenants that all Net Revenues, when and as received, shall be promptly deposited by the District upon receipt thereof in a special fund designated as the "Revenue Fund" which fund is hereby created and which fund District shall establish, maintain and hold in trust; except that all moneys received by the District and required hereunder to be deposited in the Reserve Fund shall be promptly deposited in the Reserve Fund pursuant to Sections 3.8 and 4.3. Within the Revenue Fund the District shall establish and maintain a separate Interest Account and Principal Account therein. All Net Revenues shall be accounted for through and held in trust in the Revenue Fund, and the District shall have no beneficial right or interest in any of the Net Revenues therein, except otherwise herein provided. All Net Revenues, whether received by the District in trust or deposited with the District as herein provided, shall nevertheless be allocated, applied and disbursed solely to the purposes and uses hereinafter in this Article set forth, and shall be accounted for separately and apart from all other accounts, funds, money or other resources of the District.

(b) *Application of Revenue Fund*. On each Installment Payment Date, the District shall transfer from the Revenue Fund and deposit into the following respective accounts (each of which the District shall establish and maintain within the Revenue Fund), the following amounts in the following order of priority, the requirements of each such account (including the making up of any deficiencies in any such account resulting from lack of Net Revenues sufficient to make any earlier required deposit) at the time of deposit to be satisfied before any transfer is made to any account subsequent in priority:

(1) *Interest Account*. On each Installment Payment Date, the District shall deposit in the Interest Account an amount required to cause the aggregate amount on deposit in the Interest Account to equal the amount of Interest Component becoming due and payable on such Installment Payment Date, and any interest due on the 2018A Revenue Obligations by reason of prepayment. No deposit need be made into the Interest Account



if the amount contained therein is at least equal to the interest becoming due and payable upon the 2018A Revenue Obligations on such Installment Payment Date. All moneys in the Interest Account shall be used and withdrawn by the District solely for the purpose of paying interest on the 2018A Revenue Obligations as it shall become due and payable (including accrued interest on any Principal Component prepaid prior to maturity pursuant to this Installment Sale Agreement). In the event that the amounts on deposit in the Interest Account on any Installment Payment Date are insufficient for any reason to pay the aggregate amount of interest then coming due and payable on the 2018A Revenue Obligations, the District shall apply such amounts to the payment of interest on each of the Interest Components on a pro rata basis.

(2) *Principal Account.* On each Installment Payment Date on which the principal of the 2018A Revenue Obligations is payable, the District shall deposit in the Principal Account an amount required to cause the aggregate amount on deposit in the Principal Account to equal the principal amount of the 2018A Revenue Obligations coming due and payable on such corresponding Installment Payment Date, and any principal amount due on the 2018A Revenue Obligations by reason of prepayment. All moneys in the Principal Account shall be used and withdrawn by the District solely for the purpose of paying the principal of the 2018A Revenue Obligations at the maturity date.

(c) If on any Installment Payment Date of Principal Components or Interest Components the amount on deposit in the Revenue Fund is inadequate to make the transfers described in subsection (b) above, the District shall immediately notify the Bank of the amount needed to make the required deposits under subsection (b) above and shall transfer to the Revenue Fund any amounts on deposit from the Reserve Fund, as necessary to cure such deficiency.

(d) On each Installment Payment Date after making the transfers required under subsections (b) and (c) above, the District shall transfer from the Revenue Fund to the Reserve Fund the amount necessary to restore the Reserve Fund to the then applicable Reserve Requirement, and then to the Enterprise Fund.

Section 4.5. Special Obligation of the District; Obligations Absolute. The obligations of the District to pay the Installment Payments from Net Revenues, and to perform and observe the other agreements contained herein, shall be absolute and unconditional and shall not be subject to any defense or any right of setoff, counterclaim or recoupment arising out of any breach of the District, the Bank of any obligation to the District or otherwise with respect to the Enterprise, whether hereunder or otherwise, or out of indebtedness or liability at any time owing to the District by the Bank. Until such time as all of the Installment Payments shall have been fully paid or prepaid, the District (a) will not suspend or discontinue payment of any Installment Payments, (b) will perform and observe all other agreements contained in this Installment Sale Agreement, and (c) will not terminate this Installment Sale Agreement for any cause, including, without limiting the generality of the foregoing, the occurrence of any acts or circumstances that may constitute failure of consideration, eviction or constructive eviction, destruction of or damage to the Enterprise, sale of the Enterprise, the taking by eminent domain of title to or temporary use of any component of the Enterprise, commercial frustration of purpose, any change in the tax or other laws of the United States of America or the State or any political subdivision of either thereof or

any failure of the Bank to perform and observe any agreement, whether express or implied, or any duty, liability or obligation arising out of or connected with this Installment Sale Agreement.

The District's obligation to pay the Installment Payments shall be a special obligation of the District limited solely to Net Revenues and the Reserve Fund. Under no circumstances shall the District be required to advance moneys derived from any source of income other than Net Revenues, Reserve Fund and other sources specifically identified herein for the payment of the Installment Payments, nor shall any other funds or property of the District be liable for the payment of the Installment Payments. Notwithstanding the foregoing provisions of this Section, however, nothing herein is intended to prohibit the District voluntarily from making any payment hereunder from any source of available funds of the District.

Section 4.6. Reduction upon Partial Prepayment. In the event the District prepays less than all of the remaining Principal Components of the Installment Payments pursuant to Sections 3.4 or 3.5 hereof, the amount of such prepayment shall be applied by the Bank to the outstanding Principal Components on a pro-rata basis.

Section 4.7. Rate on Overdue Installment Payments. In the event the District should fail to make any of the Installment Payments required in Section 4.2 hereof on or before the due date therefor, the Installment Payment in default shall continue as an obligation of the District until the amount in default shall have been fully paid and the District agrees to pay the same with interest thereon, to the extent permitted by law, from the date thereof at the Default Rate.

## ARTICLE V

### COVENANTS OF THE DISTRICT

Section 5.1. Operation and Maintenance of the Enterprise. The District will remain the sole and exclusive operator of the Enterprise, and any failure to do so shall constitute a Material Adverse Effect on the operation of the District. The District will maintain and preserve the Enterprise in good repair and working order at all times and will operate the Enterprise in an efficient and economical manner and will pay all Maintenance and Operation Costs of the Enterprise as they become due and payable.

Section 5.2. Against Sale or Other Disposition of Property. The District will not sell, lease, or otherwise dispose of the Enterprise or any part thereof essential to the proper operation of the Enterprise or to the maintenance of the Revenues. The District will not enter into any agreement or lease that impairs the operation of the Enterprise or any part thereof necessary to secure adequate Revenues for the payment of the 2018A Revenue Obligations or that would otherwise impair the rights of the District with respect to the Revenues or the operation of the Enterprise. Any real or personal property that has become nonoperative or that is not needed for the efficient and proper operation of the Enterprise, or any material or equipment that has become worn out, may be sold at not less than the fair market value thereof. The District shall deposit the proceeds of such sale in the Revenue Fund.

Section 5.3. Rates, Fees, and Charges. (a) The District will, at all times while the 2018A Revenue Obligations remains outstanding, fix, prescribe and collect rates, fees and charges in connection with the Enterprise so as to yield Revenues at least sufficient, after making reasonable allowances for contingencies and errors in the estimates, to pay the following amounts in the order set forth below:

- (1) All Maintenance and Operation Costs of the Enterprise;
- (2) The Debt Service payments and all other payments (including payments under reimbursement agreements) with respect to all Parity Obligations as they become due and payable;
- (3) All amounts, if any, required to restore the balance in the Reserve Fund to the full amount of the Reserve Requirement, and to restore the balance in any other reserve accounts established for Parity Obligations in accordance with the terms of such Parity Obligations, without preference or priority; and
- (4) All payments required to meet any other obligations of the District that are charges, liens, encumbrances upon, or which are otherwise payable from the Revenues during such Fiscal Year.

(b) Furthermore, the District shall fix, prescribe, revise and collect rates, fees and charges for the services and facilities furnished by the Enterprise during each Fiscal Year which are sufficient to yield estimated Net Revenues which are at least equal to one hundred twenty-five percent (125%) of the aggregate amount of Debt Service on all Parity Obligations payable from Net Revenues coming due and payable during such Fiscal Year. The District may make adjustments, from time to time, in its rates, fees and charges as it deems necessary, but shall not reduce its rates, fees and charges below those in effect unless the Net Revenues resulting from such reduced rates, fees and charges shall at all times be sufficient to meet the requirements set forth in this paragraph.

(c) If the District violates the covenants set forth in subsections (a) or (b) hereof, such violation shall not, in and of itself, be a default under this Installment Sale Agreement and shall not give rise to a declaration of an Event of Default so long as (i) Net Revenues (calculated without taking into account any amounts transferred into the Revenue Fund from the Rate Stabilization Fund pursuant to subsection (d) below), are at least equal to the Maximum Annual Debt Service coming due and payable during such Fiscal Year, and (ii) (ii) within ninety (90) days after the date of violation (which is measured and commenced as of the last day of applicable quarterly report revealing the violation), the District either (y) transfers enough moneys from the Rate Stabilization Fund sufficient to yield estimated Net Revenues which are at least equal to one hundred twenty-five percent (125%) of the aggregate amount of Debt Service on all Parity Obligations payable from Net Revenues coming due and payable during such Fiscal Year in compliance with subsection (b) hereof, or (z) hires an Independent Financial Consultant to review the revenues and expenses of the Enterprise, and abides by such consultant's recommendations to revise the schedule of rates, fees, expenses and charges, and to revise any Maintenance and Operation Costs insofar as practicable, and to take such other actions as are necessary so as to produce Net

Revenues to cure such violation for future compliance to the satisfaction of the Bank; provided, however, that, if the District does not, or cannot, transfer from the Rate Stabilization Fund the amount necessary to comply with subsection (b) hereof, or otherwise cure such violation within one hundred and thirty-five (135) after the date such violation (which is measured and commenced as of the last day of applicable quarterly report revealing the violation), an Event of Default shall be deemed to have occurred under Section 6.1(a)(2) hereof.

(d) There is hereby created a separate fund to be known as the "Rate Stabilization Fund," to be held and maintained by the District. The Rate Stabilization Fund is not pledged to secure payment of the Installment Payments. Amounts in the Rate Stabilization Fund shall be applied solely for the uses and purposes set forth in this subsection (d). The District shall have the right to deposit into the Rate Stabilization Fund from time to time any amount of funds which are legally available therefor; provided that deposits for each Fiscal Year may be made until (but not after) one hundred twenty (120) days following the end of such Fiscal Year.

For the purpose of computing the amount of Revenues for any Fiscal Year for purposes of the preceding subsection (a), or the amount of Net Revenues for any Fiscal Year for purposes of the preceding subsection (b), the District shall be permitted to transfer amounts on deposit in the Rate Stabilization Fund to the Revenue Fund, such transfers to be made until (but not after) one hundred twenty (120) days after the end of such Fiscal Year. In addition, the District shall be permitted to withdraw amounts on deposit in the Rate Stabilization Fund for any other lawful purpose. The Rate Stabilization Fund is not pledged to secure payment of the Installment Payments.

Section 5.4. Collection of Rates and Charges. The District will have in effect at all times rules and regulations requiring each consumer or customer located on any premises connected with the Enterprise to pay the rates, fees and charges applicable to such premises and providing for the billing thereof and for a due date and a delinquency date for each bill. Except in connection with the receipt of federal or State funding, the District will not permit any part of the Enterprise or any facility thereof to be used or taken advantage of free of charge by any corporation, firm or person, or by any public agency (including the United States of America, the State of California and any city, county, district, political subdivision, public corporation or agency of any thereof).

Section 5.5. Competitive Facilities. Except for any Harbor Enterprise facilities existing as of the date hereof, the District will not, to the extent permitted by law, acquire, maintain or operate and will not, to the extent permitted by law and within the scope of its powers, permit any other public or private agency, authority, city, or political subdivision or any person whomsoever to acquire, maintain or operate within the District any facilities or utility systems competitive with the Enterprise; provided, however, that the District may, with the written consent of the Bank, assign all or a portion of the Enterprise to another entity upon delivery to the Bank of an opinion of counsel experienced in the field of law relating to municipal bonds that such assignment will not adversely affect the tax-exempt status of the 2018A Revenue Obligations, and provided such entity assumes the obligations of the District hereunder.

Section 5.6. Insurance. (a) The District will procure and maintain insurance on the Enterprise, including a satisfactory business interruption insurance policy of not less than 12 months, with commercial insurers or through participation in a joint powers insurance authority,

in such amounts, with such deductibles and against such risks (including accident to or destruction of the Enterprise) as are usually insurable in accordance with industry standards with respect to similar enterprises.

In the event of any damage to or destruction of the Enterprise caused by the perils covered by such insurance, the proceeds of such insurance shall be applied to the repair, reconstruction or replacement of the damaged or destroyed portion of the Enterprise. The District shall cause such repair, reconstruction or replacement to begin promptly after such damage or destruction shall occur and to continue and to be properly completed as expeditiously as possible, and shall payout of the proceeds of such insurance all costs and expenses in connection with such repair, reconstruction or replacement so that the same shall be completed and the Enterprise shall be free and clear of all liens and claims. If the proceeds received by reason of any such loss shall exceed the costs of such repair, reconstruction or replacement, the excess shall be applied to prepay the 2018A Revenue Obligations and any other Parity Obligations, on a pro rata basis, in the manner provided in Section 3.5 hereof and in the instruments authorizing such Parity Obligations.

Alternatively, if the proceeds of such insurance are sufficient to enable the District to retire all outstanding Parity Obligations and all other amounts due hereunder, the District may elect not to repair, reconstruct or replace the damaged or destroyed portion of the Enterprise, and thereupon such proceeds shall be applied to the prepayment of such Parity Obligations and to the payment of all other amounts due hereunder, and as otherwise required by the documents pursuant to which other Parity Obligations were issued.

(b) The District will procure and maintain commercial general liability insurance covering claims against the District for bodily injury or death, or damage to property, occasioned by reason of the ownership or operation of the Enterprise, such insurance to afford protection in such amounts and against such risks as are usually covered in connection with similar enterprises.

(c) The District will procure and maintain workers' compensation insurance against liability for compensation under the Workers' Compensation Insurance and Safety Act of California, or any act hereafter enacted as an amendment or supplement or in lieu thereof; such insurance to cover all persons employed in connection with the Enterprise.

(d) All policies of insurance required to be maintained herein shall provide that the Bank shall be given thirty (30) days' written notice of any intended cancellation thereof or reduction of coverage provided thereby.

(e) In lieu of obtaining insurance coverage as required by this Section, such coverage may, with the prior written consent of the Bank, be maintained by the District in the form of self-insurance. The District shall certify to the Bank that (i) the District has segregated amounts in a special insurance reserve meeting the requirements of this Section; (ii) an Insurance Consultant certifies annually, on or before January 1 of each year in which self-insurance is maintained, in writing to the Bank that the District's general insurance reserves are actuarially sound and are adequate to provide the necessary coverage; and (iii) such reserves are held in a separate trust fund by an 'independent trustee. Any statements of self-insurance shall be delivered to the Bank. The District shall pay or cause to be paid when due the premiums for all insurance policies required hereby.

The District shall cause the Bank to be named as an additional insured with respect to the District's liability insurance, and as a loss payee with respect to any property damage insurance. The District shall not allow any insurance to expire without thirty (30) days prior written notice to the Bank.

Notwithstanding the foregoing, Bank has reviewed the District's current insurance coverage and deems it appropriate coverage, as required by this Section 5.6.

Section 5.7. Eminent Domain. If all or any part of the Enterprise shall be taken by eminent domain proceedings, the resulting Net Proceeds thereof shall be applied as follows:

(a) If (1) the District delivers to the Bank a Certificate of the District showing (i) the estimated loss of annual Net Revenues, if any, suffered or to be suffered by the District by reason of such eminent domain proceedings, (ii) a general description of the additions, betterments, extensions or improvements to the Enterprise proposed to be acquired by the District from any Net Proceeds, and (iii) an estimate of the additional annual Net Revenues to be derived from such additions, betterments, extensions or improvements, and (2) on the basis of such certificate, determines that the estimated additional annual Net Revenues will sufficiently offset the estimated loss of annual Net Revenues resulting from such eminent domain proceedings so that the ability of the District to meet its obligations hereunder will not be substantially impaired (which determination shall be final and conclusive); then the District shall promptly proceed with the acquisition of such additions, betterments, extensions or improvements substantially in accordance with such Certificate of the District and such Net Proceeds shall be applied for the payment of the costs of such acquisition, and any balance of such Net Proceeds not required by the District for such purpose shall be applied to prepay the Principal Components and any other Parity Obligations, on a pro rata basis, in the manner provided in Section 3.5 hereof and in the instruments authorizing such other Parity Obligations.

(b) If the foregoing conditions are not met, then such Net Proceeds shall be applied to prepay the Principal Components and any other Parity Obligations, on a pro rata basis, in the manner provided in Section 3.5 hereof and in the instruments authorizing such other Parity Obligations.

Section 5.8. Additional Information. The District agrees to furnish to the Bank, promptly, from time to time, such information regarding the operations, financial condition and property of the District and the Enterprise as the Bank may reasonably request.

Section 5.9. Compliance with Law and Contracts. The District will faithfully comply with, keep, observe, and perform all valid and lawful obligations or regulations now or hereafter imposed on its operation of the Enterprise by contract, or prescribed by any law of the United States of America or of the State of California, or by any officer, board, or commission having jurisdiction or control.

Section 5.10. Punctual Payment. The District will punctually pay the principal and interest to become due in respect of the 2018A Revenue Obligations, in strict conformity with the terms hereof, and will faithfully observe and perform all the agreements, conditions, covenants

and terms contained herein required to be observed and performed by it, and will not rescind this Installment Sale Agreement for any cause.

Section 5.11. Reserved.

Section 5.12. Protection of Security. The District will preserve and protect the security of the 2018A Revenue Obligations against all claims and demands of all persons. From and after the Closing Date, the 2018A Revenue Obligations shall be incontestable by the District.

Section 5.13. Parity Obligations.

(a) So long as the 2018A Revenue Obligations are outstanding, the District shall not issue or incur any obligations payable from Revenues or Net Revenues senior or superior to the payment of Debt Service on the 2018A Revenue Obligations. The District may at any time issue Parity Obligations payable from Net Revenues on a parity with Debt Service on the 2018A Revenue Obligations to provide financing or refinancing for the Enterprise in such principal amount as shall be determined by the District. The District may issue or incur any such Parity Obligations subject to the following specific conditions, which are hereby made conditions precedent to the issuance and delivery of such Parity Obligations:

(1) No Event of Default shall have occurred and be continuing;

(2) The Net Revenues (calculated without taking into account any amounts transferred into the Revenue Fund from the Rate Stabilization Fund pursuant to Section 5.3(d) hereof), calculated in accordance with Generally Accepted Accounting Principles, either (i) as shown by the books of the District for the latest Fiscal Year, as verified by a certificate of an Authorized Representative of the District, or (ii) as shown by the books of the District for any more recent twelve (12) month period selected by the District, as verified by a certificate or opinion of an Independent Certified Public Accountant employed by the District, plus in either case (at the option of the District) the Additional Revenues, shall be at least equal to one hundred twenty-five percent (125%) of the amount of Maximum Annual Debt Service on all outstanding Parity Obligations and the Parity Obligations to be issued (the "Parity Obligations Coverage Requirement");

(3) Except with respect to the 2018A Revenue Obligations, and at the District's sole discretion, there shall be established from the proceeds of such Parity Obligations a reserve fund for the security of such Parity Obligations, in an amount equal to the lesser of (i) the maximum amount of debt service required to be paid by the District with respect to such Parity Obligations during any Fiscal Year and (ii) the maximum amount then permitted under the Code, in either event as certified in writing by the District.

The provisions of subsection (2) of this Section shall not apply to any Parity Obligations if, and to the extent that (i) all of the proceeds of such Parity Obligations (other than proceeds applied to pay costs of issuing such Parity Obligations and to make the reserve fund deposit required pursuant to subsection (3) of this Section, if any) shall be deposited in an irrevocable escrow held in cash or invested in Federal Securities for the purpose of paying the principal of and interest and premium (if any) on such outstanding Parity Obligations being refunded, (ii) at the time of the incurring of such Parity Obligations, the District certifies in writing that maximum

annual debt service on such Parity Obligations will not exceed Maximum Annual Debt Service on the outstanding Parity Obligations being refunded, and (iii) the final maturity of such Parity Obligations is not later than the final maturity of the Parity Obligations being refunded.

(b) In order to maintain the parity relationship of debt service payments on all Parity Obligations permitted hereunder, the District covenants that all payments in the nature of principal and interest or reserve account replenishment with respect to any Parity Obligations, will be structured to occur semi-annually on the Installment Payment Dates and in each year as such payments are due with respect to the debt service payments on this Installment Sale Agreement, and reserve account replenishment with respect to any Parity Obligations will be structured to occur simultaneous with the Reserve Fund replenishment, and to otherwise structure the terms of such Parity Obligations to ensure that they are in all respects payable on a parity with the debt service payments on Parity Obligations and not prior thereto.

(c) The District may at any time execute contracts or issue bonds or other indebtedness payable from Net Revenues or the Revenue Fund payable on a subordinated basis to the payment of the Debt Service payments on Parity Obligations.

Section 5.14. Against Encumbrances. The District hereby covenants and agrees that it shall not incur any obligations that are secured by a pledge and lien on the Net Revenues that is senior to the pledge and lien on the Net Revenues contained herein. The District will not make any pledge of or place any lien on the Net Revenues except as provided herein. The District may pledge Net Revenues to secure Parity Obligations issued in accordance with Section 5.13 hereof. The District may at any time, or from time to time, issue evidences of indebtedness for any lawful purpose that are payable from and secured by a pledge of and lien on Net Revenues that is subordinate in all respects to the pledge of and lien on the Net Revenues provided herein.

Section 5.15. Further Assurances. The District will adopt, make, execute and deliver any and all further resolutions, instruments, and assurances as may be reasonably necessary or proper to carry out the intention or to facilitate the performance hereof and for the better assuring and confirming unto the Bank of the rights and benefits provided to it herein.

Section 5.16. Financial Reports. Promptly upon receipt by the District and in no event later than two hundred ten (210) days after the close of each Fiscal Year (unless otherwise agreed in writing by the Bank), the District will furnish, or cause to be furnished, to the Bank an audit report of an Independent Certified Public Accountant with respect to such Fiscal Year, covering the operations of the Enterprise for said Fiscal Year. Such audit report shall include statements of the status of each account pertaining to the Enterprise, showing the amount and source of all deposits therein, the amount and purpose of the withdrawals therefrom and the balance therein at the beginning and end of said Fiscal Year. Each such audit, in addition to whatever matters may be considered proper by the Independent Certified Public Accountant to be included therein, shall include a statement as to whether or not the Net Revenues for such Fiscal Year were equal to at least 1.25 times the Debt Service for such Fiscal Year, calculated as provided in Section 5.3 hereof. In addition, the District shall deliver to the Bank, not later than thirty (30) days after each Fiscal Year end, commencing with Fiscal Year ending March 31, 2019, a copy of the District's adopted budget for the then current Fiscal Year.



The District shall also provide the Bank with quarterly unaudited financial statements and covenant compliance certificates, including (i) supporting calculations of rate coverage covenants and Reserve Fund Requirement compliance (each tested quarterly on a trailing twelve (12) month basis), and (ii) officer's statement of compliance, due within 45 days of each fiscal quarter end, commencing with fiscal quarter ending September 30, 2018 as well as such other information as shall reasonably be requested by the Bank from time to time.

Section 5.17. Opinion of District Counsel. The District will cause to be delivered to the Bank an opinion issued by the District's counsel on the date of delivery of the 2018A Revenue Obligations, to the effect that (i) the District is a port district and public corporation duly organized and existing under the laws of the State of California; (ii) this Installment Sale Agreement was duly approved at a meeting of the Board that was called and held pursuant to law and with all public notice required by law and at which a quorum was present and acting throughout; (iii) there is no action, suit, proceeding or investigation at law or in equity before or by any court, public board or body, pending or, to the best knowledge of such counsel after reasonable investigation, threatened against or affecting the District, to restrain or enjoin the execution and delivery of this Installment Sale Agreement, or in any way contesting or affecting the validity of this Installment Sale Agreement, (iv) the adoption of this Installment Sale Agreement and compliance by the District with the provisions hereof, under the circumstances contemplated hereby, do not and will not constitute on the part of the District a breach or default under any agreement or other instrument to which the District is a party or by which it is bound (that are known to the District's counsel) or any existing law, regulation, court order or consent decree to which the District is subject.

Section 5.18. Observance of Laws and Regulations. The District will well and truly keep, observe and perform or cause to be kept, observed and performed all valid and lawful obligations or regulations now or hereafter imposed on it by contract, or prescribed by any law of the United States, or of the State, or by any officer, board or commission having jurisdiction or control, as a condition of the continued enjoyment of any and every right, privilege or franchise now owned or hereafter acquired and enjoyed by the District, including the District's right to exist and carry on business as a port district, to the end that such rights, privileges and franchises shall be maintained and preserved, and shall not become abandoned, forfeited or in any manner impaired.

Section 5.19. Private Activity Bond Limitation. The District shall assure that monies deposited pursuant to this Installment Sale Agreement are not so used as to cause this Installment Sale Agreement to satisfy the private business tests of section 141(b) of the Code or the private loan financing test of section 141(d) of the Code.

Section 5.20. Federal Guarantee Prohibition. The District shall not take any action or permit or suffer any action to be taken if the result of the same would be to cause this Installment Sale Agreement or the Interest Components of the Installment Payments to be "federally guaranteed" within the meaning of section 149(b) of the Code.

Section 5.21. Maintenance of Tax Exemption. The District shall take all actions necessary to assure the exclusion of the Interest Components of the Installment Payments from the gross income of the Bank to the same extent as such interest is permitted to be excluded from gross income under the Code as in effect on the Closing Date. If the District causes the Interest Components of the Installment Payments becomes includable in the gross income of the Bank for

federal income tax purposes under the Code, the District, at the option of the Bank, shall pay to the Bank within thirty days of such determination, the amount which, with respect to Installment Payments previously paid and taking into account all penalties, fines, interest and additions to tax (including all federal, state and local taxes imposed on the interest component of the Installment Payments due through the date of such determination) that are imposed on the Bank as a result of the loss of the exclusion, will restore the Bank to the same after-tax yield on the transaction evidenced by this Installment Sale Agreement (assuming tax at the actual marginal corporate rate) that it would have realized had the tax exemption not been lost. Furthermore, the District agrees that upon the occurrence of such an event, it shall pay additional amounts to the Bank on each succeeding Installment Payment Date such amount as will maintain such after-tax yield to the Bank. Notwithstanding any such recalculation of the Installment Payments, the District shall at all times have the option to prepay all or part of the Installment Payments in accordance with Section 3.4 hereof.

Section 5.22. Rebate Requirement. The District shall take any and all actions necessary to assure compliance with Section 148(f) of the Code, relating to the rebate of excess investment earnings, if any, to the federal government.

Section 5.23. No Arbitrage. The District shall not take any action with respect to the proceeds of this Installment Sale Agreement which, if such action had been reasonably expected to have been taken, or had been deliberately and intentionally taken, on the date this Installment Sale Agreement was entered into would have caused this Installment Sale Agreement to be an “arbitrage bond” within the meaning of Section 148 of the Code.

Section 5.24. Budget. The District hereby covenants to take such action as may be necessary to include all Installment Payments and all other amounts due hereunder in its annual budget and to make the necessary annual appropriations for all such Installment Payments and all other amount due hereunder.

Section 5.25. Notices. The District shall provide to the Bank:

(a) Immediate notice by telephone, promptly confirmed in writing, of any event, action or failure to take any action which constitutes an Event of Default under this Installment Sale Agreement or any other Obligation, together with a detailed statement by an Authorized Representative of the steps being taken by the District to cure the effect of such Event of Default, or event of default under any other obligation, as the case may be.

(b) Within ten (10) calendar days (i) of any action, suit or proceeding or any investigation, inquiry or similar proceeding by or before any court or other governmental authority, domestic or foreign, against the District or the Enterprise or the Revenues which involve claims equal to or in excess of \$500,000 or that seeks injunctive relief, or (ii) of any loss or destruction of or damage to any portion of the Enterprise in excess of \$500,000.

(c) Within ten (10) calendar days of any Material Litigation, or any investigation, inquiry or similar proceeding by any Governmental Authority with respect to any matter that relates to or could impact any Revenues.

(d) Within ten (10) calendar days of any termination or cancellation of any insurance policy which the District is required to maintain, or any uninsured or partially uninsured loss through liability or property damage, or through fire, theft or any other cause affecting the District property in excess of an aggregate of \$500,000.

(e) Within ten (10) calendar days of a request from the Bank (if the request is initially oral, the Bank shall as soon as practicable thereafter follow-up such oral request with a request in writing), such other information respecting the District, Enterprise, and the operations, affairs and financial condition of the District as the Bank may from time to time reasonably request.

The covenants on the part of the District herein contained shall be deemed to be and shall be construed to be ministerial duties imposed by law and it shall be the ministerial duty of each and every public official of the District to take such action and do such things as are required by law in the performance of such official duty of such officials to enable the District to carry out and perform the covenants and agreements on the part of the District contained in this Installment Sale Agreement.

## ARTICLE VI

### EVENTS OF DEFAULT AND REMEDIES

#### Section 6.1. Events of Default and Remedies.

(a) Events of Default. The following shall be Events of Default hereunder:

(1) Failure by the District to pay any Principal Component or Interest Component on the 2018A Revenue Obligations when due and payable.

(2) Failure by the District to observe and perform any covenant, condition or agreement on its part contained herein pertaining to the Enterprise, other than in clause (1) of this subsection, for a period of thirty (30) days after written notice specifying such failure and requesting that it be remedied has been given to the District by the Bank; *provided, however*, if in the reasonable opinion of the District the failure stated in the notice can be corrected, but not within such thirty (30) day period, the Bank shall not unreasonably withhold its consent to an extension of such time if corrective action is instituted by the District within such thirty (30) day period and diligently pursued until the default is corrected.

(3) Default by the District under any Parity Obligation (or Subordinate Obligation which requires or permits the immediate acceleration thereof).

(4) Institution of any proceeding under the United States Bankruptcy Code or any federal or state bankruptcy, insolvency, or similar law or any law providing for the appointment of a receiver, liquidator, trustee, or similar official of the District or of all or substantially all of its assets, by or with the consent of the District, or institution of any such proceeding without its consent that is not permanently stayed or dismissed within sixty days, or agreement by the District with the District's creditors to effect a composition

or extension of time to pay the District's debts, or request by the District for a reorganization or to effect a plan of reorganization, or for a readjustment of the District's debts, or a general or any assignment by the District for the benefit of the District's creditors.

(5) Any statement, representation or warranty made by the District in or pursuant to this Installment Sale Agreement or its execution, delivery or performance proves to have been false, incorrect, misleading, or breached in any material respect on the date made, and is continuing for a period of thirty (30) days after written notice specifying such misrepresentation or breach and requesting that it be remedied has been given to the District by the Bank; provided, however, that the Bank and the District may agree that action by the District to cure such failure may be extended beyond such thirty-day period.

(6) This Installment Sale Agreement or any material provision of this Installment Sale Agreement shall at any time for any reason cease to be the legal, valid and binding obligation of the District or shall cease to be in full force and effect, or shall be declared to be unenforceable, invalid or void, or the validity or enforceability thereof shall be contested by the District, or the District shall renounce the same or deny that it has any further liability hereunder.

(7) Dissolution, termination of existence or insolvency of the District.

(8) Any court of competent jurisdiction with jurisdiction to rule on the validity of any provision of this Installment Sale Agreement shall find or rule that this Installment Sale Agreement is not valid or not binding on the District.

(b) Remedies on Default. Whenever any Event of Default shall have happened and be continuing, the Bank shall have the right, at its option upon notice to the District, to declare the unpaid aggregate Principal Components of the 2018A Revenue Obligations, and the interest accrued thereon, to be immediately due and payable, whereupon the same shall immediately become due and payable.

The Bank shall also have the right, at its option and without any further demand or notice, to (i) apply to and obtain from any court of competent jurisdiction such decree or order as may be necessary to require officials of the District to charge and collect rates for services provided by the District and the Enterprise sufficient to meet all requirements of this Installment Sale Agreement, and (ii) take whatever action at law or in equity as may appear necessary or desirable to collect the Installment Payments then due or thereafter to become due during the Term of this Installment Sale Agreement, or enforce performance and observance of any obligation, agreement or covenant of the District under this Installment Sale Agreement, subject to the following paragraph.

Notwithstanding any provision of this Installment Sale Agreement, the District's liability to pay the Installment Payments and other amounts hereunder shall be limited solely to Net Revenues as provided in Article IV hereof. In the event that Net Revenues shall be insufficient at any time to pay a Principal Component and/or an Interest Component in full, the District shall not be liable to pay or prepay such delinquent Installment Payment other than from Net Revenues, and from moneys in the Reserve Fund.

Section 6.2. Application of Funds Upon Acceleration. Upon the date of the declaration of acceleration as provided in Section 6.1, all Net Revenues thereafter received by the District shall be applied in the following order:

First, to the payment, without preference or priority, and in the event of any insufficiency of such Net Revenues ratably without any discrimination or preference, of the fees, costs and expenses of the Bank if any, in carrying out the provisions of this article, including reasonable compensation to their respective accountants and counsel; and

Second, to the payment of the entire unpaid aggregate Principal Components of the 2018A Revenue Obligations and the unpaid principal amount of any other Parity Obligations and the accrued interest thereon, with interest on the overdue payments at the rate or rates of interest applicable to the 2018A Revenue Obligations and such other Parity Obligations if paid in accordance with their respective terms.

Third, to the unpaid principal amount of any Subordinate Obligations and the accrued and unpaid interest thereon.

Section 6.3. Other Remedies of the Bank. The Bank shall have the right:

(a) by mandamus or other action or proceeding or suit at law or in equity to enforce its rights against the District or any director, officer or employee thereof, and to compel the District or any such director, officer or employee to perform and carry out its or his duties under the agreements and covenants required to be performed by it or him contained herein;

(b) by suit in equity to enjoin any acts or things that are unlawful or violate the rights of the Bank; or

(c) by suit in equity upon the happening of an Event of Default to require the District and its Board members, officers and employees to account as the trustee of an express trust.

Section 6.4. Non-Waiver. Nothing in this article or in any other provision hereof, or in the 2018A Revenue Obligations, shall affect or impair the obligation of the District, which is absolute and unconditional, to pay the principal of and interest on the 2018A Revenue Obligations to the Bank when due, as herein provided, out of the Net Revenues herein pledged for such payment, or shall affect or impair the right of the Bank, which is also absolute and unconditional, to institute suit to enforce such payment by virtue of the contract embodied in this Installment Sale Agreement.

A waiver of any default or breach of duty or contract by the Bank shall not affect any subsequent default or breach of duty or contract or impair any rights or remedies on any such subsequent default or breach of duty or contract. No delay or omission by the Bank to exercise any right or remedy accruing upon any default or breach of duty or contract shall impair any such right or remedy or shall be construed to be a waiver of any such default or breach of duty or contract or an acquiescence therein, and every right or remedy conferred upon the Bank by law or by this article may be enforced and exercised from time to time and as often as shall be deemed

expedient by the Bank. If any action, proceeding or suit to enforce any right or exercise any remedy is abandoned or determined adversely to the Bank, the District and the Bank shall be restored to their former positions, rights and remedies as if such action, proceeding or suit had not been brought or taken.

Section 6.5. Remedies Not Exclusive. No remedy herein conferred upon or reserved to the Bank is intended to be exclusive of any other remedy. Every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity.

Section 6.6. Prosecution and Defense of Suits. The District shall promptly, upon request of the Bank or its assignee, from time to time take or cause to be taken such action as may be necessary or proper to remedy or cure any defect in or cloud upon the title to the Enterprise whether now existing or hereafter arising and shall prosecute all such suits, actions and other proceedings as may be appropriate for such purpose.

## ARTICLE VII

### NOTICES; JUDICIAL REFEREE

Section 7.1. Notices. All notices, certificates or other communications hereunder shall be in writing and shall be deemed to have been properly given on the earlier of (i) when delivered in person, (ii) the third Business Day following deposit in the United States Mail, with adequate postage, and sent by registered or certified mail, with return receipt requested to the appropriate party at the address set forth below, or (iii) the first Business Day following deposit with Federal Express, Express Mail or other overnight delivery service for next day delivery, addressed to the appropriate party at the address set forth below.

If to the District: Santa Cruz Port District  
135 5th Avenue  
Santa Cruz, CA 95062  
Attention: Port Director  
Fax: (831) 475-9558

If to the Bank: BBVA Compass Bank  
8777 Sierra College Blvd.  
Suite 200  
Roseville, CA 95661  
Attention:  
Fax: (916) 789-4405

With a copy to: Compass Mortgage Corporation  
201 N. Hwy 183 (overnight delivery only)  
Leander, TX 78641  
Attention: Nancy Allen

Section 7.2. Judicial Referee.

(a) *Judicial Referee.* The Bank and the District hereby agree: (i) each proceeding or hearing based upon or arising out of, directly or indirectly, this Installment Sale Agreement or any document related thereto, any dealings between the District and the Bank related to the subject matter of this Installment Sale Agreement or any related transactions, and/or the relationship that is being established between the District and the Bank (hereinafter, a "Claim") shall be determined by a consensual general judicial reference (the "Referee") pursuant to the provisions of Section 638 et seq. of the California Code of Civil Procedure, as such statutes may be amended or modified from time to time; (ii) upon a written request, or upon an appropriate motion by either the Bank or the District, as applicable, any pending action relating to any Claim and every Claim shall be heard by a single Referee (as defined below) who shall then try all issues (including any and all questions of law and questions of fact relating thereto), and issue findings of fact and conclusions of law and report a statement of decision. The Referee's statement of decision will constitute the conclusive determination of the Claim. The Bank and the District agree that the Referee shall have the power to issue all legal and equitable relief appropriate under the circumstances before the Referee; (iii) the Bank and the District shall promptly and diligently cooperate with one another, as applicable, and the Referee, and shall perform such acts as may be necessary to obtain prompt and expeditious resolution of all Claims in accordance with the terms of this Section 7.2; (iv) either the Bank or the District, as applicable, may file the Referee's findings, conclusions and statement with the clerk or judge of any appropriate court, file a motion to confirm the Referee's report and have judgment entered thereon if the report is deemed incomplete by such court, the Referee may be required to complete the report and resubmit it; (v) the Bank and the District, as applicable, will each have such rights to assert such objections as are set forth in Section 638 et seq. of the California Code of Civil Procedure; and (vi) all proceedings shall be closed to the public and confidential, and all records relating to the Referee shall be permanently sealed when the order thereon becomes final.

(b) *Selection of Referee; Powers.* The parties to the Referee proceeding shall select a single neutral referee (the "Referee"), who shall be a retired judge or justice of the courts of the State of California, or a federal court judge, in each case, with at least ten (10) years of judicial experience in civil matters. The Referee shall be appointed in accordance with Section 638 of the California Code of Civil Procedure (or pursuant to comparable provisions of federal law if the dispute falls within the exclusive jurisdiction of the federal courts). If within ten (10) days after the request or motion for the Referee, the parties to the Referee proceeding cannot agree upon a Referee, then any party to such proceeding may request or move that the Referee be appointed by the Presiding Judge of the Santa Cruz County Superior Court, or of the U.S. District Court for the Eastern District of California. The Referee shall determine all issues relating to the applicability, interpretation, legality and enforceability of this Section 7.2.

(c) *Provisional Remedies and Self Help.* No provision of this Section 7.2 shall limit the right of either the Bank or the District, as the case may be, to (i) exercise such self-help remedies as might otherwise be available under applicable law, or (ii) obtain or oppose provisional or ancillary remedies, including without limitation injunctive relief, writs of possession, the appointment of a receiver, and/or additional or supplementary remedies from a court of competent jurisdiction before, after, or during the pendency of any Referee. The exercise

of, or opposition to, any such remedy does not waive the right of the Bank or the District to the Referee pursuant to this Section 7.2(c).

(d) *Costs and Fees.* Promptly following the selection of the Referee, the parties to such Referee proceeding shall each advance equal portions of the estimated fees and costs of the Referee. In the statement of decision issued by the Referee, the Referee shall award costs, including reasonable attorneys' fees, to the prevailing party, if any, and may order the Referee's fees to be paid or shared by the parties to such Referee proceeding in such manner as the Referee deems just.

## ARTICLE VIII

### AMENDMENTS; DISCHARGE; GENERAL AUTHORIZATION; EFFECTIVE DATE

Section 8.1. Amendments Permitted. (a) This Installment Sale Agreement and the rights and obligations of the District and of the Bank may be modified or amended at any time by a written supplemental agreement entered into by the District and the Bank.

(b) From and after the time any supplemental agreement becomes effective pursuant to this Article, this Installment Sale Agreement shall be deemed to be modified and amended in accordance therewith, and the respective rights, duties, and obligations under this Installment Sale Agreement and the Bank shall thereafter be determined, exercised, and enforced hereunder subject in all respects to such modification and amendments, and all the terms and conditions of any such supplemental agreement shall be deemed to be part of the terms and conditions of this Installment Sale Agreement for any and all purposes.

Section 8.2. Discharge of Installment Sale Agreement. (a) If the District shall pay or cause to be paid or there shall otherwise be paid to the Bank all of the principal of and the interest and the prepayment premium, if any, on this Installment Sale Agreement at the times and in the manner stipulated herein, then all agreements, covenants and other obligations of the District to the Bank hereunder shall thereupon cease, terminate and become void and be discharged and satisfied.

(b) This Installment Sale Agreement shall be deemed to have been paid within the meaning and with the effect expressed in subsection (a) of this section if (1) in case this Installment Sale Agreement is to be prepaid on any date prior to its final principal payment date, the District shall have mailed a notice of prepayment to the Bank, (2) there shall have been deposited with the Bank or an escrow agent either money in an amount that shall be sufficient or Federal Securities, the interest on and principal of which when paid will provide money that, together with the money, if any, deposited with the Bank or such escrow agent at the same time, shall be sufficient to pay when due the interest to become due on this Installment Sale Agreement on and prior to the final principal payment date or prepayment date thereof, as the case may be, and the principal of and prepayment premiums, if any, on this Installment Sale Agreement on and prior to the final principal payment date or the prepayment date thereof, as the case may be, and (3) if this Installment Sale Agreement is not subject to prepayment within the next succeeding sixty (60) days, the District shall have mailed a notice to the Bank that the deposit required by clause (2) above has been made with the Bank or such escrow agent and that this Installment Sale Agreement is deemed to have



been paid in accordance with this section and stating the principal payment dates or prepayment date, as the case may be, upon which money is to be available for the payment of the principal of and prepayment premiums, if any, on this Installment Sale Agreement.

(c) Pursuant to Section 8.2 (b), the money or securities so to be deposited or held may include money or securities held by the District in the funds and accounts established pursuant to this Installment Sale Agreement, and shall be:

(i) lawful money of the United States of America in an amount equal to the principal amount of such Principal Components and all unpaid interest thereon to maturity, except that, in the case of Principal Components which are to be redeemed prior to maturity and in respect of which notice of such redemption shall have been given as provided in Section 3.4 or provision satisfactory to the Bank shall have been made for the giving of such notice, the amount to be deposited or held shall be the principal amount of such Principal Components and all unpaid interest thereon to the redemption date; or

(ii) Defeasance Obligations, the principal of and interest on which when due will, in the written opinion of an Independent Certified Public Accountant filed with the District and the Bank, provide money sufficient to pay the Principal Components of and Interest Components and premium (if any) on the 2018A Revenue Obligations to be paid or redeemed, as such Principal Components, Interest Components and premium become due, provided that in the case of Principal Components which are to be redeemed prior to the maturity thereof, notice of such redemption shall have been given as provided in Section 3.4 or provision satisfactory to the Bank shall have been made for the giving of such notice;

provided, in each case, that (i) the District shall have irrevocably instructed (by the terms of this Installment Sale Agreement) that such money shall be applied to the payment of such Principal Components, Interest Components and premium (if any) with respect to such 2018A Revenue Obligations, and (ii) the District shall have delivered to the Bank an opinion of Bond Counsel to the effect that such Principal Components of the 2018A Revenue Obligations have been discharged in accordance with this Installment Sale Agreement (which opinion may rely upon and assume the accuracy of the Independent Certified Public Accountant's opinion referred to above).

Section 8.3. General Authorization. The Authorized Representatives of the District, and each of them individually, are hereby authorized and directed, for and in the name of and on behalf of the District, to execute and deliver any and all documents (including specifically the Escrow Agreement), to do any and all things and take any and all actions that may be necessary or advisable, in their discretion, in order to consummate the financing and to effect the purposes of this Installment Sale Agreement. All actions heretofore taken by officers, employees, and agents of the District that are in conformity with the purposes and intent of this Installment Sale Agreement are hereby approved, confirmed, and ratified.

Section 8.4. Binding Effect. This Installment Sale Agreement shall inure to the benefit of and shall be binding upon the Bank and the District and their respective successors and assigns.

Section 8.5. Severability. In the event any provision of this Installment Sale Agreement

shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

Section 8.6. Further Assurances and Corrective Instruments. The Bank and the District agree that they will, from time to time, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such supplements hereto and such further instruments as may reasonably be required for carrying out the expressed intention of this Installment Sale Agreement.

Section 8.7. Applicable Law. This Installment Sale Agreement shall be governed by and construed in accordance with the laws of the State of California.

Section 8.8. Captions. The captions or headings in this Installment Sale Agreement are for convenience only and in no way define, limit or describe the scope or intent of any provisions or Section of this Installment Sale Agreement.

Section 8.9. Agreement to Pay Attorneys' Fees and Expenses. The District will pay the Bank its reasonable attorney fees incurred subsequent to an Event of Default.

Section 8.10. Execution in Counterparts. This Installment Sale Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

\* \* \* \* \*

IN WITNESS WHEREOF, the Bank has caused this Installment Sale Agreement to be executed in its corporate name by its duly authorized officer; and the District has caused this Installment Sale Agreement to be executed in its name by its duly authorized officer, as of the date first above written.

COMPASS MORTGAGE CORPORATION,  
an Alabama Corporation

By \_\_\_\_\_  
Authorized Officer

SANTA CRUZ PORT DISTRICT

By \_\_\_\_\_  
Authorized Officer

**EXHIBIT A**  
**INSTALLMENT PAYMENT SCHEDULE**

**\$1,750,000**  
**SANTA CRUZ PORT DISTRICT**  
**SERIES 2018A REVENUE OBLIGATIONS**  
**(Santa Cruz Harbor Pile Replacement Project)**  
**BANK QUALIFIED**

Interest Rate: 3. \_\_%

<u>Installment Payment Date</u>	<u>Principal Component*</u>	<u>Interest Component*</u>	<u>Total Installment Payment*</u>
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Totals

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\* In the event the payments above are scheduled to occur on a day which is not a Business Day, such payment will be due on the next succeeding Business Day and will continued to accrue interest to such Business Day.

**EXHIBIT B**

**\$1,750,000**

**SANTA CRUZ PORT DISTRICT  
SERIES 2018A REVENUE OBLIGATIONS  
(Santa Cruz Harbor Pile Replacement Project)  
BANK QUALIFIED**

**PROJECT DESCRIPTION**

The Pile Replacement Project includes the removal and replacement of up to 220 worn / aging piles ranging in length from 50 to 75 feet, as well as all necessary piles guides and appurtenant hardware with hollow, spun concrete piles and/or steel sleeve piles, as well as any necessary permits, rights of way and other real or personal property useful in connection therewith, together with all additions, extensions, expansions, improvements and betterments thereto and equipments thereof.

**EXHIBIT C**

**\$1,750,000**

**SANTA CRUZ PORT DISTRICT  
SERIES 2018A REVENUE OBLIGATIONS  
(Santa Cruz Harbor Pile Replacement Project)  
BANK QUALIFIED**

**FORM OF REQUISITION  
FOR DISBURSEMENT FROM PROJECT FUND**

The undersigned, as Port Director of the Santa Cruz Port District (the "District"), in connection with the issuance, sale and delivery by the District of the above-captioned \$1,750,000 aggregate principal amount of the Santa Cruz Port District, Series 2018A Revenue Obligations (Santa Cruz Harbor Pile Replacement Project), Bank Qualified (the "2018A Revenue Obligations"), issued in accordance with the Installment Sale Agreement, dated as of September 1, 2018 (the "Installment Sale Agreement"), by and between the District and the Compass Mortgage Corporation (the "Bank"), does hereby certify that:

(i) the undersigned is a duly Authorized Representative (as defined in the Installment Sale Agreement) with authority to act on behalf of the District as necessary in connection with disbursements of Project Costs, and as such, is authorized to disburse money from the Project Fund for the 2018A Revenue Obligations (the "Project Fund");

(ii) an obligation in the not-to-exceed amount stated for each of the payees set forth on Exhibit "A" has been properly incurred as a Project Cost under and pursuant to the Installment Sale Agreement, and each such obligation is a proper charge against the Project Fund;

(iii) no amount set forth in the requisition was included in any requisition requesting disbursement previously filed with the District pursuant to Section 3.3 of the Installment Sale Agreement;

(iv) that pursuant to the Installment Sale Agreement, the undersigned, on behalf of the District, hereby disburses from the Project Fund to the payees set forth on Exhibit A attached hereto, upon receipt of an invoice, an amount not to exceed the sum set forth opposite each such payee, for the purpose identified therein; and

(v) there has not been filed with or served upon the District a stop notice or any other notice of any lien, right to lien or attachment upon, or claim affecting the right to receive payment of, any of the money payable to the person named in this Requisition which has not been released or will not be released with the payment of such obligation, other than materialmen's or mechanics' liens accruing by mere operation of laws.

Dated: \_\_\_\_\_, 20\_\_

**SANTA CRUZ PORT DISTRICT**

By: \_\_\_\_\_  
Port Director

**EXHIBIT D**

**\$1,750,000**

**SANTA CRUZ PORT DISTRICT  
SERIES 2018A REVENUE OBLIGATIONS  
(Santa Cruz Harbor Pile Replacement Project)  
BANK QUALIFIED**

**FORM OF REQUISITION  
FOR DISBURSEMENT FROM COSTS OF ISSUANCE FUND**

The undersigned, as Port Director of the Santa Cruz Port District (the "District"), in connection with the issuance, sale and delivery by the District of the above-captioned \$1,750,000 aggregate principal amount of the Santa Cruz Port District, Series 2018A Revenue Obligations (Santa Cruz Harbor Pile Replacement Project), Bank Qualified (the "2018A Revenue Obligations"), issued in accordance with the Installment Sale Agreement, dated as of September 1, 2018 (the "Installment Sale Agreement"), by and between the District and the Compass Mortgage Corporation (the "Bank"), does hereby certify that:

(i) the undersigned is a duly Authorized Representative (as defined in the Installment Sale Agreement) with authority to act on behalf of the District as necessary in connection with issuance and delivery of the 2018A Revenue Obligations, and as such, is authorized to disburse money from the Costs of Issuance Fund for the 2018A Revenue Obligations (the "Costs of Issuance Fund");

(ii) an obligation in the not-to-exceed amount stated for each of the payees set forth on Exhibit "A" has been properly incurred under and pursuant to the Installment Sale Agreement and each such obligation is a proper charge against the Costs of Issuance Fund;

(iii) that pursuant to the Installment Sale Agreement, the undersigned, on behalf of the District, hereby requests the Bank to disburse from the Costs of Issuance Fund to the payees set forth on Exhibit A attached hereto, upon receipt of an invoice, an amount not to exceed the sum set forth opposite each such payee, for the purpose identified therein; and

(iv) all payments shall be made by wire transfer in accordance with the payment instructions set forth in Exhibit A attached hereto or in invoices submitted in accordance herewith, and the Bank may rely on such payment instructions as though given by the District, with no duty to investigate or inquire as to the authenticity of the invoice or the payment instructions contained therein.

Dated: September \_\_, 2018

**SANTA CRUZ PORT DISTRICT**

By: \_\_\_\_\_  
Port Director



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**SERIES 2018B INSTALLMENT SALE AGREEMENT**

By and Between

**SANTA CRUZ PORT DISTRICT**

And

**COMPASS MORTGAGE CORPORATION, an Alabama Corporation**

Dated as of September 1, 2018

Relating to

**\$1,600,000**  
**SANTA CRUZ PORT DISTRICT**  
**SERIES REVENUE OBLIGATIONS**  
**(Santa Cruz Harbor Seawall Replacement Project)**  
**BANK QUALIFIED**

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## **SERIES 2018B INSTALLMENT SALE AGREEMENT**

**THIS SERIES 2018B INSTALLMENT SALE AGREEMENT**, (this "Installment Sale Agreement"), dated for convenience as of September 1, 2018, is by and between COMPASS MORTGAGE CORPORATION, a corporation duly organized and existing under the laws of the State of Alabama, with all right and authority to conduct business in the State of California (the "Bank"), and the SANTA CRUZ PORT DISTRICT, a port district and public corporation duly organized and existing under the laws of the State of California (the "District");

### **W I T N E S S E T H:**

**WHEREAS**, the District presently owns and operates certain facilities and property for its harbor enterprise and recreation system commonly known as the Santa Cruz Harbor (the "Enterprise") and desires and intends to finance the (i) Acquisition and Construction of the Project (as defined herein), (ii) Reserve Fund (as defined herein), and (iii) associated costs of issuance (collectively, the "Financing"); and

**WHEREAS**, the District is authorized to exercise powers pursuant to the Port District Law of the State of California, being Sections 6200 et seq. of the Harbors and Navigation Code of the State of California, and all laws amendatory thereof or supplemental thereto, including the power to purchase and sell real and personal property of every kind, within or without the District, necessary to the full or convenient exercise of its powers; and

**WHEREAS**, the District has determined that it is in the public interest at this time to provide for the execution and delivery of its "Santa Cruz Harbor District, Series 2018B Revenue Obligations (Santa Cruz Harbor Seawall Replacement Project), Bank Qualified" (the "2018B Revenue Obligations"), pursuant to terms and conditions of this Installment Sale Agreement, the proceeds of which will be used to provide the Financing; and

**WHEREAS**, the principal of and interest and redemption premium (if any) on this Installment Sale Agreement, and any bonds or other obligations issued on a parity therewith as provided herein, will be payable from and secured by a pledge of and lien on the Net Revenues (as defined herein) derived from the Enterprise, as expressly set forth in this Installment Sale Agreement; and

**WHEREAS**, all things necessary to make 2018B Revenue Obligations when executed and delivered, the valid and binding obligation of the District, and to constitute this Installment Sale Agreement as a valid pledge of the revenues herein pledged to the payment of the principal of, prepayment premium, if any, and interest on the 2018B Revenue Obligations have been done and performed, as required by law, and the District is now fully authorized to enter into this Installment Sale Agreement, subject to the terms hereof; and

**NOW, THEREFORE, THIS INSTALLMENT SALE AGREEMENT WITNESSETH**, that in order to secure the payment of the principal of and the interest and premium (if any) on the 2018B Revenue Obligations at any time Outstanding under this Installment Sale Agreement, and to secure the performance and observance of all the covenants

and conditions therein and herein set forth, and to declare the terms and conditions upon and subject to which the 2018B Revenue Obligations are premised, and in consideration of the premises and of the mutual covenants herein contained, and for other valuable considerations, the receipt whereof is hereby acknowledged, the District does hereby covenant and agree, for the benefit of the Bank from time to time, as follows:

## ARTICLE I

### DEFINITIONS AND OTHER PROVISIONS OF GENERAL APPLICABILITY

Section 1.1. Definitions. Unless the context otherwise requires, the terms defined in this section shall for all purposes hereof and of any amendment hereof or supplement hereto and of any report or other document mentioned herein or therein have the meanings defined herein, the following definitions to be equally applicable to both the singular and plural forms of any of the terms defined herein.

“Acquisition,” “Acquire” or “Acquisition and Construction” means, with respect to any portion of the Seawall Project, the acquisition, construction, improvement, equipping, renovation, remodeling or reconstruction thereof.

“Additional Revenues” means, with respect to the issuance of any Parity Obligations, any or all of the following amounts:

(a) An allowance for Net Revenues from any additions or improvements to or extensions of the Harbor Enterprise to be made with the proceeds of such Parity Obligations and also for Net Revenues from any such additions, improvements or extensions which have been made from moneys from any source but in any case which, during all or any part of the latest Fiscal Year or for any more recent consecutive twelve (12) month period selected by the District, were not in service, all in an amount equal to seventy percent (70%) of the estimated additional average annual Net Revenues to be derived from such additions, improvements and extensions, as verified by an Independent Financial Consultant, for the first thirty-six (36) month period in which each addition, improvement or extension is respectively to be in operation, all as shown by the certificate or opinion of a qualified Independent Engineer. Notwithstanding the foregoing, one hundred percent (100%) of revenues associated with California Emergency Management Agency and Federal Emergency Management Agency grants or other such emergency grants and aid shall be counted as Additional Revenues.

(b) An allowance for Net Revenues arising from any increase in the charges made for service from the Harbor Enterprise which has become effective (or adopted but not yet effective) prior to the incurring of such Parity Obligations but which, during all or any part of the latest Fiscal Year or for any more recent consecutive twelve (12) month period selected by the District, was not in effect, in an amount equal to the total amount by which the Net Revenues would have been increased if such increase in charges had been in effect during the whole of such Fiscal Year or twelve (12) month period, all as shown by the certificate or opinion of an Independent Certified Public Accountant or Independent Financial Consultant.

“Authorized Representative” means the District’s Chairman, Vice-Chairman, or Port Director, or any other person designated as an Authorized Representative of the District by a Certificate of the District signed by its Chairman, Vice-Chairman, or Port Director and filed with the District and the Bank.

“Bank” means (a) initially, Compass Mortgage Corporation, an Alabama corporation, or (b) any assignee or transferee of any right, title or interest hereunder.

“Board” means the Board of Port Commissioners of the District.

“Bond Counsel” means The Weist Law Firm, or another firm of nationally-recognized attorneys experienced in the issuance of obligations the interest on which is excludable from gross income under Section 103 of the Code.

“Business Day” means any day other than (a) a Saturday or Sunday or a day on which banking institutions in the State or the State of New York are authorized to close or (b) a day on which the New York Stock Exchange is closed.

“Certificate,” “Request” and “Requisition” of the District means a written certificate, request or requisition signed in the name of the District by its Authorized Representative. Any such instrument and supporting opinions or representations, if any, may, but need not, be combined in a single instrument with any other instrument, opinion or representation, and the two or more so combined shall be read and construed as a single instrument.

“Code” means the Internal Revenue Code of 1986, as amended. Each reference to a section of the Code herein shall be deemed to include the United States Treasury regulations, including temporary and proposed regulations relating to each such section that are applicable to the Parity Obligations or the use of the proceeds thereof.

“Costs of Issuance” means all expenses incurred in connection with the authorization, execution and delivery of this Installment Sale Agreement, including but not limited to all compensation, fees and expenses (including but not limited to fees and expenses for legal counsel) of the District, compensation to Bond Counsel and any financial consultants, insurance premiums, rating agency fees, other legal fees and expenses, filing and recording costs, CDIAC fees, costs of preparation and reproduction of documents and costs of printing and binding.

“Costs of Issuance Fund” means the fund by that name established and maintained pursuant to Section 3.7 hereof

“Closing Date” means September \_\_, 2018, being the date on which the 2018B Revenue Obligations are funded by the Bank.

“Debt Service” means, for any Fiscal Year, the sum of (1) the interest falling due during such Fiscal Year on all Parity Obligations (including, but not limited to Interest Components of Installment Payments made pursuant to this Installment Sale Agreement) that are outstanding under the documents or agreements pursuant to which they were issued, assuming that all outstanding serial Parity Obligations are retired as scheduled and that all outstanding term Parity Obligations are redeemed from sinking fund payments as scheduled (except to the extent that such

interest has been fully capitalized and is invested in Federal Securities that mature at times and in such amounts as are necessary to pay the interest to which such amounts are pledged), (2) the principal amount of all serial Parity Obligations (that are outstanding under the documents or agreements pursuant to which they were issued) falling due by their terms during such Fiscal Year (including, but not limited to Principal Components of Installment Payments made pursuant to this Installment Sale Agreement), and (3) the minimum amount of term Parity Obligations (that are outstanding under the documents or agreements pursuant to which they were issued) required to be paid or called and redeemed during such Fiscal Year, together with the redemption premiums, if any, thereon; provided that, (A) whenever interest as described herein accrues at other than a fixed rate, such interest shall be assumed to be a rate equal to the greater of (i) the actual rate on the date of calculation, or if the Parity Obligations are not yet outstanding, the initial rate (if established and binding), (ii) if the Parity Obligations have been outstanding for at least twelve months, the average rate over the twelve months immediately preceding the date of calculation, and (iii) (x) if interest on the Parity Obligations is excludable from gross income under the applicable provisions of the Code, the most recently published The Bond Buyer Bond Revenue Index (or comparable index if no longer published) plus one hundred fifty (150) basis points, or (y) if interest is not so excludable, the interest rate on direct U.S. Treasury Obligations with comparable maturities, plus one hundred fifty (150) basis points, and (B) for purposes of calculating the Debt Service on any Parity Obligation requiring a balloon payment at maturity, such interest shall be assumed to be a rate equal to the greater of (i) the actual rate on the date of calculation, or (ii) six percent (6%), and the principal shall be assumed to be fully amortized, solved for substantially level debt service, over a period of fifteen (15) years from the date of calculation.

“Default Rate” means the principal and interest due on a particular date, plus 5% if payment due is not made within ten (10) calendar day of its respective due date.

“District” means the Santa Cruz Port District, a port district and public corporation duly organized and existing under and by virtue of the laws of the State of California.

“Enterprise,” or “Harbor Enterprise” means, collectively, the entire works, properties and facilities now owned or leased by the District, or hereafter acquired by the District and determined to be a part of the Harbor Enterprise, including, but not limited to, any and all properties and assets, real and personal, tangible and intangible, of the District, now or hereafter existing, used or pertaining to a commercial harbor commonly known as the Santa Cruz Small Craft Harbor, comprising all harbor works and facilities of the District, including all slips and docks, wharfs, lighthouses, buildings, parking and boat launch facilities, electrical and lighting facilities, fueling facilities, towage facilities, equipment and watercraft owned, controlled or operated by the District in or upon or pertaining to the lands, improvements and waters of the District used or useful for, or necessary for or incidental to, the development and operation of the Santa Cruz Small Craft Harbor and the provision of Harbor Services, together with all improvements to such works, property and facilities or any part thereof hereafter acquired or constructed by the District.

“Enterprise Fund” means the District’s existing general fund established and held by the District with respect to the Harbor Enterprise.



“Enterprise Services,” or “Harbor Services” means the use of any of the Harbor Enterprise facilities or the services furnished or provided by any of the Harbor Enterprise.

“Event of Default” means an event described in Section 6.1 hereof.

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

“Fiscal Year” means any twelve-month period extending from April 1 in one calendar year to March 31 of the succeeding calendar year, both dates inclusive, or any other twelve-month period selected and designated by the District, as applicable, as its official fiscal year period.

“Generally Accepted Accounting Principles” means the uniform accounting and reporting procedures prescribed by the California State Controller or his or her successor for special districts in the State of California, or failing the prescription of such procedures means generally accepted accounting principles as presented and recommended by the American Institute of Certified Public Independent Certified Public Accountants or its successor, or by any other generally accepted authority on such procedures, and includes, as applicable, the standards set forth by the Governmental Accounting Standards Board or its successor.

“Governmental Authority” means any governmental or quasi-governmental entity, including any court, department, commission, board, bureau, agency, administration, central bank, service, district or other instrumentality of any governmental entity or other entity exercising executive, legislative, judicial, taxing, regulatory, fiscal, monetary or administrative powers or functions of or pertaining to government, or any arbitrator, mediator or other person with authority to bind a party at law.

“Improvements,” or “Project Improvements” means the Project improvements described more fully in Exhibit B hereto.

“Independent Certified Public Accountant” means any certified public accountant or firm of certified public accountants appointed and paid by the District, and who, or each of whom:

- (a) is in fact independent and not under domination of the District;
- (b) does not have any substantial interest, direct or indirect, in the District; and
- (c) is not connected with the District as an officer or employee of the District but who may be regularly retained to make annual or other audits of the books of or reports to the District.

“Independent Engineer” means any registered engineer or firm of engineers generally recognized to be well-qualified in engineering matters relating to water systems similar to the Enterprise, appointed and paid by the District, and who or each of whom:

- (1) is in fact independent and not under the domination of the District;

(2) does not have a substantial financial interest, direct or indirect, in the District; and

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

“Independent Financial Consultant” means a financial consultant qualified in the field of municipal finance, appointed and paid by the District, and who:

(1) is in fact independent and not under the domination of the District or any member thereof;

(2) does not have a substantial financial interest, direct or indirect, in the operations of the District; and

(3) is not connected with the District as an officer or employee of the District or any member thereof, but may be regularly retained to audit the accounting records of and make reports thereon to the District; and

(4) is not a customer or patron of the District, or currently on the waiting list.

“Insurance Consultant” means any nationally recognized independent actuary, insurance company or broker that has actuarial personnel knowledgeable with respect to insurance carried, by, required for and available to special districts operating facilities similar to the Enterprise, including a pooled self-insurance program in which premiums are established on the basis of the recommendation of an actuary of national reputation.

“Interest Component” means the portion of each Installment Payment designated as Interest Component, as such is set forth on Exhibit A hereto.

“Installment Payments” means all payments required to be paid by the District, as such is set forth on Exhibit A hereto, on each Installment Payment Date pursuant to Section 4.2, and including any prepayment thereof pursuant to Section 3.4 or 3.5 hereof.

“Installment Payment Date” or “Payment Date” means February 1 and August 1 in each year, commencing February 1, 2019 and continuing to and including the date on which the Installment Payments have been paid in full.

“Installment Sale Agreement” means this Series 2018B Installment Sale Agreement, dated as of September 1, 2018, by and between the Bank and the District.

“2018A Installment Sale Agreement” means the Series 2018A Installment Sale Agreement, dated as of September 1, 2018, by and between the Bank and the District, relating to the 2018A Revenue Obligations.

“Maintenance and Operation Costs” means the reasonable and necessary costs paid or incurred by the District for maintaining and operating the Harbor Enterprise, determined in accordance with Generally Accepted Accounting Principles, including all reasonable expenses of management and repair and all other expenses necessary to maintain and preserve the Harbor Enterprise in good repair and working order, and including all administrative costs of the District

that are charged directly or apportioned to the operation of the Harbor Enterprise, such as salaries and wages of employees, overhead, taxes (if any) and insurance premiums, and including all other reasonable and necessary costs of the District or charges required to be paid by it to comply with the terms hereof and of all Parity Obligations, such as fees and expenses of Independent Certified Public Accountants and Independent Engineers; but excluding in all cases (i) debt service payable on Obligations incurred by the District with respect to the Harbor Enterprise, (ii) depreciation, replacement and obsolescence charges or reserves therefor, (iii) amortization of intangibles and any other non-cash charges or other bookkeeping entries of a similar nature, and (iv) non-cash unfunded pension liability.

“Material Litigation” means any action, suit, proceeding, inquiry or investigation against the District in any court or before any arbitrator of any kind or before or by any Governmental Authority, of which the District has notice or knowledge and which, (i) if determined adversely to the District, may have a Material Adverse Effect, (ii) seek to restrain or enjoin any of the transactions contemplated hereby, or (iii) may adversely affect (A) the exclusion of interest with respect to the Installment Payments from gross income for federal income tax purposes or the exemption of such interest for state income tax purposes or (B) the ability of the District to perform its obligations under this Installment Sale Agreement.

“Material Adverse Effect” means an event or occurrence which adversely affects in a material manner (a) the assets, liabilities, condition (financial or otherwise), business, facilities or operations of the District, (b) the ability of the District to carry out its business in the manner conducted as of the date of this Installment Sale Agreement or to meet or perform its obligations under this Installment Sale Agreement on a timely basis, (c) the validity or enforceability of this Installment Sale Agreement or any other Parity Obligation, or (d) the exclusion of interest with respect to the Installment Payments from gross income for federal income tax purposes or the exemption of such interest for state income tax purposes.

“Maximum Annual Debt Service” means the greatest amount of Debt Service with respect to the Parity Obligations to which reference is made coming due in any Fiscal Year including the Fiscal Year in which the calculation is made or any subsequent Fiscal Year.

“Net Proceeds” means, when used with respect to any condemnation award or with respect to any insurance proceeds, the amount of such condemnation award or such insurance proceeds remaining after payment of all reasonable expenses (including attorneys’ fees) incurred in the collection of such award or such proceeds.

“Net Revenues” means for any period, all of the Revenues during such period less all of the Maintenance and Operation Costs during such period.

“Obligations” means all Parity Obligations and all Subordinate Obligations.

“Ordinance” means the Ordinance No. 18-\_\_, adopted by the Board of Port Commissioners of the District on August 28, 2018, authorizing the execution and delivery of this Installment Sale Agreement.

“Parity Obligations” means the 2018B Revenue Obligations, 2018A Revenue Obligations, the 2013 Tax-Exempt Loan, the 2013 Taxable Loan, and all other bonds, notes, loan agreements,

installment sale agreements, leases, or other obligations of the District payable from and secured by a pledge of and lien upon any of the Net Revenues incurred on a parity with this Installment Sale Agreement, issued in accordance with Section 5.13 hereof.

“Parity Payments” means all payments scheduled to be paid by the District under Parity Obligations.

“Permitted Investments” means any of the following which at the time of investment are legal investments under the laws of the State of California for the moneys proposed to be invested therein:

(a) Federal Securities;

(b) Any direct or indirect obligations of an agency or department of the United States of America whose obligations represent the full faith and credit of the United States of America, or which are rated A or better by S&P.

(c) Interest-bearing deposit accounts (including certificates of deposit) in federal or State chartered savings and loan associations or in federal or State of California banks (including the Trustee), provide that: (i) the unsecured obligations of such commercial bank or savings and loan association are rated A or better by S&P; or (ii) such deposits are fully insured by the Federal Deposit Insurance Corporation.

(d) Commercial paper rated in the highest short-term rating category by S&P.

(e) Federal funds or bankers acceptances with a maximum term of one year of any bank with an unsecured, uninsured and unguaranteed obligation rating in the highest rating category of S&P.

(f) Money market funds registered under the Federal Investment Company Act of 1940, whose shares are registered under the Federal Securities Act of 1933, and having a rating in the highest rating category of S&P (such funds may include funds for which the Bank, its affiliates, parent or subsidiaries provide investment advisory or other management services).

(g) Obligations the interest on which is excludable from gross income pursuant to Section 103 of the Tax Code and which are either (a) rated A or better by S&P, or (b) fully secured as to the payment of principal and interest by Federal Securities.

(h) Bonds or notes issued by any state or municipality which are rated by S&P in one of the two highest rating categories assigned by S&P.

(i) Any investment agreement with, or guaranteed by, a financial institution the long-term unsecured obligations or the claims paying ability of which are rated A or better by S&P at the time of initial investment.

(j) The Local Agency Investment Fund of the State of California, created under Section 16429.1 of the California Government Code, to the extent the District is authorized to register such investment in its name.

“Principal Component” means the portion of each Installment Payment designated as Principal Component, as such is set forth on Exhibit A hereto.

“Proceeds” means the \$1,600,000 amount received by the District from the Bank on the Closing Date.

“Project” or “Seawall Project” means the acquisitions and improvements and other property comprising the Project described more fully in Exhibit B attached hereto and by this reference incorporated herein, as such description may be amended by the District from time to time pursuant to and in accordance with the terms hereof.

“Project Costs” means the costs of acquisition, construction, implementing and equipping either the Seawall Project, or the application of the Proceeds to the costs and expenses which are incidental or related to the Acquisition and Construction of additions to such Seawall Project, including amounts payable to the District as reimbursement for any of the foregoing.

“Project Fund” means the fund by that name established pursuant to Section 3.3.

“Rate Stabilization Fund” means the fund by that name established pursuant to Section 5.3(d).

“Registration Books” means the records maintained by the District pursuant to Section 2.06.

“Reserve Fund” means the fund by that name established pursuant to Section 3.8.

“Reserve Requirement” means the lesser of (i) 10% of the original par amount of the 2018B Revenue Obligations, (ii) 100% of maximum annual debt service on the 2018B Revenue Obligations, or (iii) 125% of average annual debt service on the 2018B Revenue Obligations.

“Revenue Fund” means the fund by that name established and maintained pursuant to Section 4.4 hereof.

“Revenue Obligations” means the Santa Cruz Port District, Series 2018B Revenue Obligations (Santa Cruz Harbor Seawall Replacement Project), Bank Qualified, consummated pursuant to the this Installment Sale Agreement in the original aggregate principal amount of \$1,600,000.

“2018A Revenue Obligations” means the Santa Cruz Port District, Series 2018A Revenue Obligations (Santa Cruz Harbor Pile Replacement Project), Bank Qualified, consummated pursuant to the 2018A Installment Sale Agreement in the original aggregate principal amount of \$1,750,000.

“Revenues” means for any Fiscal Year or other period, all gross income and revenue received by the District from the ownership and operation of the Harbor Enterprise, including, without limiting the generality of the foregoing, (a) all rates, fees and charges received for, and all other income and receipts derived by the District from the operation of the Harbor Enterprise or arising from the Harbor Enterprise determined in accordance with generally accepted accounting

principles, including all rates, fees and charges received by the District for the Harbor Services and any other services of the Harbor Enterprise, (b) all proceeds of insurance (if any) covering business interruptions loss relating to the Harbor Enterprise, (c) the earnings on and income derived from the investment of such income, rents, rates, fees, charges or other monies to the extent that the use of such earnings and income is limited by or pursuant to law to the Harbor Enterprise, including all income from the investment of amounts on deposit in the Enterprise Fund and the Rate Stabilization Fund, (d) the proceeds derived by the District directly or indirectly from the sale, lease or other disposition of a part of the Harbor Enterprise, and (e) all other monies howsoever derived by the District from the operation of the Harbor Enterprise or arising from the Harbor Enterprise, including major facility charges; provided, that the term “Revenues” shall not include contributions in aid of construction or refundable customers’ deposits or any other deposits subject to refund until such deposits have become the property of the District. Notwithstanding the foregoing, there shall be deducted from Revenues any amounts (of Revenues) transferred into the Rate Stabilization Fund as contemplated by Section 5.3(d) hereof, and there shall be added to Revenues any amounts transferred out of the Rate Stabilization Fund and into the Revenue Fund, as contemplated by Section 5.3(d) hereof.

“State” means the State of California.

“Subordinate Obligations” means indebtedness or other obligations (including but not limited to leases and installment sale agreements) hereafter issued or incurred and secured by a pledge of and lien on Net Revenues subordinate to the pledge and lien securing the Parity Obligations.

“2013 Loan Agreements” means, collectively, the 2013 Tax-Exempt Loan Agreement and the 2013 Taxable Loan Agreement.

“2013 Taxable Loan” means the Santa Cruz Port District, Series 2013 Taxable Enterprise Revenue Loan (Santa Cruz Harbor Refunding Projects), issued pursuant to the Taxable Loan Agreement in the original aggregate principal amount of \$2,384,445.08.

“2013 Taxable Loan Agreement” means the Loan Agreement, dated as of September 1, 2013, by and between the District and Bank, relating to the issuance of the 2013 Taxable Loan, as originally executed or as it may from time to time be supplemented, modified or amended pursuant to the provisions thereof.

“2013 Tax-Exempt Loan” means the Santa Cruz Port District, Series 2013 Tax-Exempt Enterprise Revenue Loan (Santa Cruz Harbor Refunding Projects), made pursuant to the 2013 Tax-Exempt Loan Agreement in the original aggregate principal amount of \$14,418,960.43.

“2013 Tax-Exempt Loan Agreement” means the Loan Agreement, dated as of September 1, 2013, by and between the District and Bank, relating to the issuance of the Taxable Loan, as originally executed or as it may from time to time be supplemented, modified or amended pursuant to the provisions thereof.

“Tax Regulations” means temporary and permanent regulations promulgated under or with respect to Sections 103, 141, 148 and all related sections of the Code.

“Term” means the time during which this Installment Sale Agreement is in effect, as provided in Section 3.1 hereof.

Section 1.2. Liability of District Limited to Net Revenues. Notwithstanding anything to the contrary contained in this Installment Sale Agreement, the District shall not be required to advance any money derived from the proceeds of any taxes collected for the use and benefit of the District, or from any source of income other than the Net Revenues, for the payment of the principal of or interest or prepayment premiums, if any, on the 2018B Revenue Obligations or for the performance of any covenants herein contained, nor for the maintenance and operation of the Enterprise from any source of income other than the Revenues. The District may, however, advance funds for any such purpose so long as such funds are derived from a source legally available for such purpose without incurring any indebtedness.

This Installment Sale Agreement represents an issue of revenue obligations (the “2018B Revenue Obligations”), payable exclusively from the Net Revenues as in this Installment Sale Agreement provided. The credit or taxing power of the District is not pledged for the payment of the 2018B Revenue Obligations or the interest thereon. The Bank shall never have the right to compel the exercise of the taxing power of the District. The principal of and interest on the 2018B Revenue Obligations and any prepayment premiums upon the prepayment thereof shall not be a debt of the District, nor a legal or equitable pledge of, or charge, lien or encumbrance upon, any of the property of the District or any of its income, receipts, or revenues, except the Net Revenues pledged to the payment thereof as provided in this Installment Sale Agreement.

Section 1.3. Benefits of Installment Sale Agreement Limited to Parties. Nothing contained herein, expressed or implied, is intended to give to any person other than the District and the Bank any right, remedy or claim under or pursuant hereto. Any agreement or covenant required herein to be performed by or on behalf of the District shall be for the sole and exclusive benefit of the Bank.

Section 1.4. Successor Is Deemed Included in all References to Predecessor. Whenever the District is named or referred to herein, such reference shall be deemed to include the successor to the powers, duties and functions that are presently vested in the District, and all agreements and covenants required hereby to be performed by or on behalf of the District shall bind and inure to the benefit of the successors thereof whether so expressed or not.

Section 1.5. Waiver of Personal Liability. No member of the Board and no officer, agent, or employee of the District, or of any department or agency thereof, shall be individually or personally liable for the payment of the principal of or interest on the 2018B Revenue Obligations, but nothing contained herein shall relieve any such member, officer, agent or employee from the performance of any official duty provided by law or hereby.

Section 1.6. Article and Section Headings, Gender and References. The headings or titles of the several articles and sections hereof and the table of contents appended hereto shall be solely for convenience of reference and shall not affect the meaning, construction or effect hereof. Words of any gender shall be deemed and construed to include all genders. All references herein to “Articles,” “Sections” and other subdivisions or clauses are to the corresponding articles, sections, subdivisions or clauses hereof; and the words “hereby,” “herein,” “hereof,” “hereto,”

“herewith” and other words of similar import refer to this Installment Sale Agreement as a whole and not to any particular article, section, subdivision or clause hereof.

Section 1.7. Partial Invalidity. If any one or more of the agreements or covenants or portions thereof required hereby to be performed by or on the part of the District shall be contrary to law, then such agreement or agreements, such covenant or covenants or such portions thereof shall be null and void and shall be deemed separable from the remaining agreements and covenants or portions thereof and shall in no way affect the validity hereof or the 2018B Revenue Obligations; but the Bank shall retain all the rights and benefits accorded to it under any applicable provisions of law. The Board hereby declares that it would have adopted this Installment Sale Agreement and each and every other article, section, paragraph, subdivision, sentence, clause and phrase hereof irrespective of the fact that any one or more articles, sections, paragraphs, subdivisions, sentences, clauses or phrases hereof or the application thereof to any person or circumstance may be held to be unconstitutional, unenforceable or invalid

Section 1.8. Term of this Installment Sale Agreement. The Term of this Installment Sale Agreement shall commence on the Closing Date, and shall end on the date on which the 2018B Revenue Obligations shall be paid in full or provision for such payment shall be made as provided herein.

## ARTICLE II

### REPRESENTATIONS OF THE DISTRICT

Section 2.1. Representations of the District. The District makes the following representations:

- (a) The District is a port district and public corporation duly organized and existing under and pursuant to the laws of the State of California.
- (b) The District has full legal right, power and authority to enter into this Installment Sale Agreement, and to enter into the transactions contemplated hereby and to carry out its obligations hereunder, and to carry out its obligations hereunder.
- (c) With the exception of the pledge of the Net Revenues hereunder and under the Parity Obligations, the Net Revenues have not otherwise been pledged and there are no other liens against the Net Revenues, senior to, or on parity with the Installment Payments.
- (d) The District is not currently, and has not been at any time, in default under the Parity Obligations.
- (e) The District’s comprehensive annual financial report for the period ended March 31, 2018, presents fairly the financial condition of the District and the Enterprise as of the date hereof and the results of operation for the period covered thereby. Except as has been disclosed to the Bank, there has been no change in the financial condition of the District or the Enterprise since March 31, 2018, that will in the reasonable opinion of the District materially impair its ability to perform its obligations under this Installment Sale Agreement. All information provided by the District to the Bank with respect to the



financial performance of the Enterprise is accurate in all material respects as of its respective date and does not omit any information necessary to make the information provided not misleading.

- (f) As currently conducted, the District's activities with respect to the Enterprise are in all material respects in compliance with all applicable laws, administrative regulations of the State of California and of the United States and any agency or instrumentality of either, and any judgment or decree to which the District is subject.
- (g) The District has never non-appropriated or defaulted under any of its payment or performance obligations or covenants, either with respect to the Parity Obligations or any obligation of the same general nature as the 2018B Revenue Obligations, or under any of its bonds, notes, or other obligations of indebtedness for which its revenues or general credit are pledged.
- (h) Neither the execution and delivery of this Installment Sale Agreement, nor the fulfillment of or compliance with the terms and conditions hereof or thereof, nor the consummation of the transactions contemplated hereby or thereby, conflicts with or results in a material breach of the terms, conditions or provisions of any restriction or any agreement or instrument to which the District is now a party or by which the District is bound or constitutes a default under any of the foregoing.
- (i) There is no action, suit, proceeding, inquiry or investigation, at law or in equity, before or by any court, public board or body pending or, to the best knowledge of the District, threatened against or affecting the District or affecting the corporate existence of the District or the titles of its officers to their respective offices or seeking to prohibit, restrain or enjoin the entering into of this Installment Sale Agreement, or in any way contesting or affecting the transactions contemplated hereby or thereby or the validity or enforceability of this Installment Sale Agreement, or contesting the powers of the District or any authority for the execution and delivery of this Installment Sale Agreement.
- (j) The Installment Sale Agreement is a valid and binding obligation of the District enforceable in accordance with its terms.
- (k) The District has duly authorized and executed this Installment Sale Agreement in accordance with the laws of the State.
- (l) No consent or approval of any trustee or holder of any indebtedness of the District or of the voters of the District, and no consent, permission, authorization, order or license of, or filing or registration with, any governmental authority is necessary in connection with the execution and delivery of this Installment Sale Agreement, or the consummation of any transaction herein contemplated, except as have been obtained or made and as are in full force and effect.
- (m) Since the most current date of the information, financial or otherwise, supplied by the District to the Bank:

- (i) There has been no change in the assets, liabilities, financial position or results of operations of the District which might reasonably be anticipated to cause a Material Adverse Effect;
- (ii) The District has not incurred any obligations or liabilities which might reasonably be anticipated to cause a Material Adverse Effect; and
- (iii) The District has not (A) incurred any material indebtedness, other than the 2018A Revenue Obligations, the 2018B Revenue Obligations the Tax-Exempt Loan, Taxable Loan and trade accounts payable arising in the ordinary course of the District's business and not past due, or (B) guaranteed the indebtedness of any other person.

### ARTICLE III

#### TERMS OF THE 2018B REVENUE OBLIGATIONS

##### Section 3.1. Installment Sale; Purchase Price; Acquisition of Project.

(a) *Installment Sale.* As consideration for the District's agreement to make Installment Payments in accordance with Section 4.2 hereof, the Bank hereby sells and conveys the Project to the District, and the District hereby purchases the Project from the Bank. All right, title and interest in each component of the Project shall vest in the District immediately upon Acquisition and Construction thereof. Such vesting shall occur without further action by the Bank or the District and the Bank shall, if requested by the District, or if necessary to assure such automatic vesting, deliver any and all documents required to assure such vesting.

(b) *Purchase Price.* The Purchase Price to be paid by the District to the Bank is the sum of the principal amount of the District's obligations hereunder plus the interest to accrue on the unpaid balance of such principal amount from the effective date hereof over the Term hereof, subject to prepayment as provided in Sections 3.4 and 3.5 hereof.

(c) *Acquisition and Construction of the Project.* The Bank hereby appoints the District as its agent to carry out all phases of the Acquisition and Construction of the Project under and in accordance with the provisions hereof. The District hereby accepts such appointment and assumes all rights, liabilities, duties and responsibilities of the Bank regarding the Acquisition and Construction of the Project. As agent of the Bank hereunder, the District shall enter into, administer and enforce all purchase orders or other contracts relating to the Project.

Payment of Project Costs shall be made by the District from amounts held in the Project Fund in accordance with the provisions of Section 4.4 of this Installment Sale Agreement. If and to the extent the amounts on deposit in the Project Fund are insufficient to enable the District to complete the Project in full, the District has the sole responsibility for completing the Project and the District will finance such completion from any source of legally available funds of the District. The District hereby agrees to diligently supervise and provide for, or cause to be diligently supervised and provided for, the Acquisition and Construction of the Project in accordance with the plans and specifications, purchase orders, construction contracts and other documents relating

thereto and approved by the District under all applicable requirements of law. All contracts for, and all work relating to, the Acquisition and Construction of the Project are subject to all applicable provisions of law relating to the acquisition and construction of public works by the District, including, but not limited to, California Environmental Quality Act and prevailing labor code laws.

The District has the right to specify the exact scope, nature and identification of the Project and the respective components thereof, and to modify the description of the Project or any component thereof. The District shall have the right from time to time in its sole discretion to amend the description of the Project. In the event of such amendment to the description of the Project, the District shall file with the Bank an amended Exhibit B hereto.

The failure to complete the Project by its estimated completion date does not constitute an Event of Default hereunder or a grounds for termination hereof, nor will any such failure result in the diminution, abatement or extinguishment of the obligations of the District hereunder to pay the Installment Payments when due. Nothing contained herein shall be deemed to be waiver of the Bank's rights and remedies should the District fail to complete the Project and to complete other improvement and modification of the Project as represented, warranted and covenanted herein. All amounts in the Project Fund not required for payment of future Project Costs will be applied by the District to pay the Installment Payments next coming due and payable.

It is hereby expressly understood and agreed that the Bank shall be under no liability of any kind or character whatsoever for the payment of any cost of the Project and that all such costs and expenses shall be paid by the District.

Section 3.2. Deposit and Application of Proceeds. The Proceeds shall be made available by the Bank to the District in immediately available funds on the Closing Date. On the Closing Date, the Bank shall transfer a portion of the Proceeds in the amount of (i) \$\_\_\_\_\_ to the District for deposit in the Project Fund, and (ii) \$\_\_\_\_\_ to the District for deposit in the Reserve Fund. The Bank hereby agrees to apply the balance of the Proceeds in the amount of \$\_\_\_\_\_ to be deposited in the Costs of Issuance Fund to be applied as provided in Section 3.7 to pay the Costs of Issuance in connection with the Financing, as directed in writing by the District.

Section 3.3. Project Fund.

(a) The District shall establish, maintain and hold in trust a separate fund to be known as the "Santa Cruz Port District 2018 Revenue Project Fund." There shall be deposited in the Project Fund the applicable amount indicated in Section 3.2 of this Installment Sale Agreement.

(b) Except as otherwise provided herein, moneys in the Project Fund shall be used solely for the payment of the Project Costs. The District shall disburse moneys in the Project Fund from time to time to pay Project Costs (or to reimburse the District for payment of Project Costs) upon execution of a Requisition of the District, substantially in the form attached hereto as Exhibit C, which: (A) states with respect to each disbursement to be made (i) the requisition number, (ii) the name and address of the person, firm or corporation to whom payment will be made, (iii) the amount to be disbursed, (iv) that each obligation mentioned therein is a proper charge against the Project Fund and has not previously been disbursed from amounts in the Project Fund, and (v) that the amount of such disbursement is for a Project Cost; (B) specifies in reasonable detail the nature

of the obligation; and (C) is accompanied by a bill or invoice for each obligation. Upon the execution of a Certificate of the District stating that the Project has been completed or that all Requisitions intended to be filed by the District have been filed, the District shall withdraw all amounts then on deposit in the Project Fund and transfer such amounts to the Revenue Fund, and the Project Fund shall thereupon be closed.

(c) The District expects that the Acquisition and Construction of the Project will be completed on or before September 1, 2020; provided, however, that the failure to complete any Project by September 1, 2020 shall not constitute an Event of Default hereunder or a grounds for termination hereof, nor shall such failure result in the diminution, abatement or extinguishment of the obligations of the District hereunder.

(d) The District shall have the right from time to time in its sole discretion to amend the description of the Project to be financed by the District hereunder. In order to exercise such right, the District shall file with the Bank (i) an opinion of Bond Counsel that such contemplated amendment will not adversely affect the tax-exempt status of the Interest Components on the 2018B Revenue Obligations for federal income tax purposes, and (ii) an amended Exhibit B hereto.

Section 3.4. Optional Prepayment. At its option, and upon thirty (30) days' notice to the Bank, the District may prepay the Principal Components maturing on or after November 1, 2018, in whole or in part in integral multiples of \$25,000, pro rata among Principal Components, from any source of available funds, on any date, at a redemption price equal to the principal amount of the Principal Components to be redeemed, plus accrued interest thereon to the date fixed for prepayment, without premium.

Section 3.5. Prepayment upon Casualty Loss or Governmental Taking. At its option, and upon thirty (30) days' prior written notice to the Bank, the 2018B Revenue Obligations shall be subject to prepayment in the same manner as set forth in Section 3.4, from the Net Proceeds of casualty insurance or a governmental taking of the Enterprise or portions thereof by eminent domain proceedings, under the circumstances and upon the conditions and terms prescribed herein.

Section 3.6. Execution of this Installment Sale Agreement. The execution of this Installment Sale Agreement by an Authorized Representative shall constitute conclusive evidence of such officers' and the Board's approval hereof, including any changes, insertions, revisions, corrections, or amendments as may have been made hereto.

Section 3.7. Establishment and Application of Costs of Issuance Fund. The Bank shall establish, maintain and hold in trust a separate fund designated as the "Costs of Issuance Fund." The moneys in the Costs of Issuance Fund shall be used and withdrawn by the Bank to pay the Costs of Issuance upon submission of sequentially numbered written Requisitions of the District, substantially in the form attached hereto as Exhibit D. Upon the Request of the District, but in no event later than five (5) Business Days after the execution and delivery of the 2018B Revenue Obligations, all amounts remaining in the Costs of Issuance Fund shall be transferred by the Bank to the District for deposit in the Revenue Fund.

Section 3.8. Establishment and Application of Reserve Fund. The District shall establish, maintain and hold in trust a separate fund designated as the "Reserve Fund" which shall

be held with the Bank, and shall be invested in Permitted Investments. The District, on or before the fifteenth (15th) day of each month next succeeding the determination of a deficiency in the Reserve Fund, shall transfer for deposit in the Reserve Fund an amount of money in the Revenue Fund (or other authorized deposit of security, as contemplated by the definition of Reserve Requirement) necessary to restore the amount in the Reserve Fund to the Reserve Requirement; provided, that no deposit of money from the Revenue Fund need be made into the Reserve Fund so long as there shall be on deposit therein an amount of money equal to the Reserve Requirement. All money in the Reserve Fund shall be used and withdrawn by the District solely for the purpose of replenishing the Interest Account or the Principal Account (in such order) in the event of any deficiency at any time in any of such accounts, or for the purpose of paying the interest on or principal of or redemption premiums, if any, on the 2018B Revenue Obligations in the event that no other money of the District is lawfully available therefor, but shall not be made available for any other purpose, including payment with respect to any other Parity Obligations.

Section 3.9. Validity of this Installment Sale Agreement. It is hereby found and determined that this Installment Sale Agreement is being executed and delivered pursuant to the Constitution and statutes of the State of California.

Section 3.10 Assignment by the Bank. The Bank's right, title and interest in and to this Installment Sale Agreement and all proceeds, with prior written notice to the District, may be assigned and reassigned in whole to one or more assignees or subassignees by Bank, without the necessity of obtaining the consent of District; provided, that any such assignee or subassignee represents that (i) such assignee or subassignee has sufficient knowledge and experience in financial and business matters to be able to evaluate the risks and merits of the investment, (ii) such assignee or subassignee understands that neither the Installment Sale Agreement or the 2018B Revenue Obligations will be registered under the Securities Act of 1933, (iii) such assignee or subassignee is either an "accredited investor" within the meaning of Regulation D under the Securities Act of 1933, or a "qualified institutional buyer" within the meaning of Rule 144A, and (iv) it is the present intention of such purchaser to acquire such interest (A) for investment for its own account or (B) for resale in a transaction exempt from registration under the Securities Act of 1933.

Section 3.11 Closing Conditions. The Bank has entered into this Installment Sale Agreement in reliance upon the representations and warranties of the District contained in this Installment Sale Agreement and to be contained in the documents and instruments to be delivered on the Closing Date and upon the performance by the District of the obligations of the District pursuant to this Installment Sale Agreement at or prior to the Closing Date. Accordingly, the obligation of Bank to execute this Installment Sale Agreement is subject to the fulfillment to the reasonable satisfaction of the Bank of the following conditions:

(a) The representations and warranties of the District contained in this Installment Sale Agreement shall be true, complete and correct on the Closing Date.

(b) All representations, warranties and covenants made herein, and in certificates or other instruments delivered pursuant hereto or in connection herewith, shall be deemed to have been relied upon by the Bank notwithstanding any investigation heretofore or hereafter made by the Bank or on their behalf.

(c) On the Closing Date, the Ordinance and this Installment Sale Agreement shall be in full force and effect and shall not have been amended, modified or supplemented, except as may have been agreed to in writing by the Bank.

(d) On the Closing Date, the District will have adopted and there will be in full force and effect such resolutions as in the opinion of Bond Counsel and counsel to the Bank shall be necessary in connection with the transactions contemplated by this Installment Sale Agreement, and all necessary action of the District relating to this Installment Sale Agreement will have been taken, will be in full force and effect and will not have been amended, modified or supplemented, except as may have been agreed to in writing by the Bank.

(e) At or prior to the Closing Date, the Bank will have received the following documents:

(i) the approving opinions, dated the Closing Date and addressed to the Bank, of Bond Counsel in form and content satisfactory to the Bank and its counsel, (I) addressing the tax-exempt status of the interest paid on this Installment Sale Agreement, and (II) this Installment Sale Agreement has been duly authorized, executed and delivered by the District and is the legal, valid and binding obligation of the District, enforceable in accordance with its terms subject to customary exceptions for bankruptcy and judicial discretion.

(ii) a certificate or certificates, dated the date of the Closing and signed on behalf of the District by an Authorized Representative, to the effect that (I) the representations and warranties contained in this Installment Sale Agreement are true and correct in all material respects on and as of the date of the Closing with the same effect as if made on the date of the Closing; (II) no litigation of any nature is then pending or, to his or her knowledge, threatened, seeking to restrain or enjoin the issuance and delivery of this Installment Sale Agreement or the levy or collection of revenues to pay the principal thereof and interest thereon, questioning the proceedings and authority by which such pledge is made, affecting the validity of the 2018B Revenue Obligations or contesting the existence or boundaries of the District or the title of the present officers to their respective offices; (III) no authority or proceedings for the issuance of the 2018B Revenue Obligations has been repealed, revoked or rescinded and no petition or petitions to revoke or alter the authorization to issue the 2018B Revenue Obligations has been filed with or received by the District; and (IV) the District has complied with all the agreements and covenants and satisfied all the conditions on its part to be performed or satisfied at or prior to, and to the extent possible before, the Closing Date.

(iii) a certified copy of the Ordinance;

(iv) the items required by the Ordinance as conditions for execution and delivery of the 2018B Revenue Obligations;

(v) copies of all insurance policies required by Section 5.6 hereof;

(vi) a non-arbitrage tax certificate of the District, in form and substance satisfactory to Bond Counsel;

(vii) the filing copy of the Information Return Form 8038-G; and

(viii) such additional legal opinions, certificates, instruments and other documents as the Bank or its counsel may reasonably request to evidence the truth and accuracy, as of the date of this Installment Sale Agreement and as of the Closing Date, of the representations, warranties, agreements and covenants of the District contained herein and the due performance or satisfaction by the District at or prior to the Closing Date of all agreements then to be performed and all conditions then to be satisfied by the District.

(f) The Bank has not become aware of any information not previously known to the Bank affecting the District or the financing contemplated by this Installment Sale Agreement that, in the Bank's reasonable judgment, is inconsistent in a material and adverse manner with any such information disclosed to the Bank prior to the Closing Date.

## ARTICLE IV

### SECURITY

Section 4.1. Pledge of Net Revenues. The District hereby irrevocably pledges all of the Net Revenues to the punctual payment of the Installment Payments. This pledge shall constitute a first lien on the Net Revenues for the payment of the Installment Payments in accordance with the terms hereof, which lien is on parity with the lien on Net Revenues that secures the payment of Parity Obligations. The Net Revenues will not be used for any other purpose while any of the Installment Payments are unpaid.

Section 4.2. Repayment of the 2018B Revenue Obligations. The District hereby agrees to repay the 2018B Revenue Obligations from Net Revenues in the aggregate principal amount of \$1,600,000 together with interest (calculated at the rate of 3. \_\_%) on the basis of a 360-day year of twelve 30-day months) on the unpaid principal balance thereof, payable in semiannual Installment Payments in the respective amounts and on the respective Installment Payment Dates specified in Exhibit A hereto, and by this reference made a part hereof; provided that in the event that any payment under the 2018B Revenue Obligations becomes due and payable on any day which is not a Business Day, the due date thereof shall be extended to the next succeeding Business Day, and, to the extent applicable, interest shall continue to accrue and be payable thereon during such extension at the rates set forth in this Installment Sale Agreement.

The Installment Payments shall be paid by the District to the Bank as follows, or at such other place as the Bank may designate in writing:

Payments by check:  
Compass Mortgage Corporation  
Attn: Nancy Allen  
P.O. Box 1190  
Leander, TX 78646  
(512) 421-5715

Payments by wire:  
Compass Mortgage Corporation  
ABA#: 113-010-547  
For Credit to: 90124099  
BBI: DO NOT POST. CONTACT LDFC  
PublicFinance@BBVACompass.com  
Reference: \_\_\_\_\_

Section 4.3. Revenues; Application of Enterprise Fund. The District hereby covenants and agrees that all Revenues, when and as received, will be received and held by the District in trust for the benefit of the Bank and owners of any Parity Obligations, and will be allocated and deposited by the District in the Enterprise Fund (which the District hereby covenants and agrees to establish and maintain so long as the 2018B Revenue Obligations and any Parity Obligations remains outstanding). All Revenues shall be disbursed, allocated and applied solely to the uses and purposes set forth as follows:

(a) Notwithstanding any other provision of this Installment Sale Agreement, the Series 2018A Installment Sale Agreement or the 2013 Loan Agreements to the contrary, so long as the 2018B Revenue Obligations or any other Parity Obligations remains outstanding, all Revenues in the Enterprise Fund shall be set aside or used by the District or deposited by the District with the trustee or fiscal agent with respect to Parity Obligations, as the case may be, as follows and in the following order of priority:

(1) Maintenance and Operation Costs. In order to carry out and effectuate the pledge and lien contained herein, the District agrees and covenants to pay all Maintenance and Operation Costs of the Enterprise (including amounts reasonably required to be set aside in contingency reserves for the maintenance and operation of the Enterprise, the payment of which is not then immediately required) as they become due and payable. The District shall annually prepare a budget for Maintenance and Operation Costs.

(2) Debt Service. Debt Service shall be paid in accordance with Section 4.4 and the terms hereof, and Section 4.4 of the 2013 Loan Agreements, and any other applicable provisions of legal agreements providing for the issuance of other Parity Obligations, respectively, without preference or priority, and, in the event of any insufficiency of such moneys, ratably based on the respective principal amounts (including any accreted value) without any discrimination or preference.

(3) Reserve Fund and Reserve Accounts. Payments required to replenish the amount on deposit in the Reserve Fund to the Reserve Requirement, and any other debt service reserve accounts established for Parity Obligations, shall be made in accordance with the terms hereof and such Parity Obligations, without preference or priority, and in the event of any insufficiency of such moneys, ratably without any discrimination or preference.

(4) Subordinate Obligation Repayment. Payments relating to principal and interest on or with respect to Subordinate Obligations in accordance with the terms of such Subordinate Obligations, without preference or priority, and in the event of any



insufficiency of such moneys, ratably based on the respective principal amounts (including any accreted value) without any discrimination or preference.

(5) Subordinate Obligations Reserve Accounts. To make payments required with respect to Subordinate Obligations to replenish reserve accounts established therefor in accordance with the terms of such Subordinate Obligations, without preference or priority, and in the event of any insufficiency of such moneys, ratably based on the respective principal amounts (including any accreted value) without any discrimination or preference.

(6) General Expenditures. For any lawful purpose of the District, including, but not limited to, any costs of capital improvements to the Enterprise, or deposits to the Rate Stabilization Fund.

Section 4.4. Revenue Fund; Allocation of Net Revenues.

(a) *Deposits into Revenue Fund; Transfers of Net Revenues*. In order to carry out and effectuate the pledge, charge and lien contained herein, the District agrees and covenants that all Net Revenues, when and as received, shall be promptly deposited by the District upon receipt thereof in a special fund designated as the "Revenue Fund" which fund is hereby created and which fund District shall establish, maintain and hold in trust; except that all moneys received by the District and required hereunder to be deposited in the Reserve Fund shall be promptly deposited in the Reserve Fund pursuant to Sections 3.8 and 4.3. Within the Revenue Fund the District shall establish and maintain a separate Interest Account and Principal Account therein. All Net Revenues shall be accounted for through and held in trust in the Revenue Fund, and the District shall have no beneficial right or interest in any of the Net Revenues therein, except otherwise herein provided. All Net Revenues, whether received by the District in trust or deposited with the District as herein provided, shall nevertheless be allocated, applied and disbursed solely to the purposes and uses hereinafter in this Article set forth, and shall be accounted for separately and apart from all other accounts, funds, money or other resources of the District.

(b) *Application of Revenue Fund*. On each Installment Payment Date, the District shall transfer from the Revenue Fund and deposit into the following respective accounts (each of which the District shall establish and maintain within the Revenue Fund), the following amounts in the following order of priority, the requirements of each such account (including the making up of any deficiencies in any such account resulting from lack of Net Revenues sufficient to make any earlier required deposit) at the time of deposit to be satisfied before any transfer is made to any account subsequent in priority:

(1) *Interest Account*. On each Installment Payment Date, the District shall deposit in the Interest Account an amount required to cause the aggregate amount on deposit in the Interest Account to equal the amount of Interest Component becoming due and payable on such Installment Payment Date, and any interest due on the 2018B Revenue Obligations by reason of prepayment. No deposit need be made into the Interest Account if the amount contained therein is at least equal to the interest becoming due and payable upon the 2018B Revenue Obligations on such Installment Payment Date. All moneys in the Interest Account shall be used and withdrawn by the District solely for the purpose of

paying interest on the 2018B Revenue Obligations as it shall become due and payable (including accrued interest on any Principal Component prepaid prior to maturity pursuant to this Installment Sale Agreement). In the event that the amounts on deposit in the Interest Account on any Installment Payment Date are insufficient for any reason to pay the aggregate amount of interest then coming due and payable on the 2018B Revenue Obligations, the District shall apply such amounts to the payment of interest on each of the Interest Components on a pro rata basis.

(2) *Principal Account.* On each Installment Payment Date on which the principal of the 2018B Revenue Obligations is payable, the District shall deposit in the Principal Account an amount required to cause the aggregate amount on deposit in the Principal Account to equal the principal amount of the 2018B Revenue Obligations coming due and payable on such corresponding Installment Payment Date, and any principal amount due on the 2018B Revenue Obligations by reason of prepayment. All moneys in the Principal Account shall be used and withdrawn by the District solely for the purpose of paying the principal of the 2018B Revenue Obligations at the maturity date.

(c) If on any Installment Payment Date of Principal Components or Interest Components the amount on deposit in the Revenue Fund is inadequate to make the transfers described in subsection (b) above, the District shall immediately notify the Bank of the amount needed to make the required deposits under subsection (b) above and shall transfer to the Revenue Fund any amounts on deposit from the Reserve Fund, as necessary to cure such deficiency.

(d) On each Installment Payment Date after making the transfers required under subsections (b) and (c) above, the District shall transfer from the Revenue Fund to the Reserve Fund the amount necessary to restore the Reserve Fund to the then applicable Reserve Requirement, and then to the Enterprise Fund.

Section 4.5. Special Obligation of the District; Obligations Absolute. The obligations of the District to pay the Installment Payments from Net Revenues, and to perform and observe the other agreements contained herein, shall be absolute and unconditional and shall not be subject to any defense or any right of setoff, counterclaim or recoupment arising out of any breach of the District, the Bank of any obligation to the District or otherwise with respect to the Enterprise, whether hereunder or otherwise, or out of indebtedness or liability at any time owing to the District by the Bank. Until such time as all of the Installment Payments shall have been fully paid or prepaid, the District (a) will not suspend or discontinue payment of any Installment Payments, (b) will perform and observe all other agreements contained in this Installment Sale Agreement, and (c) will not terminate this Installment Sale Agreement for any cause, including, without limiting the generality of the foregoing, the occurrence of any acts or circumstances that may constitute failure of consideration, eviction or constructive eviction, destruction of or damage to the Enterprise, sale of the Enterprise, the taking by eminent domain of title to or temporary use of any component of the Enterprise, commercial frustration of purpose, any change in the tax or other laws of the United States of America or the State or any political subdivision of either thereof or any failure of the Bank to perform and observe any agreement, whether express or implied, or any duty, liability or obligation arising out of or connected with this Installment Sale Agreement.

The District's obligation to pay the Installment Payments shall be a special obligation of the District limited solely to Net Revenues and the Reserve Fund. Under no circumstances shall the District be required to advance moneys derived from any source of income other than Net Revenues, Reserve Fund and other sources specifically identified herein for the payment of the Installment Payments, nor shall any other funds or property of the District be liable for the payment of the Installment Payments. Notwithstanding the foregoing provisions of this Section, however, nothing herein is intended to prohibit the District voluntarily from making any payment hereunder from any source of available funds of the District.

Section 4.6. Reduction upon Partial Prepayment. In the event the District prepays less than all of the remaining Principal Components of the Installment Payments pursuant to Sections 3.4 or 3.5 hereof, the amount of such prepayment shall be applied by the Bank to the outstanding Principal Components on a pro-rata basis.

Section 4.7. Rate on Overdue Installment Payments. In the event the District should fail to make any of the Installment Payments required in Section 4.2 hereof on or before the due date therefor, the Installment Payment in default shall continue as an obligation of the District until the amount in default shall have been fully paid and the District agrees to pay the same with interest thereon, to the extent permitted by law, from the date thereof at the Default Rate.

## ARTICLE V

### COVENANTS OF THE DISTRICT

Section 5.1. Operation and Maintenance of the Enterprise. The District will remain the sole and exclusive operator of the Enterprise, and any failure to do so shall constitute a Material Adverse Effect on the operation of the District. The District will maintain and preserve the Enterprise in good repair and working order at all times and will operate the Enterprise in an efficient and economical manner and will pay all Maintenance and Operation Costs of the Enterprise as they become due and payable.

Section 5.2. Against Sale or Other Disposition of Property. The District will not sell, lease, or otherwise dispose of the Enterprise or any part thereof essential to the proper operation of the Enterprise or to the maintenance of the Revenues. The District will not enter into any agreement or lease that impairs the operation of the Enterprise or any part thereof necessary to secure adequate Revenues for the payment of the 2018B Revenue Obligations or that would otherwise impair the rights of the District with respect to the Revenues or the operation of the Enterprise. Any real or personal property that has become nonoperative or that is not needed for the efficient and proper operation of the Enterprise, or any material or equipment that has become worn out, may be sold at not less than the fair market value thereof. The District shall deposit the proceeds of such sale in the Revenue Fund.

Section 5.3. Rates, Fees, and Charges. (a) The District will, at all times while the 2018B Revenue Obligations remains outstanding, fix, prescribe and collect rates, fees and charges in connection with the Enterprise so as to yield Revenues at least sufficient, after making reasonable

allowances for contingencies and errors in the estimates, to pay the following amounts in the order set forth below:

- (1) All Maintenance and Operation Costs of the Enterprise;
- (2) The Debt Service payments and all other payments (including payments under reimbursement agreements) with respect to all Parity Obligations as they become due and payable;
- (3) All amounts, if any, required to restore the balance in the Reserve Fund to the full amount of the Reserve Requirement, and to restore the balance in any other reserve accounts established for Parity Obligations in accordance with the terms of such Parity Obligations, without preference or priority; and
- (4) All payments required to meet any other obligations of the District that are charges, liens, encumbrances upon, or which are otherwise payable from the Revenues during such Fiscal Year.

(b) Furthermore, the District shall fix, prescribe, revise and collect rates, fees and charges for the services and facilities furnished by the Enterprise during each Fiscal Year which are sufficient to yield estimated Net Revenues which are at least equal to one hundred twenty-five percent (125%) of the aggregate amount of Debt Service on all Parity Obligations payable from Net Revenues coming due and payable during such Fiscal Year. The District may make adjustments, from time to time, in its rates, fees and charges as it deems necessary, but shall not reduce its rates, fees and charges below those in effect unless the Net Revenues resulting from such reduced rates, fees and charges shall at all times be sufficient to meet the requirements set forth in this paragraph.

(c) If the District violates the covenants set forth in subsections (a) or (b) hereof, such violation shall not, in and of itself, be a default under this Installment Sale Agreement and shall not give rise to a declaration of an Event of Default so long as (i) Net Revenues (calculated without taking into account any amounts transferred into the Revenue Fund from the Rate Stabilization Fund pursuant to subsection (d) below), are at least equal to the Maximum Annual Debt Service coming due and payable during such Fiscal Year, and (ii) (ii) within ninety (90) days after the date of violation (which is measured and commenced as of the last day of applicable quarterly report revealing the violation), the District either (y) transfers enough moneys from the Rate Stabilization Fund sufficient to yield estimated Net Revenues which are at least equal to one hundred twenty-five percent (125%) of the aggregate amount of Debt Service on all Parity Obligations payable from Net Revenues coming due and payable during such Fiscal Year in compliance with subsection (b) hereof, or (z) hires an Independent Financial Consultant to review the revenues and expenses of the Enterprise, and abides by such consultant's recommendations to revise the schedule of rates, fees, expenses and charges, and to revise any Maintenance and Operation Costs insofar as practicable, and to take such other actions as are necessary so as to produce Net Revenues to cure such violation for future compliance to the satisfaction of the Bank; provided, however, that, if the District does not, or cannot, transfer from the Rate Stabilization Fund the amount necessary to comply with subsection (b) hereof, or otherwise cure such violation within

one hundred and thirty-five (135) after the date such violation (which is measured and commenced as of the last day of applicable quarterly report revealing the violation), an Event of Default shall be deemed to have occurred under Section 6.1(a)(2) hereof.

(d) There is hereby created a separate fund to be known as the “Rate Stabilization Fund,” to be held and maintained by the District. The Rate Stabilization Fund is not pledged to secure payment of the Installment Payments. Amounts in the Rate Stabilization Fund shall be applied solely for the uses and purposes set forth in this subsection (d). The District shall have the right to deposit into the Rate Stabilization Fund from time to time any amount of funds which are legally available therefor; provided that deposits for each Fiscal Year may be made until (but not after) one hundred twenty (120) days following the end of such Fiscal Year.

For the purpose of computing the amount of Revenues for any Fiscal Year for purposes of the preceding subsection (a), or the amount of Net Revenues for any Fiscal Year for purposes of the preceding subsection (b), the District shall be permitted to transfer amounts on deposit in the Rate Stabilization Fund to the Revenue Fund, such transfers to be made until (but not after) one hundred twenty (120) days after the end of such Fiscal Year. In addition, the District shall be permitted to withdraw amounts on deposit in the Rate Stabilization Fund for any other lawful purpose. The Rate Stabilization Fund is not pledged to secure payment of the Installment Payments.

Section 5.4. Collection of Rates and Charges. The District will have in effect at all times rules and regulations requiring each consumer or customer located on any premises connected with the Enterprise to pay the rates, fees and charges applicable to such premises and providing for the billing thereof and for a due date and a delinquency date for each bill. Except in connection with the receipt of federal or State funding, the District will not permit any part of the Enterprise or any facility thereof to be used or taken advantage of free of charge by any corporation, firm or person, or by any public agency (including the United States of America, the State of California and any city, county, district, political subdivision, public corporation or agency of any thereof).

Section 5.5. Competitive Facilities. Except for any Harbor Enterprise facilities existing as of the date hereof, the District will not, to the extent permitted by law, acquire, maintain or operate and will not, to the extent permitted by law and within the scope of its powers, permit any other public or private agency, authority, city, or political subdivision or any person whomsoever to acquire, maintain or operate within the District any facilities or utility systems competitive with the Enterprise; provided, however, that the District may, with the written consent of the Bank, assign all or a portion of the Enterprise to another entity upon delivery to the Bank of an opinion of counsel experienced in the field of law relating to municipal bonds that such assignment will not adversely affect the tax-exempt status of the 2018B Revenue Obligations, and provided such entity assumes the obligations of the District hereunder.

Section 5.6. Insurance. (a) The District will procure and maintain insurance on the Enterprise, including a satisfactory business interruption insurance policy of not less than 12 months, with commercial insurers or through participation in a joint powers insurance authority, in such amounts, with such deductibles and against such risks (including accident to or destruction of the Enterprise) as are usually insurable in accordance with industry standards with respect to similar enterprises.

In the event of any damage to or destruction of the Enterprise caused by the perils covered by such insurance, the proceeds of such insurance shall be applied to the repair, reconstruction or replacement of the damaged or destroyed portion of the Enterprise. The District shall cause such repair, reconstruction or replacement to begin promptly after such damage or destruction shall occur and to continue and to be properly completed as expeditiously as possible, and shall payout of the proceeds of such insurance all costs and expenses in connection with such repair, reconstruction or replacement so that the same shall be completed and the Enterprise shall be free and clear of all liens and claims. If the proceeds received by reason of any such loss shall exceed the costs of such repair, reconstruction or replacement, the excess shall be applied to prepay the 2018B Revenue Obligations and any other Parity Obligations, on a pro rata basis, in the manner provided in Section 3.5 hereof and in the instruments authorizing such Parity Obligations.

Alternatively, if the proceeds of such insurance are sufficient to enable the District to retire all outstanding Parity Obligations and all other amounts due hereunder, the District may elect not to repair, reconstruct or replace the damaged or destroyed portion of the Enterprise, and thereupon such proceeds shall be applied to the prepayment of such Parity Obligations and to the payment of all other amounts due hereunder, and as otherwise required by the documents pursuant to which other Parity Obligations were issued.

(b) The District will procure and maintain commercial general liability insurance covering claims against the District for bodily injury or death, or damage to property, occasioned by reason of the ownership or operation of the Enterprise, such insurance to afford protection in such amounts and against such risks as are usually covered in connection with similar enterprises.

(c) The District will procure and maintain workers' compensation insurance against liability for compensation under the Workers' Compensation Insurance and Safety Act of California, or any act hereafter enacted as an amendment or supplement or in lieu thereof; such insurance to cover all persons employed in connection with the Enterprise.

(d) All policies of insurance required to be maintained herein shall provide that the Bank shall be given thirty (30) days' written notice of any intended cancellation thereof or reduction of coverage provided thereby.

(e) In lieu of obtaining insurance coverage as required by this Section, such coverage may, with the prior written consent of the Bank, be maintained by the District in the form of self-insurance. The District shall certify to the Bank that (i) the District has segregated amounts in a special insurance reserve meeting the requirements of this Section; (ii) an Insurance Consultant certifies annually, on or before January 1 of each year in which self-insurance is maintained, in writing to the Bank that the District's general insurance reserves are actuarially sound and are adequate to provide the necessary coverage; and (iii) such reserves are held in a separate trust fund by an independent trustee. Any statements of self-insurance shall be delivered to the Bank. The District shall pay or cause to be paid when due the premiums for all insurance policies required hereby.

The District shall cause the Bank to be named as an additional insured with respect to the District's liability insurance, and as a loss payee with respect to any property damage insurance.

The District shall not allow any insurance to expire without thirty (30) days prior written notice to the Bank.

Notwithstanding the foregoing, Bank has reviewed the District's current insurance coverage and deems it appropriate coverage, as required by this Section 5.6.

Section 5.7. Eminent Domain. If all or any part of the Enterprise shall be taken by eminent domain proceedings, the resulting Net Proceeds thereof shall be applied as follows:

(a) If (1) the District delivers to the Bank a Certificate of the District showing (i) the estimated loss of annual Net Revenues, if any, suffered or to be suffered by the District by reason of such eminent domain proceedings, (ii) a general description of the additions, betterments, extensions or improvements to the Enterprise proposed to be acquired by the District from any Net Proceeds, and (iii) an estimate of the additional annual Net Revenues to be derived from such additions, betterments, extensions or improvements, and (2) on the basis of such certificate, determines that the estimated additional annual Net Revenues will sufficiently offset the estimated loss of annual Net Revenues resulting from such eminent domain proceedings so that the ability of the District to meet its obligations hereunder will not be substantially impaired (which determination shall be final and conclusive); then the District shall promptly proceed with the acquisition of such additions, betterments, extensions or improvements substantially in accordance with such Certificate of the District and such Net Proceeds shall be applied for the payment of the costs of such acquisition, and any balance of such Net Proceeds not required by the District for such purpose shall be applied to prepay the Principal Components and any other Parity Obligations, on a pro rata basis, in the manner provided in Section 3.5 hereof and in the instruments authorizing such other Parity Obligations.

(b) If the foregoing conditions are not met, then such Net Proceeds shall be applied to prepay the Principal Components and any other Parity Obligations, on a pro rata basis, in the manner provided in Section 3.5 hereof and in the instruments authorizing such other Parity Obligations.

Section 5.8. Additional Information. The District agrees to furnish to the Bank, promptly, from time to time, such information regarding the operations, financial condition and property of the District and the Enterprise as the Bank may reasonably request.

Section 5.9. Compliance with Law and Contracts. The District will faithfully comply with, keep, observe, and perform all valid and lawful obligations or regulations now or hereafter imposed on its operation of the Enterprise by contract, or prescribed by any law of the United States of America or of the State of California, or by any officer, board, or commission having jurisdiction or control.

Section 5.10. Punctual Payment. The District will punctually pay the principal and interest to become due in respect of the 2018B Revenue Obligations, in strict conformity with the terms hereof, and will faithfully observe and perform all the agreements, conditions, covenants and terms contained herein required to be observed and performed by it, and will not rescind this Installment Sale Agreement for any cause.

Section 5.11. Reserved.

Section 5.12. Protection of Security. The District will preserve and protect the security of the 2018B Revenue Obligations against all claims and demands of all persons. From and after the Closing Date, the 2018B Revenue Obligations shall be incontestable by the District.

Section 5.13. Parity Obligations.

(a) So long as the 2018B Revenue Obligations are outstanding, the District shall not issue or incur any obligations payable from Revenues or Net Revenues senior or superior to the payment of Debt Service on the 2018B Revenue Obligations. The District may at any time issue Parity Obligations payable from Net Revenues on a parity with Debt Service on the 2018B Revenue Obligations to provide financing or refinancing for the Enterprise in such principal amount as shall be determined by the District. The District may issue or incur any such Parity Obligations subject to the following specific conditions, which are hereby made conditions precedent to the issuance and delivery of such Parity Obligations:

(1) No Event of Default shall have occurred and be continuing;

(2) The Net Revenues (calculated without taking into account any amounts transferred into the Revenue Fund from the Rate Stabilization Fund pursuant to Section 5.3(d) hereof), calculated in accordance with Generally Accepted Accounting Principles, either (i) as shown by the books of the District for the latest Fiscal Year, as verified by a certificate of an Authorized Representative of the District, or (ii) as shown by the books of the District for any more recent twelve (12) month period selected by the District, as verified by a certificate or opinion of an Independent Certified Public Accountant employed by the District, plus in either case (at the option of the District) the Additional Revenues, shall be at least equal to one hundred twenty-five percent (125%) of the amount of Maximum Annual Debt Service on all outstanding Parity Obligations and the Parity Obligations to be issued (the "Parity Obligations Coverage Requirement");

(3) Except with respect to the 2018B Revenue Obligations, and at the District's sole discretion, there shall be established from the proceeds of such Parity Obligations a reserve fund for the security of such Parity Obligations, in an amount equal to the lesser of (i) the maximum amount of debt service required to be paid by the District with respect to such Parity Obligations during any Fiscal Year and (ii) the maximum amount then permitted under the Code, in either event as certified in writing by the District.

The provisions of subsection (2) of this Section shall not apply to any Parity Obligations if, and to the extent that (i) all of the proceeds of such Parity Obligations (other than proceeds applied to pay costs of issuing such Parity Obligations and to make the reserve fund deposit required pursuant to subsection (3) of this Section, if any) shall be deposited in an irrevocable escrow held in cash or invested in Federal Securities for the purpose of paying the principal of and interest and premium (if any) on such outstanding Parity Obligations being refunded, (ii) at the time of the incurring of such Parity Obligations, the District certifies in writing that maximum annual debt service on such Parity Obligations will not exceed Maximum Annual Debt Service on the outstanding Parity Obligations being refunded, and (iii) the final maturity of such Parity Obligations is not later than the final maturity of the Parity Obligations being refunded.



(b) In order to maintain the parity relationship of debt service payments on all Parity Obligations permitted hereunder, the District covenants that all payments in the nature of principal and interest or reserve account replenishment with respect to any Parity Obligations, will be structured to occur semi-annually on the Installment Payment Dates and in each year as such payments are due with respect to the debt service payments on this Installment Sale Agreement, and reserve account replenishment with respect to any Parity Obligations will be structured to occur simultaneous with the Reserve Fund replenishment, and to otherwise structure the terms of such Parity Obligations to ensure that they are in all respects payable on a parity with the debt service payments on Parity Obligations and not prior thereto.

(c) The District may at any time execute contracts or issue bonds or other indebtedness payable from Net Revenues or the Revenue Fund payable on a subordinated basis to the payment of the Debt Service payments on Parity Obligations.

Section 5.14. Against Encumbrances. The District hereby covenants and agrees that it shall not incur any obligations that are secured by a pledge and lien on the Net Revenues that is senior to the pledge and lien on the Net Revenues contained herein. The District will not make any pledge of or place any lien on the Net Revenues except as provided herein. The District may pledge Net Revenues to secure Parity Obligations issued in accordance with Section 5.13 hereof. The District may at any time, or from time to time, issue evidences of indebtedness for any lawful purpose that are payable from and secured by a pledge of and lien on Net Revenues that is subordinate in all respects to the pledge of and lien on the Net Revenues provided herein.

Section 5.15. Further Assurances. The District will adopt, make, execute and deliver any and all further resolutions, instruments, and assurances as may be reasonably necessary or proper to carry out the intention or to facilitate the performance hereof and for the better assuring and confirming unto the Bank of the rights and benefits provided to it herein.

Section 5.16. Financial Reports. Promptly upon receipt by the District and in no event later than two hundred ten (210) days after the close of each Fiscal Year (unless otherwise agreed in writing by the Bank), the District will furnish, or cause to be furnished, to the Bank an audit report of an Independent Certified Public Accountant with respect to such Fiscal Year, covering the operations of the Enterprise for said Fiscal Year. Such audit report shall include statements of the status of each account pertaining to the Enterprise, showing the amount and source of all deposits therein, the amount and purpose of the withdrawals therefrom and the balance therein at the beginning and end of said Fiscal Year. Each such audit, in addition to whatever matters may be considered proper by the Independent Certified Public Accountant to be included therein, shall include a statement as to whether or not the Net Revenues for such Fiscal Year were equal to at least 1.25 times the Debt Service for such Fiscal Year, calculated as provided in Section 5.3 hereof. In addition, the District shall deliver to the Bank, not later than thirty (30) days after each Fiscal Year end, commencing with Fiscal Year ending March 31, 2019, a copy of the District's adopted budget for the then current Fiscal Year.

The District shall also provide the Bank with quarterly unaudited financial statements and covenant compliance certificates, including (i) supporting calculations of rate coverage covenants and Reserve Fund Requirement compliance (each tested quarterly on a trailing twelve (12) month basis), and (ii) officer's statement of compliance, due within 45 days of each fiscal quarter end,

commencing with fiscal quarter ending September 30, 2018 as well as such other information as shall reasonably be requested by the Bank from time to time.

Section 5.17. Opinion of District Counsel. The District will cause to be delivered to the Bank an opinion issued by the District's counsel on the date of delivery of the 2018B Revenue Obligations, to the effect that (i) the District is a port district and public corporation duly organized and existing under the laws of the State of California; (ii) this Installment Sale Agreement was duly approved at a meeting of the Board that was called and held pursuant to law and with all public notice required by law and at which a quorum was present and acting throughout; (iii) there is no action, suit, proceeding or investigation at law or in equity before or by any court, public board or body, pending or, to the best knowledge of such counsel after reasonable investigation, threatened against or affecting the District, to restrain or enjoin the execution and delivery of this Installment Sale Agreement, or in any way contesting or affecting the validity of this Installment Sale Agreement, (iv) the adoption of this Installment Sale Agreement and compliance by the District with the provisions hereof, under the circumstances contemplated hereby, do not and will not constitute on the part of the District a breach or default under any agreement or other instrument to which the District is a party or by which it is bound (that are known to the District's counsel) or any existing law, regulation, court order or consent decree to which the District is subject.

Section 5.18. Observance of Laws and Regulations. The District will well and truly keep, observe and perform or cause to be kept, observed and performed all valid and lawful obligations or regulations now or hereafter imposed on it by contract, or prescribed by any law of the United States, or of the State, or by any officer, board or commission having jurisdiction or control, as a condition of the continued enjoyment of any and every right, privilege or franchise now owned or hereafter acquired and enjoyed by the District, including the District's right to exist and carry on business as a port district, to the end that such rights, privileges and franchises shall be maintained and preserved, and shall not become abandoned, forfeited or in any manner impaired.

Section 5.19. Private Activity Bond Limitation. The District shall assure that monies deposited pursuant to this Installment Sale Agreement are not so used as to cause this Installment Sale Agreement to satisfy the private business tests of section 141(b) of the Code or the private loan financing test of section 141(d) of the Code.

Section 5.20. Federal Guarantee Prohibition. The District shall not take any action or permit or suffer any action to be taken if the result of the same would be to cause this Installment Sale Agreement or the Interest Components of the Installment Payments to be "federally guaranteed" within the meaning of section 149(b) of the Code.

Section 5.21. Maintenance of Tax Exemption. The District shall take all actions necessary to assure the exclusion of the Interest Components of the Installment Payments from the gross income of the Bank to the same extent as such interest is permitted to be excluded from gross income under the Code as in effect on the Closing Date. If the District causes the Interest Components of the Installment Payments becomes includable in the gross income of the Bank for federal income tax purposes under the Code, the District, at the option of the Bank, shall pay to the Bank within thirty days of such determination, the amount which, with respect to Installment Payments previously paid and taking into account all penalties, fines, interest and additions to tax (including all federal, state and local taxes imposed on the interest component of the Installment

Payments due through the date of such determination) that are imposed on the Bank as a result of the loss of the exclusion, will restore the Bank to the same after-tax yield on the transaction evidenced by this Installment Sale Agreement (assuming tax at the actual marginal corporate rate) that it would have realized had the tax exemption not been lost. Furthermore, the District agrees that upon the occurrence of such an event, it shall pay additional amounts to the Bank on each succeeding Installment Payment Date such amount as will maintain such after-tax yield to the Bank. Notwithstanding any such recalculation of the Installment Payments, the District shall at all times have the option to prepay all or part of the Installment Payments in accordance with Section 3.4 hereof.

Section 5.22. Rebate Requirement. The District shall take any and all actions necessary to assure compliance with Section 148(f) of the Code, relating to the rebate of excess investment earnings, if any, to the federal government.

Section 5.23. No Arbitrage. The District shall not take any action with respect to the proceeds of this Installment Sale Agreement which, if such action had been reasonably expected to have been taken, or had been deliberately and intentionally taken, on the date this Installment Sale Agreement was entered into would have caused this Installment Sale Agreement to be an "arbitrage bond" within the meaning of Section 148 of the Code.

Section 5.24. Budget. The District hereby covenants to take such action as may be necessary to include all Installment Payments and all other amounts due hereunder in its annual budget and to make the necessary annual appropriations for all such Installment Payments and all other amount due hereunder.

Section 5.25. Notices. The District shall provide to the Bank:

(a) Immediate notice by telephone, promptly confirmed in writing, of any event, action or failure to take any action which constitutes an Event of Default under this Installment Sale Agreement or any other Obligation, together with a detailed statement by an Authorized Representative of the steps being taken by the District to cure the effect of such Event of Default, or event of default under any other obligation, as the case may be.

(b) Within ten (10) calendar days (i) of any action, suit or proceeding or any investigation, inquiry or similar proceeding by or before any court or other governmental authority, domestic or foreign, against the District or the Enterprise or the Revenues which involve claims equal to or in excess of \$500,000 or that seeks injunctive relief, or (ii) of any loss or destruction of or damage to any portion of the Enterprise in excess of \$500,000.

(c) Within ten (10) calendar days of any Material Litigation, or any investigation, inquiry or similar proceeding by any Governmental Authority with respect to any matter that relates to or could impact any Revenues.

(d) Within ten (10) calendar days of any termination or cancellation of any insurance policy which the District is required to maintain, or any uninsured or partially uninsured loss through liability or property damage, or through fire, theft or any other cause affecting the District property in excess of an aggregate of \$500,000.

(e) Within ten (10) calendar days of a request from the Bank (if the request is initially oral, the Bank shall as soon as practicable thereafter follow-up such oral request with a request in writing), such other information respecting the District, Enterprise, and the operations, affairs and financial condition of the District as the Bank may from time to time reasonably request.

The covenants on the part of the District herein contained shall be deemed to be and shall be construed to be ministerial duties imposed by law and it shall be the ministerial duty of each and every public official of the District to take such action and do such things as are required by law in the performance of such official duty of such officials to enable the District to carry out and perform the covenants and agreements on the part of the District contained in this Installment Sale Agreement.

## ARTICLE VI

### EVENTS OF DEFAULT AND REMEDIES

#### Section 6.1. Events of Default and Remedies.

(a) Events of Default. The following shall be Events of Default hereunder:

(1) Failure by the District to pay any Principal Component or Interest Component on the 2018B Revenue Obligations when due and payable.

(2) Failure by the District to observe and perform any covenant, condition or agreement on its part contained herein pertaining to the Enterprise, other than in clause (1) of this subsection, for a period of thirty (30) days after written notice specifying such failure and requesting that it be remedied has been given to the District by the Bank; *provided, however,* if in the reasonable opinion of the District the failure stated in the notice can be corrected, but not within such thirty (30) day period, the Bank shall not unreasonably withhold its consent to an extension of such time if corrective action is instituted by the District within such thirty (30) day period and diligently pursued until the default is corrected.

(3) Default by the District under any Parity Obligation (or Subordinate Obligation which requires or permits the immediate acceleration thereof).

(4) Institution of any proceeding under the United States Bankruptcy Code or any federal or state bankruptcy, insolvency, or similar law or any law providing for the appointment of a receiver, liquidator, trustee, or similar official of the District or of all or substantially all of its assets, by or with the consent of the District, or institution of any such proceeding without its consent that is not permanently stayed or dismissed within sixty days, or agreement by the District with the District's creditors to effect a composition or extension of time to pay the District's debts, or request by the District for a reorganization or to effect a plan of reorganization, or for a readjustment of the District's debts, or a general or any assignment by the District for the benefit of the District's creditors.

(5) Any statement, representation or warranty made by the District in or pursuant to this Installment Sale Agreement or its execution, delivery or performance proves to have been false, incorrect, misleading, or breached in any material respect on the date made, and is continuing for a period of thirty (30) days after written notice specifying such misrepresentation or breach and requesting that it be remedied has been given to the District by the Bank; provided, however, that the Bank and the District may agree that action by the District to cure such failure may be extended beyond such thirty-day period.

(6) This Installment Sale Agreement or any material provision of this Installment Sale Agreement shall at any time for any reason cease to be the legal, valid and binding obligation of the District or shall cease to be in full force and effect, or shall be declared to be unenforceable, invalid or void, or the validity or enforceability thereof shall be contested by the District, or the District shall renounce the same or deny that it has any further liability hereunder.

(7) Dissolution, termination of existence or insolvency of the District.

(8) Any court of competent jurisdiction with jurisdiction to rule on the validity of any provision of this Installment Sale Agreement shall find or rule that this Installment Sale Agreement is not valid or not binding on the District.

(b) Remedies on Default. Whenever any Event of Default shall have happened and be continuing, the Bank shall have the right, at its option upon notice to the District, to declare the unpaid aggregate Principal Components of the 2018B Revenue Obligations, and the interest accrued thereon, to be immediately due and payable, whereupon the same shall immediately become due and payable.

The Bank shall also have the right, at its option and without any further demand or notice, to (i) apply to and obtain from any court of competent jurisdiction such decree or order as may be necessary to require officials of the District to charge and collect rates for services provided by the District and the Enterprise sufficient to meet all requirements of this Installment Sale Agreement, and (ii) take whatever action at law or in equity as may appear necessary or desirable to collect the Installment Payments then due or thereafter to become due during the Term of this Installment Sale Agreement, or enforce performance and observance of any obligation, agreement or covenant of the District under this Installment Sale Agreement, subject to the following paragraph.

Notwithstanding any provision of this Installment Sale Agreement, the District's liability to pay the Installment Payments and other amounts hereunder shall be limited solely to Net Revenues as provided in Article IV hereof. In the event that Net Revenues shall be insufficient at any time to pay a Principal Component and/or an Interest Component in full, the District shall not be liable to pay or prepay such delinquent Installment Payment other than from Net Revenues, and from moneys in the Reserve Fund.

Section 6.2. Application of Funds Upon Acceleration. Upon the date of the declaration of acceleration as provided in Section 6.1, all Net Revenues thereafter received by the District shall be applied in the following order:

First, to the payment, without preference or priority, and in the event of any insufficiency of such Net Revenues ratably without any discrimination or preference, of the fees, costs and expenses of the Bank if any, in carrying out the provisions of this article, including reasonable compensation to their respective accountants and counsel; and

Second, to the payment of the entire unpaid aggregate Principal Components of the 2018B Revenue Obligations and the unpaid principal amount of any other Parity Obligations and the accrued interest thereon, with interest on the overdue payments at the rate or rates of interest applicable to the 2018B Revenue Obligations and such other Parity Obligations if paid in accordance with their respective terms.

Third, to the unpaid principal amount of any Subordinate Obligations and the accrued and unpaid interest thereon.

Section 6.3. Other Remedies of the Bank. The Bank shall have the right:

(a) by mandamus or other action or proceeding or suit at law or in equity to enforce its rights against the District or any director, officer or employee thereof, and to compel the District or any such director, officer or employee to perform and carry out its or his duties under the agreements and covenants required to be performed by it or him contained herein;

(b) by suit in equity to enjoin any acts or things that are unlawful or violate the rights of the Bank; or

(c) by suit in equity upon the happening of an Event of Default to require the District and its Board members, officers and employees to account as the trustee of an express trust.

Section 6.4. Non-Waiver. Nothing in this article or in any other provision hereof, or in the 2018B Revenue Obligations, shall affect or impair the obligation of the District, which is absolute and unconditional, to pay the principal of and interest on the 2018B Revenue Obligations to the Bank when due, as herein provided, out of the Net Revenues herein pledged for such payment, or shall affect or impair the right of the Bank, which is also absolute and unconditional, to institute suit to enforce such payment by virtue of the contract embodied in this Installment Sale Agreement.

A waiver of any default or breach of duty or contract by the Bank shall not affect any subsequent default or breach of duty or contract or impair any rights or remedies on any such subsequent default or breach of duty or contract. No delay or omission by the Bank to exercise any right or remedy accruing upon any default or breach of duty or contract shall impair any such right or remedy or shall be construed to be a waiver of any such default or breach of duty or contract or an acquiescence therein, and every right or remedy conferred upon the Bank by law or by this article may be enforced and exercised from time to time and as often as shall be deemed expedient by the Bank. If any action, proceeding or suit to enforce any right or exercise any remedy is abandoned or determined adversely to the Bank, the District and the Bank shall be restored to their former positions, rights and remedies as if such action, proceeding or suit had not been brought or taken.

Section 6.5. Remedies Not Exclusive. No remedy herein conferred upon or reserved to the Bank is intended to be exclusive of any other remedy. Every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity.

Section 6.6. Prosecution and Defense of Suits. The District shall promptly, upon request of the Bank or its assignee, from time to time take or cause to be taken such action as may be necessary or proper to remedy or cure any defect in or cloud upon the title to the Enterprise whether now existing or hereafter arising and shall prosecute all such suits, actions and other proceedings as may be appropriate for such purpose.

## ARTICLE VII

### NOTICES; JUDICIAL REFEREE

Section 7.1. Notices. All notices, certificates or other communications hereunder shall be in writing and shall be deemed to have been properly given on the earlier of (i) when delivered in person, (ii) the third Business Day following deposit in the United States Mail, with adequate postage, and sent by registered or certified mail, with return receipt requested to the appropriate party at the address set forth below, or (iii) the first Business Day following deposit with Federal Express, Express Mail or other overnight delivery service for next day delivery, addressed to the appropriate party at the address set forth below.

If to the District: Santa Cruz Port District  
135 5th Avenue  
Santa Cruz, CA 95062  
Attention: Port Director  
Fax: (831) 475-9558

If to the Bank: BBVA Compass Bank  
8777 Sierra College Blvd.  
Suite 200  
Roseville, CA 95661  
Attention:  
Fax: (916) 789-4405

With a copy to: Compass Mortgage Corporation  
201 N. Hwy 183 (overnight delivery only)  
Leander, TX 78641  
Attention: Nancy Allen

Section 7.2. Judicial Referee.

(a) *Judicial Referee.* The Bank and the District hereby agree: (i) each proceeding or hearing based upon or arising out of, directly or indirectly, this Installment Sale Agreement or any document related thereto, any dealings between the District and the Bank related to the subject

matter of this Installment Sale Agreement or any related transactions, and/or the relationship that is being established between the District and the Bank (hereinafter, a "Claim") shall be determined by a consensual general judicial reference (the "Referee") pursuant to the provisions of Section 638 et seq. of the California Code of Civil Procedure, as such statutes may be amended or modified from time to time; (ii) upon a written request, or upon an appropriate motion by either the Bank or the District, as applicable, any pending action relating to any Claim and every Claim shall be heard by a single Referee (as defined below) who shall then try all issues (including any and all questions of law and questions of fact relating thereto), and issue findings of fact and conclusions of law and report a statement of decision. The Referee's statement of decision will constitute the conclusive determination of the Claim. The Bank and the District agree that the Referee shall have the power to issue all legal and equitable relief appropriate under the circumstances before the Referee; (iii) the Bank and the District shall promptly and diligently cooperate with one another, as applicable, and the Referee, and shall perform such acts as may be necessary to obtain prompt and expeditious resolution of all Claims in accordance with the terms of this Section 7.2; (iv) either the Bank or the District, as applicable, may file the Referee's findings, conclusions and statement with the clerk or judge of any appropriate court, file a motion to confirm the Referee's report and have judgment entered thereon if the report is deemed incomplete by such court, the Referee may be required to complete the report and resubmit it; (v) the Bank and the District, as applicable, will each have such rights to assert such objections as are set forth in Section 638 et seq. of the California Code of Civil Procedure; and (vi) all proceedings shall be closed to the public and confidential, and all records relating to the Referee shall be permanently sealed when the order thereon becomes final.

(b) *Selection of Referee; Powers.* The parties to the Referee proceeding shall select a single neutral referee (the "Referee"), who shall be a retired judge or justice of the courts of the State of California, or a federal court judge, in each case, with at least ten (10) years of judicial experience in civil matters. The Referee shall be appointed in accordance with Section 638 of the California Code of Civil Procedure (or pursuant to comparable provisions of federal law if the dispute falls within the exclusive jurisdiction of the federal courts). If within ten (10) days after the request or motion for the Referee, the parties to the Referee proceeding cannot agree upon a Referee, then any party to such proceeding may request or move that the Referee be appointed by the Presiding Judge of the Santa Cruz County Superior Court, or of the U.S. District Court for the Eastern District of California. The Referee shall determine all issues relating to the applicability, interpretation, legality and enforceability of this Section 7.2.

(c) *Provisional Remedies and Self Help.* No provision of this Section 7.2 shall limit the right of either the Bank or the District, as the case may be, to (i) exercise such self-help remedies as might otherwise be available under applicable law, or (ii) obtain or oppose provisional or ancillary remedies, including without limitation injunctive relief, writs of possession, the appointment of a receiver, and/or additional or supplementary remedies from a court of competent jurisdiction before, after, or during the pendency of any Referee. The exercise of, or opposition to, any such remedy does not waive the right of the Bank or the District to the Referee pursuant to this Section 7.2(c).

(d) *Costs and Fees.* Promptly following the selection of the Referee, the parties to such Referee proceeding shall each advance equal portions of the estimated fees and costs of the



Referee. In the statement of decision issued by the Referee, the Referee shall award costs, including reasonable attorneys' fees, to the prevailing party, if any, and may order the Referee's fees to be paid or shared by the parties to such Referee proceeding in such manner as the Referee deems just.

## ARTICLE VIII

### AMENDMENTS; DISCHARGE; GENERAL AUTHORIZATION; EFFECTIVE DATE

Section 8.1. Amendments Permitted. (a) This Installment Sale Agreement and the rights and obligations of the District and of the Bank may be modified or amended at any time by a written supplemental agreement entered into by the District and the Bank.

(b) From and after the time any supplemental agreement becomes effective pursuant to this Article, this Installment Sale Agreement shall be deemed to be modified and amended in accordance therewith, and the respective rights, duties, and obligations under this Installment Sale Agreement and the Bank shall thereafter be determined, exercised, and enforced hereunder subject in all respects to such modification and amendments, and all the terms and conditions of any such supplemental agreement shall be deemed to be part of the terms and conditions of this Installment Sale Agreement for any and all purposes.

Section 8.2. Discharge of Installment Sale Agreement. (a) If the District shall pay or cause to be paid or there shall otherwise be paid to the Bank all of the principal of and the interest and the prepayment premium, if any, on this Installment Sale Agreement at the times and in the manner stipulated herein, then all agreements, covenants and other obligations of the District to the Bank hereunder shall thereupon cease, terminate and become void and be discharged and satisfied.

(b) This Installment Sale Agreement shall be deemed to have been paid within the meaning and with the effect expressed in subsection (a) of this section if (1) in case this Installment Sale Agreement is to be prepaid on any date prior to its final principal payment date, the District shall have mailed a notice of prepayment to the Bank, (2) there shall have been deposited with the Bank or an escrow agent either money in an amount that shall be sufficient or Federal Securities, the interest on and principal of which when paid will provide money that, together with the money, if any, deposited with the Bank or such escrow agent at the same time, shall be sufficient to pay when due the interest to become due on this Installment Sale Agreement on and prior to the final principal payment date or prepayment date thereof, as the case may be, and the principal of and prepayment premiums, if any, on this Installment Sale Agreement on and prior to the final principal payment date or the prepayment date thereof, as the case may be, and (3) if this Installment Sale Agreement is not subject to prepayment within the next succeeding sixty (60) days, the District shall have mailed a notice to the Bank that the deposit required by clause (2) above has been made with the Bank or such escrow agent and that this Installment Sale Agreement is deemed to have been paid in accordance with this section and stating the principal payment dates or prepayment date, as the case may be, upon which money is to be available for the payment of the principal of and prepayment premiums, if any, on this Installment Sale Agreement.

(c) Pursuant to Section 8.2 (b), the money or securities so to be deposited or held may

include money or securities held by the District in the funds and accounts established pursuant to this Installment Sale Agreement, and shall be:

(i) lawful money of the United States of America in an amount equal to the principal amount of such Principal Components and all unpaid interest thereon to maturity, except that, in the case of Principal Components which are to be redeemed prior to maturity and in respect of which notice of such redemption shall have been given as provided in Section 3.4 or provision satisfactory to the Bank shall have been made for the giving of such notice, the amount to be deposited or held shall be the principal amount of such Principal Components and all unpaid interest thereon to the redemption date; or

(ii) Defeasance Obligations, the principal of and interest on which when due will, in the written opinion of an Independent Certified Public Accountant filed with the District and the Bank, provide money sufficient to pay the Principal Components of and Interest Components and premium (if any) on the 2018B Revenue Obligations to be paid or redeemed, as such Principal Components, Interest Components and premium become due, provided that in the case of Principal Components which are to be redeemed prior to the maturity thereof, notice of such redemption shall have been given as provided in Section 3.4 or provision satisfactory to the Bank shall have been made for the giving of such notice;

provided, in each case, that (i) the District shall have irrevocably instructed (by the terms of this Installment Sale Agreement) that such money shall be applied to the payment of such Principal Components, Interest Components and premium (if any) with respect to such 2018B Revenue Obligations, and (ii) the District shall have delivered to the Bank an opinion of Bond Counsel to the effect that such Principal Components of the 2018B Revenue Obligations have been discharged in accordance with this Installment Sale Agreement (which opinion may rely upon and assume the accuracy of the Independent Certified Public Accountant's opinion referred to above).

Section 8.3. General Authorization. The Authorized Representatives of the District, and each of them individually, are hereby authorized and directed, for and in the name of and on behalf of the District, to execute and deliver any and all documents (including specifically the Escrow Agreement), to do any and all things and take any and all actions that may be necessary or advisable, in their discretion, in order to consummate the financing and to effect the purposes of this Installment Sale Agreement. All actions heretofore taken by officers, employees, and agents of the District that are in conformity with the purposes and intent of this Installment Sale Agreement are hereby approved, confirmed, and ratified.

Section 8.4. Binding Effect. This Installment Sale Agreement shall inure to the benefit of and shall be binding upon the Bank and the District and their respective successors and assigns.

Section 8.5. Severability. In the event any provision of this Installment Sale Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

Section 8.6. Further Assurances and Corrective Instruments. The Bank and the District agree that they will, from time to time, execute, acknowledge and deliver, or cause to be executed,

acknowledged and delivered, such supplements hereto and such further instruments as may reasonably be required for carrying out the expressed intention of this Installment Sale Agreement.

Section 8.7. Applicable Law. This Installment Sale Agreement shall be governed by and construed in accordance with the laws of the State of California.

Section 8.8. Captions. The captions or headings in this Installment Sale Agreement are for convenience only and in no way define, limit or describe the scope or intent of any provisions or Section of this Installment Sale Agreement.

Section 8.9. Agreement to Pay Attorneys' Fees and Expenses. The District will pay the Bank its reasonable attorney fees incurred subsequent to an Event of Default.

Section 8.10. Execution in Counterparts. This Installment Sale Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

\* \* \* \* \*

IN WITNESS WHEREOF, the Bank has caused this Installment Sale Agreement to be executed in its corporate name by its duly authorized officer; and the District has caused this Installment Sale Agreement to be executed in its name by its duly authorized officer, as of the date first above written.

COMPASS MORTGAGE CORPORATION,  
an Alabama Corporation

By \_\_\_\_\_  
Authorized Officer

SANTA CRUZ PORT DISTRICT

By \_\_\_\_\_  
Authorized Officer

**EXHIBIT A**  
**INSTALLMENT PAYMENT SCHEDULE**

**\$1,600,000**  
**SANTA CRUZ PORT DISTRICT**  
**SERIES 2018B REVENUE OBLIGATIONS**  
**(Santa Cruz Harbor Seawall Replacement Project)**  
**BANK QUALIFIED**

**Interest Rate: 3. \_\_%**

<u>Installment Payment Date</u>	<u>Principal Component*</u>	<u>Interest Component*</u>	<u>Total Installment Payment*</u>
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Totals

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\* In the event the payments above are scheduled to occur on a day which is not a Business Day, such payment will be due on the next succeeding Business Day and will continued to accrue interest to such Business Day.

**EXHIBIT B**

**\$1,600,000**

**SANTA CRUZ PORT DISTRICT  
SERIES 2018B REVENUE OBLIGATIONS  
(Santa Cruz Harbor Seawall Replacement Project)  
BANK QUALIFIED**

**PROJECT DESCRIPTION**

The Seawall Project includes the replacement of the sheet pile seawall that formerly supported Aldo's Harbor Restaurant at 616 Atlantic Avenue. This project includes steel sheet pile walls with supplemental tie-backs installed at the top of wall, mobilization/demobilization work, stone backfill, and removal and reinstallation of rip-rap, as well as any necessary permits, rights of way and other real or personal property useful in connection therewith, together with all additions, extensions, expansions, improvements and betterments thereto and equipments thereof.

**EXHIBIT C**

**\$1,600,000**

**SANTA CRUZ PORT DISTRICT  
SERIES 2018B REVENUE OBLIGATIONS  
(Santa Cruz Harbor Seawall Replacement Project)  
BANK QUALIFIED**

**FORM OF REQUISITION  
FOR DISBURSEMENT FROM PROJECT FUND**

The undersigned, as Port Director of the Santa Cruz Port District (the "District"), in connection with the issuance, sale and delivery by the District of the above-captioned \$1,600,000 aggregate principal amount of the Santa Cruz Port District, Series 2018B Revenue Obligations (Santa Cruz Harbor Seawall Replacement Project), Bank Qualified (the "2018B Revenue Obligations"), issued in accordance with the Installment Sale Agreement, dated as of September 1, 2018 (the "Installment Sale Agreement"), by and between the District and the Compass Mortgage Corporation (the "Bank"), does hereby certify that:

(i) the undersigned is a duly Authorized Representative (as defined in the Installment Sale Agreement) with authority to act on behalf of the District as necessary in connection with disbursements of Project Costs, and as such, is authorized to disburse money from the Project Fund for the 2018B Revenue Obligations (the "Project Fund");

(ii) an obligation in the not-to-exceed amount stated for each of the payees set forth on Exhibit "A" has been properly incurred as a Project Cost under and pursuant to the Installment Sale Agreement, and each such obligation is a proper charge against the Project Fund;

(iii) no amount set forth in the requisition was included in any requisition requesting disbursement previously filed with the District pursuant to Section 3.3 of the Installment Sale Agreement;

(iv) that pursuant to the Installment Sale Agreement, the undersigned, on behalf of the District, hereby disburses from the Project Fund to the payees set forth on Exhibit A attached hereto, upon receipt of an invoice, an amount not to exceed the sum set forth opposite each such payee, for the purpose identified therein; and

(v) there has not been filed with or served upon the District a stop notice or any other notice of any lien, right to lien or attachment upon, or claim affecting the right to receive payment of, any of the money payable to the person named in this Requisition which has not been released or will not be released with the payment of such obligation, other than materialmen's or mechanics' liens accruing by mere operation of laws.

Dated: \_\_\_\_\_, 20\_\_

**SANTA CRUZ PORT DISTRICT**

By: \_\_\_\_\_  
Port Director



**EXHIBIT D**

**\$1,600,000**

**SANTA CRUZ PORT DISTRICT  
SERIES 2018B REVENUE OBLIGATIONS  
(Santa Cruz Harbor Seawall Replacement Project)  
BANK QUALIFIED**

**FORM OF REQUISITION  
FOR DISBURSEMENT FROM COSTS OF ISSUANCE FUND**

The undersigned, as Port Director of the Santa Cruz Port District (the "District"), in connection with the issuance, sale and delivery by the District of the above-captioned \$1,600,000 aggregate principal amount of the Santa Cruz Port District, Series 2018B Revenue Obligations (Santa Cruz Harbor Seawall Replacement Project), Bank Qualified (the "2018B Revenue Obligations"), issued in accordance with the Installment Sale Agreement, dated as of September 1, 2018 (the "Installment Sale Agreement"), by and between the District and the Compass Mortgage Corporation (the "Bank"), does hereby certify that:

(i) the undersigned is a duly Authorized Representative (as defined in the Installment Sale Agreement) with authority to act on behalf of the District as necessary in connection with issuance and delivery of the 2018B Revenue Obligations, and as such, is authorized to disburse money from the Costs of Issuance Fund for the 2018B Revenue Obligations (the "Costs of Issuance Fund");

(ii) an obligation in the not-to-exceed amount stated for each of the payees set forth on Exhibit "A" has been properly incurred under and pursuant to the Installment Sale Agreement and each such obligation is a proper charge against the Costs of Issuance Fund;

(iii) that pursuant to the Installment Sale Agreement, the undersigned, on behalf of the District, hereby requests the Bank to disburse from the Costs of Issuance Fund to the payees set forth on Exhibit A attached hereto, upon receipt of an invoice, an amount not to exceed the sum set forth opposite each such payee, for the purpose identified therein; and

(iv) all payments shall be made by wire transfer in accordance with the payment instructions set forth in Exhibit A attached hereto or in invoices submitted in accordance herewith, and the Bank may rely on such payment instructions as though given by the District, with no duty to investigate or inquire as to the authenticity of the invoice or the payment instructions contained therein.

Dated: September \_\_, 2018

**SANTA CRUZ PORT DISTRICT**

By: \_\_\_\_\_  
Port Director

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**FIRST SUPPLEMENT TO TAX-EXEMPT LOAN AGREEMENT**

by and between

**SANTA CRUZ PORT DISTRICT**

And

**COMPASS MORTGAGE CORPORATION, an Alabama Corporation,**

Dated as of September 1, 2018

**Relating to and Supplementing the**

**LOAN AGREEMENT  
(THE "ORIGINAL TAX-EXEMPT LOAN AGREEMENT")**

by and between

Santa Cruz Port District

and

Compass Mortgage Corporation, an Alabama Corporation

Dated as of September 1, 2013

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## **FIRST SUPPLEMENT TO TAX-EXEMPT LOAN AGREEMENT**

**THIS FIRST SUPPLEMENT TO TAX-EXEMPT LOAN AGREEMENT** (this “First Supplement”), dated as of September 1, 2018, between the **SANTA CRUZ PORT DISTRICT** (the “District”), a public body, corporate and politic, duly organized and validly existing under the laws of the State of California (the “State”), and **COMPASS MORTGAGE CORPORATION**, a corporation duly organized and existing under the laws of the State of Alabama, with all right and authority to conduct business in the State of California (the “Bank”).

### **WITNESSETH:**

**WHEREAS**, in order to finance and refinance certain projects relating to the District’s harbor enterprise and recreation system commonly known as the Santa Cruz Harbor (the “Enterprise”), on September 5, 2013, the District executed and consummated \$14,418,960.43 aggregate principal amount of the Santa Cruz Port District, Series 2013 Tax-Exempt Enterprise Revenue Loan (the “Tax-Exempt Loan”) pursuant to a Loan Agreement, dated as of September 1, 2013, by and between the District and the Bank (the “Original Tax-Exempt Loan Agreement”); and

**WHEREAS**, definition of “Maintenance and Operation Costs” in the Original Tax-Exempt Loan Agreement does not make clear whether non-cash unfunded pension liability is a Maintenance and Operation Cost; and

**WHEREAS**, Section 5.13 of the Original Tax-Exempt Loan Agreement provides that Parity Obligations (as defined in the Original Tax-Exempt Loan Agreement) cannot be incurred unless specific conditions are satisfied, including satisfaction of the Parity Obligations Coverage Requirement (as defined in Section 5.13(a)(2) the Original Tax-Exempt Loan Agreement); and

**WHEREAS**, the District wishes to amend the Original Tax-Exempt Loan Agreement in order to change the definitions of (i) Maintenance and Operation Costs, and (ii) Parity Obligations Coverage Requirement; and

**WHEREAS**, pursuant to Section 8.1 of the Original Tax-Exempt Loan Agreement, the Original Tax-Exempt Loan Agreement may be modified or amended at any time by a written supplemental agreement entered into by the District and the Bank; and

**NOW, THEREFORE, THIS FIRST SUPPLEMENT TO TAX-EXEMPT LOAN AGREEMENT WITNESSETH:**

That in consideration of the premises, and the mutual covenants contained in Original Tax-Exempt Loan Agreement and the consummation of the Tax-Exempt Loan by the District and Bank, and for other valuable consideration, the receipt of which is hereby acknowledged, and in order to secure the payment of the principal of, premium, if any, and interest on the Tax-Exempt Loan according to their tenor and effect, and the performance and observance by the District of all of the covenants and conditions in the Original Tax-Exempt Loan Agreement contained on its part to be performed, it is agreed by and between the District and the Bank as follows:

**Section 1. Supplement to Original Tax-Exempt Loan Agreement.** The District and Bank each affirm that the Original Tax-Exempt Loan Agreement is hereby amended pursuant to Section 8.1 thereof, and, unless otherwise required by the context or as amended pursuant to this First Supplement, all terms used herein which are defined in the Original Tax-Exempt Loan Agreement shall have the meanings assigned to them therein.

**Section 2. Amendment of the Definition of Maintenance and Operation Costs.** The definition of Maintenance and Operation Costs found in Section 1.1 of the Original Taxable Loan Agreement is hereby amended in its entirety to read as follows: "Maintenance and Operation Costs" means the reasonable and necessary costs paid or incurred by the District for maintaining and operating the Harbor Enterprise, determined in accordance with Generally Accepted Accounting Principles, including all reasonable expenses of management and repair and all other expenses necessary to maintain and preserve the Harbor Enterprise in good repair and working order, and including all administrative costs of the District that are charged directly or apportioned to the operation of the Harbor Enterprise, such as salaries and wages of employees, overhead, taxes (if any) and insurance premiums, and including all other reasonable and necessary costs of the District or charges required to be paid by it to comply with the terms hereof and of all Parity Obligations, such as fees and expenses of Independent Certified Public Accountants and Independent Engineers; but excluding in all cases (i) debt service payable on Obligations incurred by the District with respect to the Harbor Enterprise, (ii) depreciation, replacement and obsolescence charges or reserves therefor, (iii) amortization of intangibles and any other non-cash charges or other bookkeeping entries of a similar nature, and (iv) non-cash unfunded pension liability."

**Section 3. Amendment of Section 5.13(a)(2) to the Original Tax-Exempt Loan Agreement.** Section 5.13(a)(2) of the Original Tax-Exempt Loan Agreement is hereby amended in its entirety to read as follows: "The Net Revenues (calculated without taking into account any amounts transferred into the Revenue Fund from the Rate Stabilization Fund pursuant to Section 5.3(d) hereof), calculated in accordance with Generally Accepted Accounting Principles, either (i) as shown by the books of the District for the latest Fiscal Year, as verified by a certificate of an Authorized Representative of the District, or (ii) as shown by the books of the District for any more recent twelve (12) month period selected by the District, as verified by a certificate or opinion of an Independent Certified Public Accountant employed by the District, plus in either case (at the option of the District) the Additional Revenues, shall be at least equal to one hundred twenty-five percent (125%) of the amount of Maximum Annual Debt Service on all outstanding Parity Obligations and the Parity Obligations to be issued (the "Parity Obligations Coverage Requirement")."

**Section 4. Effective Date.** This First Supplement shall become effective upon execution by the District and the Bank.

**Section 5. Original Tax-Exempt Loan Agreement to Remain in Effect.** Save and except as amended by this First Supplement, the Original Tax-Exempt Loan Agreement shall remain in full force and effect.

**Section 6. Governing Law.** This First Amendment is governed by the laws of the State of California.

**Section 7. Counterparts.** This First Supplement may be executed in any number of counterparts, each of which, when so executed and delivered, shall be an original, but such counterparts shall together constitute but one and the same instrument.

**IN WITNESS WHEREOF**, the Santa Cruz Port District has caused this First Supplement to Tax-Exempt Loan Agreement to be signed in its name by the Port Director, and Compass Mortgage Corporation, has caused this First Supplement to Tax-Exempt Loan Agreement to be signed in its corporate name by its officers thereunto duly authorized, all as of the date first above written.

**SANTA CRUZ PORT DISTRICT**

By \_\_\_\_\_  
Marian Olin, Port Director

**COMPASS MORTGAGE CORPORATION,**  
an Alabama Corporation

By \_\_\_\_\_  
Authorized Officer

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**FIRST SUPPLEMENT TO TAXABLE LOAN AGREEMENT**

by and between

**SANTA CRUZ PORT DISTRICT**

And

**COMPASS BANK, an Alabama Corporation,**

Dated as of September 1, 2018

**Relating to and Supplementing the**

**LOAN AGREEMENT  
(THE "ORIGINAL TAXABLE LOAN AGREEMENT")**

by and between

Santa Cruz Port District

and

Compass Bank, an Alabama Corporation

Dated as of September 1, 2013

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## FIRST SUPPLEMENT TO TAXABLE LOAN AGREEMENT

**THIS FIRST SUPPLEMENT TO TAXABLE LOAN AGREEMENT** (this “First Supplement”), dated as of September 1, 2018, between the **SANTA CRUZ PORT DISTRICT** (the “District”), a public body, corporate and politic, duly organized and validly existing under the laws of the State of California (the “State”), and **COMPASS BANK**, a corporation duly organized and existing under the laws of the State of Alabama, with all right and authority to conduct business in the State of California (the “Bank”).

### WITNESSETH:

**WHEREAS**, in order to finance and refinance certain projects relating to the District’s harbor enterprise and recreation system commonly known as the Santa Cruz Harbor (the “Enterprise”), on September 5, 2013, the District executed and consummated \$2,384,445.08 aggregate principal amount of the Santa Cruz Port District, Series 2013 Taxable Enterprise Revenue Loan (the “Taxable Loan”) pursuant to a Loan Agreement, dated as of September 1, 2013, by and between the District and the Bank (the “Original Taxable Loan Agreement”); and

**WHEREAS**, definition of “Maintenance and Operation Costs” in the Original Taxable Loan Agreement does not make clear whether non-cash unfunded pension liability is a Maintenance and Operation Cost; and

**WHEREAS**, Section 5.13 of the Original Taxable Loan Agreement provides that Parity Obligations (as defined in the Original Taxable Loan Agreement) cannot be incurred unless specific conditions are satisfied, including satisfaction of the Parity Obligations Coverage Requirement (as defined in Section 5.13(a)(2) the Original Taxable Loan Agreement); and

**WHEREAS**, the District wishes to amend the Original Taxable Loan Agreement in order to change the definitions of (i) Maintenance and Operation Costs, and (ii) Parity Obligations Coverage Requirement; and

**WHEREAS**, pursuant to Section 8.1 of the Original Taxable Loan Agreement, the Original Taxable Loan Agreement may be modified or amended at any time by a written supplemental agreement entered into by the District and the Bank; and

**NOW, THEREFORE, THIS FIRST SUPPLEMENT TO TAXABLE LOAN AGREEMENT WITNESSETH:**

That in consideration of the premises, and the mutual covenants contained in Original Taxable Loan Agreement and the consummation of the Taxable Loan by the District and Bank, and for other valuable consideration, the receipt of which is hereby acknowledged, and in order to secure the payment of the principal of, premium, if any, and interest on the Taxable Loan according to their tenor and effect, and the performance and observance by the District of all of the covenants and conditions in the Original Taxable Loan Agreement contained on its part to be performed, it is agreed by and between the District and the Bank as follows:

**Section 1. Supplement to Original Taxable Loan Agreement.** The District and Bank each affirm that the Original Taxable Loan Agreement is hereby amended pursuant to Section 8.1

thereof, and, unless otherwise required by the context or as amended pursuant to this First Supplement, all terms used herein which are defined in the Original Taxable Loan Agreement shall have the meanings assigned to them therein.

**Section 2. Amendment of the Definition of Maintenance and Operation Costs.** The definition of Maintenance and Operation Costs found in Section 1.1 of the Original Taxable Loan Agreement is hereby amended in its entirety to read as follows: “Maintenance and Operation Costs” means the reasonable and necessary costs paid or incurred by the District for maintaining and operating the Harbor Enterprise, determined in accordance with Generally Accepted Accounting Principles, including all reasonable expenses of management and repair and all other expenses necessary to maintain and preserve the Harbor Enterprise in good repair and working order, and including all administrative costs of the District that are charged directly or apportioned to the operation of the Harbor Enterprise, such as salaries and wages of employees, overhead, taxes (if any) and insurance premiums, and including all other reasonable and necessary costs of the District or charges required to be paid by it to comply with the terms hereof and of all Parity Obligations, such as fees and expenses of Independent Certified Public Accountants and Independent Engineers; but excluding in all cases (i) debt service payable on Obligations incurred by the District with respect to the Harbor Enterprise, (ii) depreciation, replacement and obsolescence charges or reserves therefor, (iii) amortization of intangibles and any other non-cash charges or other bookkeeping entries of a similar nature, and (iv) non-cash unfunded pension liability.”

**Section 3. Amendment of Section 5.13(a)(2) to the Original Taxable Loan Agreement.** Section 5.13(a)(2) of the Original Taxable Loan Agreement is hereby amended in its entirety to read as follows: “The Net Revenues (calculated without taking into account any amounts transferred into the Revenue Fund from the Rate Stabilization Fund pursuant to Section 5.3(d) hereof), calculated in accordance with Generally Accepted Accounting Principles, either (i) as shown by the books of the District for the latest Fiscal Year, as verified by a certificate of an Authorized Representative of the District, or (ii) as shown by the books of the District for any more recent twelve (12) month period selected by the District, as verified by a certificate or opinion of an Independent Certified Public Accountant employed by the District, plus in either case (at the option of the District) the Additional Revenues, shall be at least equal to one hundred twenty-five percent (125%) of the amount of Maximum Annual Debt Service on all outstanding Parity Obligations and the Parity Obligations to be issued (the “Parity Obligations Coverage Requirement”).”

**Section 4. Effective Date.** This First Supplement shall become effective upon execution by the District and the Bank.

**Section 5. Original Taxable Loan Agreement to Remain in Effect.** Save and except as amended by this First Supplement, the Original Taxable Loan Agreement shall remain in full force and effect.

**Section 6. Governing Law.** This First Amendment is governed by the laws of the State of California.



**Section 7. Counterparts.** This First Supplement may be executed in any number of counterparts, each of which, when so executed and delivered, shall be an original, but such counterparts shall together constitute but one and the same instrument.

**IN WITNESS WHEREOF**, the Santa Cruz Port District has caused this First Supplement to Taxable Loan Agreement to be signed in its name by the Port Director, and Compass Bank, has caused this First Supplement to Taxable Loan Agreement to be signed in its corporate name by its officers thereunto duly authorized, all as of the date first above written.

**SANTA CRUZ PORT DISTRICT**

By \_\_\_\_\_  
Marian Olin, Port Director

**COMPASS BANK,**  
an Alabama Corporation

By \_\_\_\_\_  
Authorized Officer

## AGREEMENT FOR BOND COUNSEL SERVICES

**THIS AGREEMENT** is made and entered into this 28th day of August, 2018 by and between the Santa Cruz Port District (the “District”), whose address is 135 5th Avenue, Santa Cruz, CA 95062, and The Weist Law Firm (the “Bond Counsel”), whose address is 20 South Santa Cruz Avenue, Suite 300, Los Gatos, CA 95030.

### WITNESSETH:

**WHEREAS**, the District desires to undertake proceedings for the tax-exempt financing (the “Financing”) of two separate capital improvement projects commonly referred to as (i) the Pile Repair and Replacement Project (the “Pile Replacement Project”), and (ii) the Aldo’s Seawall Replacement Project (the “Seawall Project,” and together with the Pile Replacement Project, the “Projects”); and

**WHEREAS**, the District desires to retain Bond Counsel to do the necessary consulting, legal and analytical work hereinafter outlined, upon the terms and conditions hereinafter set forth, to structure, issue and deliver said low interest rate tax-exempt municipal revenue bond obligations (the “2018 Revenue Obligations”) as necessary to successfully accomplish the Financing of the Projects; and

**WHEREAS**, Bond Counsel is specifically trained and experienced in the conduct of proceedings required to accomplish the Financing of the Projects through the issuance of the 2018 Revenue Obligations, and hereby represents that it is ready, willing and able to perform said work; and

**NOW, THEREFORE**, in consideration of the covenants and premises herein contained and other good and valuable consideration, the parties hereto agree as follows:

#### **Section 1. Scope of Services.**

**Bond Counsel Services:** Bond Counsel shall provide the following legal services in connection with the preparation of the resolutions, documents and certifications necessary for the procurement, execution and delivery of the 2018 Revenue Obligations. Such services shall include the following:

1. Consulting with representatives of the District’s staff, attorneys, engineers, auditors/accountants, consultants, and others, with respect to the timing, terms and legal structure of the proposed issuance of 2018 Revenue Obligations.
2. Preparing all resolutions, ordinances, notices, affidavits, indentures, installment sale agreements, lease or loan agreements, and other legal documents customarily prepared by Bond Counsel, as required for the issuance of 2018 Revenue Obligations (the “Principle Documents”).
3. Reviewing all pertinent documents prepared by the District staff, having a bearing on the Financing or the 2018 Revenue Obligations.
4. Preparing documentation with respect to any bond provisions, parity debt provisions and reserve fund provisions provided or required in connection with the 2018 Revenue Obligations, if any.

5. Reviewing and evaluating the various financing structures that may be available to the District for the securing of the 2018 Revenue Obligations.
6. Attending such meetings or hearings of the Finance Committee and District Commission, and working group meetings or conference calls as the District may request, and as Bond Counsel deems prudent and necessary.
7. Preparing all final closing papers required to effect delivery of the 2018 Revenue Obligations, and coordinating the closing of the 2018 Revenue Obligations.
8. Rendering Bond Counsel's customary final legal opinion as to the validity of the 2018 Revenue Obligations and the exemption from gross income for federal income tax purposes and from California personal income tax of interest thereon.
9. Preparing the required reports to the California Debt and Investment Advisory Commission (pursuant to section 8855 et seq. of the Government Code) respecting the sale of the 2018 Revenue Obligations and Form 8038-G to the Internal Revenue Service (pursuant to Section 149 of the Internal Revenue Code of 1986).
10. Preparing a complete transcript of the proceedings, containing originally signed copies of all resolutions, ordinances, legal agreements, disclosure statements, certificates and notices. Copies shall be provided to the District and each member of the financing team.

**Excluded Services** Bond Counsel's services are limited to those specifically set forth above. Bond Counsel's services do not include representation of the District or any other party to the transaction in any litigation or other legal or administrative proceeding involving any of the Projects, the 2018 Revenue Obligations, the Financing or any other matter. Bond Counsel's services also do not include compliance with the California Environmental Quality Act, the National Environmental Policy Act, the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, the Hazardous Material Transportation Act, the Resource Conservation and Recovery Act, the Federal Water Pollution Control Act, the Occupational Safety and Health Act, the Safe Drinking Water Act, the Porter-Cologne Water Quality Control Act, the Safe Drinking Water and Toxic Enforcement Act of 1986, the Hazardous Substance Account Act, the Hazardous Waste Control Act, or any determinations pertaining to completion and readiness for acceptance.

Bond Counsel's services also do not include any responsibility for compliance with state blue sky, environmental, land use, real estate or similar laws or for title to or perfection of security interests in real or personal property, including the acquisition of interests in real property, whether through gift, negotiation or the exercise of the power of eminent domain.

Bond Counsel's services also do not include any responsibility the negotiation or preparation of joint powers agreements with other agencies. Bond Counsel will not be responsible for the services performed or acts or omissions of any other participant. Also, Bond Counsel's services will not extend past the date of issuance of the 2018 Revenue Obligations and will not, for example, include services related to on-going administration, annexation, rebate compliance or continuing disclosure or otherwise related to the 2018 Revenue Obligations, proceeds of the 2018 Revenue Obligations or a refunding after issuance of the 2018 Revenue Obligations.

Bond Counsel may be willing to perform such excluded services on such terms as might be mutually agreed to at the time of need. The performance by Bond Counsel of services excluded by the above paragraph, if required by the District, shall be under separate written agreement.

**Section 2. Compensation.**

- A. Legal Fees for Bond Counsel Services. For all bond counsel services rendered in connection with the Financing and the corresponding issuance of the 2018 Revenue Obligations offered on a private placement basis, our fee shall be a contingent flat fee of \$37,500. Payment of said amount shall be entirely contingent upon the successful placement of such 2018 Revenue Obligations.
- B. Out-of-Pocket Expenses. In addition to the legal fees, Bond Counsel shall be reimbursed its normal and customary out-of-pocket expenses, including travel and customary mileage rates; parking charges and bridge tolls as incurred, photocopies at forty-five cents per page, transcript preparation and distribution; telephone and facsimile charges as incurred, and postage and express delivery charges as incurred, with a cap of \$2,250.

**Section 3. Termination of Agreement and Legal Services.**

This Agreement and all legal services to be rendered under it may be terminated at any time by written notice from either party, with or without cause. In that event, all finished and unfinished documents prepared for adoption or execution by the District, shall, at the option of the District, become its property and shall be delivered to it or to any party it may designate; provided that Bond Counsel shall have no liability whatsoever for any subsequent use of such documents. In the event of termination by the District, Bond Counsel shall be entitled to receive compensation for all work performed to the date of termination. This continuing, but contingent, right to receive full compensation shall survive the term of this Agreement. If not sooner terminated as aforesaid, this Agreement and all legal services to be rendered under it shall terminate upon final issuance of the 2018 Revenue Obligations. Upon termination, Bond Counsel shall have no future duty of any kind to or with respect to the 2018 Revenue Obligations or the District.

**Section 4. Insurance.**

Bond Counsel specifically represents that it maintains errors and omissions insurance applicable to the Bond Counsel services to be rendered under this Agreement.

**Section 5. Nature of Engagement.**

The District acknowledges that Bond Counsel regularly performs legal services for many private and public entities in connection with a wide variety of matters. Bond Counsel has represented, is representing or may in the future represent other public entities, underwriters, trustees, rating agencies, insurers, credit enhancement providers, lenders, contractors, suppliers, financial and other consultants/advisors, accountants, investment providers/brokers, providers/brokers of derivative products and others who may have a role or interest in the 2018 Revenue Obligations or the Financing or that may be involved with or adverse to the District in this or some other matter. Bond Counsel agrees not to represent any such entity in connection with the 2018 Revenue Obligations, during the term of this Agreement, without the consent of the District. Given the special, limited role of Bond Counsel described above, the District acknowledges that no conflict of interest exists or would

exist, and waives any conflict of interest that might appear actually or potentially to exist, now or in the future, by virtue of this Agreement or any such other attorney-client relationship that Bond Counsel may have had, have or enter into, and the District specifically consents to any and all such relationships.

**Section 6. Standards of Professional Conduct.**

Bond Counsel and every employee thereof shall provide their services, advice and any reports in full compliance with all applicable law and professional standards. Bond Counsel represents that it is specially trained, experienced, expert and competent to perform the services required under this Agreement, and that each individual providing legal services is a member in good standing of the State Bar and is licensed to practice in California. Bond Counsel certifies that it will not accept representation in any matters, including litigation, under this Agreement if it or any employee thereof has any personal or financial interest therein.

Bond Counsel certifies that it accepts this retention because it has the time, energy, skills and ability necessary to perform the duties required in an efficient, trustworthy, professional and businesslike manner. It is understood that the services under this Agreement must be provided immediately, and that they are time-critical. Bond Counsel is engaged by District for its unique qualifications and skills. Bond Counsel shall not subcontract, delegate or assign the services to be provided under this Agreement, in whole or in part, to any other person or entity not employed in Bond Counsel's firm without consent of District.

Bond Counsel agrees that it will comply with all ethical duties, will maintain the integrity of the Bond Counsel-client relationship, and will take all steps available to preserve all applicable legal privileges, confidences, and records from disclosure; however, it is hereby understood and agreed that the Financing and 2018 Revenue Obligations are public in nature, and the District hereby waives its right to confidential communications, and protecting of records from disclosure; however, where it is contended by third parties, Bond Counsel's work product or attorney-client privileged communications are subject to disclosure, and District directs Bond Counsel to not disclose the records, District agrees to indemnify Bond Counsel from any cost or expense related to protecting said records from disclosure.

**Section 7. Independent Contractor.**

Bond Counsel and District understand and agree that Bond Counsel is an independent contractor and that the District shall not be liable for Workers' Compensation, retirement or unemployment benefits for Bond Counsel or Bond Counsel's agents, partners or employees.

**Section 8. No Guarantee of Outcome.**

District hereby acknowledges and agrees that this is a best efforts undertaking, and that no guarantee of success or outcome has been, or can be, made by Bond Counsel.

**Section 9. Indemnification.**

District agrees that it will indemnify and hold harmless Bond Counsel and its respective directors, officers, employees and controlling persons (Bond Counsel and each such person being an "Indemnified Party") from and against any and all losses, claims, damages and liabilities, joint or several, as incurred, to which such Indemnified Party may become subject under any applicable United States federal or state law, or any applicable

foreign law, or otherwise, and related to or arising out of any untrue statement or alleged untrue statement of a material fact contained in any information, including without limitation the due diligence disclosure relating to the 2018 Revenue Obligations (the "Disclosure"), furnished or made available by District to Bond Counsel or otherwise, to the purchaser of the 2018 Revenue Obligations or any of its representatives or the omission or the alleged omission to state therein a material fact necessary in order to make the statements therein not misleading, in the light of the circumstances under which they were made; provided, however, that District will not be liable to the extent that any loss, claim, damage or liability is found in a final judgment by a court to have resulted from Bond Counsel's bad faith or negligence in performing the services described above.

**Section 10. Arbitration.**

Any controversy, claim or dispute arising out of or relating to this Agreement, shall be settled solely and exclusively by binding arbitration in San Francisco, California. Such arbitration shall be conducted in accordance with the then prevailing commercial arbitration rules of JAMS/Endispute ("JAMS"), with the following exceptions if in conflict: (a) one arbitrator shall be chosen by JAMS; (b) each party to the arbitration will pay its pro rata share of the expenses and fees of the arbitrator, together with other expenses of the arbitration incurred or approved by the arbitrator; and (c) arbitration may proceed in the absence of any party if written notice (pursuant to the JAMS' rules and regulations) of the proceedings has been given to such party. Each party shall bear its own attorneys fees and expenses.

The parties agree to abide by all decisions and awards rendered in such proceedings. Such decisions and awards rendered by the arbitrator shall be final and conclusive. All such controversies, claims or disputes shall be settled in this manner in lieu of any action at law or equity; provided however, that nothing in this Section shall be construed as precluding the bringing an action for injunctive relief or other equitable relief. The arbitrator shall not have the right to award punitive damages or speculative damages to either party and shall not have the power to amend this Agreement. The arbitrator shall be required to follow applicable law.

**Section 11. Entire Agreement.**

This Agreement contains the entire understanding between Bond Counsel and District. All previous proposals, offers and communications relative to the Financing and this Agreement, whether oral or written, are hereby superseded except to the extent that they have been incorporated into this Agreement.

No future waiver of or exception to any of the terms, conditions, and provisions of this Agreement shall be considered valid unless specifically agreed to in writing by both Bond Counsel and District. No oral agreement or implied covenant shall be held to vary the provisions of this Agreement. This Agreement shall bind and inure to the benefit of the parties to this Agreement and any subsequent successors or assigns as may be permitted pursuant to the provisions of this Agreement.

**Section 12. Modification.**

Both District and Bond Counsel understand that it may be desirable or necessary during the execution of this Agreement for Bond Counsel or District to modify the scope of services provided for under this Agreement. Any material extension or change in the scope of work shall be discussed with District and all changes and their cost shall be memorialized in a written amendment to this original Agreement prior to the performance of the additional work.

Until a written change order is so executed, District shall not be responsible to pay any charges Bond Counsel may incur in performing such additional services, and correspondingly Bond Counsel shall not be required to perform any such additional services.

**Section 13. Severability.**

All sections and subsections of this Agreement are severable, and the unenforceability or invalidity of any of the sections or subsections of this Agreement shall not affect the validity or enforceability of the remaining sections or subsections of this Agreement, but such remaining sections or subsections shall be interpreted and construed in such a manner as to carry out fully the intention of the parties.

Therefore, if any part, term, or provision of this Agreement shall be held illegal, unenforceable, or in conflict with any law of a federal, state, or local government having jurisdiction over this Agreement, the validity of the remaining portions or provisions shall not be effected by such holding and shall nevertheless continue in full force without being impaired or invalidated in any way.

**Section 14. Waiver.**

The waiver by either party of a default or breach of any provision of this Agreement shall not operate or be construed as a waiver of any subsequent default or breach of the same or of a different provision of that party. No waiver or modification of this Agreement or of any covenant condition, or limitation contained in this Agreement shall be valid unless in writing and duly executed by the party or parties to be charged therewith.

**Section 15. Counterparts.**

This Agreement may be executed in any number of counterparts and each counterpart shall for all purposes be deemed to be an original, and all such counterparts shall together constitute but one and the same Agreement.

**IN WITNESS WHEREOF**, the parties hereto have caused this Agreement to be executed by their respective officers and representatives thereto duly authorized, all as of the day and year first above written.

**SANTA CRUZ PORT DISTRICT**

**THE WEIST LAW FIRM**

By: \_\_\_\_\_  
Marian Olin, Port Director

By: \_\_\_\_\_  
Cameron A. Weist, Esq.

**Santa Cruz Port District  
Debt Service Coverage Projection**

	2017 <i>Audited</i>	2018 <i>Draft Audit</i>
Operating Revenues		
Charges for berthing and services	\$ 6,799,847	\$ 7,181,501
Rent and concessions	\$ 1,694,869	\$ 1,889,238
Total Operating Revenues	\$ 8,494,716	\$ 9,070,740
Operating Expenses		
Depreciation and Amortization	\$ 1,781,839	\$ 1,824,754
CalPERS Unfunded Liability	\$ 298,869	\$ 489,486
Dredging Operations	\$ 1,213,351	\$ 1,234,002
Administrative Services	\$ 976,767	\$ 632,156
Operating and Security	\$ -	\$ -
Maintenance	\$ -	\$ -
Grounds	\$ 631,633	\$ 633,063
Fuel Services	\$ 330,307	\$ 350,664
Harbor Patrol	\$ 567,683	\$ 627,790
Property Management	\$ 425,992	\$ 403,528
Marina Management	\$ 407,809	\$ 492,804
Buildings	\$ 231,508	\$ 259,087
Parking Services	\$ 332,694	\$ 360,565
Docks, Piers, Marine Structures	\$ 255,124	\$ 317,187
Debt issuance costs	\$ -	\$ -
Finance & Purchasing	\$ 160,468	\$ 165,864
Environmental & Permitting	\$ 152,416	\$ 131,817
Utilities	\$ 76,932	\$ 107,964
Aeration	\$ 39,091	\$ 44,900
Rescue Services	\$ 87,261	\$ 97,308
Boatyard Operations	\$ 229,134	\$ 221,938
Port Commission Support	\$ 45,551	\$ 48,164
Capital Projects	\$ 1,024	\$ 9,716
Events	\$ 29,214	\$ 32,313
Fishery Support	\$ 4,175	\$ 2,452
Total Expenses	\$ 8,278,842	\$ 8,487,522
Non-Operating Revenue (Expenses)		
County revenues for public services	\$ 11,243	\$ 36,228
Grants and Other Income	\$ 65,560	\$ 140,190
Dredging Reimbursement USACE	\$ 400,000	\$ 485,000
Interest Income	\$ 46,245	\$ 96,293
Interest Expense	\$ (476,817)	\$ (444,310)
Other Income (Expenses)	\$ (74,482)	\$ 44,909
Total Non-Operating Income (Expenses)	\$ (28,251)	\$ 358,310
Extraordinary Items		
Losses related to tsunami damage, net of reimbursements	\$ (17,088)	\$ -
OE3 Trust Fund withdrawal liability		
Grants recognized in excess of current expenses related to tsunami damage		
Total Extraordinary Items	\$ (17,088)	\$ -
<b><u>Debt Service Coverage Calculation</u></b>		
(+) Gross Revenues	\$ 8,494,716	\$ 9,070,740
(-) Maintenance and operating expenses	\$ (8,278,842)	\$ (8,487,522)
(+) Depreciation and Amortization	\$ 1,781,839	\$ 1,824,754
(+) CalPERS Unfunded Liability	\$ 298,869	\$ 489,486
(=) Net Operating Income	\$ 2,296,582	\$ 2,407,972
(+) Interest Income	\$ 46,245	\$ 96,293
(+) Non-operating Income	\$ 65,560	\$ 81,137
(+) Grants	\$ 11,243	\$ 140,190
(+) Dredging Reimbursement USACE	\$ 400,000	\$ 485,000
(=) Net Revenues Available for Debt Service	\$ 2,819,630	\$ 3,210,592
(+) Current Portion Long Term Debt	\$ 1,015,120	\$ 1,048,837
(+) Interest Expense	\$ 476,817	\$ 444,310
<b>(+) New Debt Service P+I Payments Estimate</b>	<b>\$ 290,000</b>	<b>\$ 290,000</b>
(=) Total Debt Service	\$ 1,781,937	\$ 1,783,147
Debt Service Coverage Ratio (DSCR) w/ new debt service	<b>1.58x</b>	<b>1.8x</b>
DSCR without New Debt Service	1.89x	2.15x
Required DSCR	1.25x	1.25x



Santa Cruz Port District  
135 5th Avenue  
Santa Cruz, CA 95062  
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831.475.9558 Fax  
www.santacruzharbor.org



PORT COMMISSIONERS:  
Toby Goddard  
Dennis Smith  
Reed Geisreiter  
Stephen Reed  
Darren Gertler

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TO: Port Commission  
FROM: Marian Olin, Port Director  
DATE: August 20, 2018  
SUBJECT: Review Draft FY18 Audited Financial Statement

**INFORMATION**

Kim Said of the auditing firm Hutchinson and Bloodgood will be present at the August 28 Port Commission meeting to present the draft audit. Ms. Said's outline summarizing audit findings will be distributed prior to Tuesday night's meeting. The draft audit is appended as Attachment A.

The final audit will be presented to the Commission for acceptance at the September meeting.

ATTACHMENTS: A. DRAFT Audited Financial Statement as of March 31, 2018

**SANTA CRUZ PORT DISTRICT**

**FINANCIAL REPORT**

Years ended March 31, 2018 and 2017

DRAFT

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## **INDEPENDENT AUDITORS' REPORT**

Board of Commissioners  
Santa Cruz Port District  
Santa Cruz, California

### **Report on the Financial Statements**

We have audited the accompanying financial statements of the Santa Cruz Port District (the District), which comprise the statements of net position as of March 31, 2018 and 2017, and the related statements of revenues, expenses, and change in net position and cash flows for the years then ended, and the related notes to financial statements, which collectively comprise the District's basic financial statements as listed in the table of contents.

### **Management's Responsibility for the Financial Statements**

Management is responsible for the preparation and fair presentation of these financial statements in accordance with accounting principles generally accepted in the United States of America; this includes the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

### **Auditors' Responsibility**

Our responsibility is to express an opinion on these financial statements based on our audits. We conducted our audits in accordance with auditing standards generally accepted in the United States of America, the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States and the State Controller's Minimum Audit Requirements for California Special Districts. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditors' judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditors consider internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the District's internal control. Accordingly, we express no such opinion. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

### **Opinion**

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of the Santa Cruz Port District as of March 31, 2018 and 2017, and the respective changes in its financial position and its cash flows for the years then ended in accordance with accounting principles generally accepted in the United States of America, as well as the accounting systems prescribed by the State Controller's Office and State Regulations governing Special Districts.

## **Other Matter**

### *Required Supplementary Information*

Accounting principles generally accepted in the United States of America require that the management's discussion and analysis, the schedule of proportionate share of the net pension liability, the schedule of contributions – defined benefit pension plans, and the schedule of funding progress – other postemployment healthcare benefits, identified as Required Supplementary Information (RSI) in the accompanying table of contents, be presented to supplement the basic financial statements. Such information, although not a part of the basic financial statements, is required by the Governmental Accounting Standards Board who considers it to be an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic, or historical context. We have applied certain limited procedures to the RSI in accordance with auditing standards generally accepted in the United States of America, which consisted of inquiries of management about the methods of preparing the information and comparing the information for consistency with management's responses to our inquiries, the basic financial statements, and other knowledge we obtained during our audit of the basic financial statements. We do not express an opinion or provide any assurance on the RSI because the limited procedures do not provide us with sufficient evidence to express an opinion or provide any assurance.

### **Other Reporting Required by Government Auditing Standards**

In accordance with *Government Auditing Standards*, we have also issued our report dated **TBD**, on our consideration of the District's internal control over financial reporting and on our tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements and other matters. The purpose of that report is to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing, and not to provide an opinion on internal control over financial reporting or on compliance. That report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the District's internal control over financial reporting and compliance.

**TBD**

## SANTA CRUZ PORT DISTRICT

### MANAGEMENT'S DISCUSSION AND ANALYSIS Years Ended March 31, 2018 and 2017

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Our discussion and analysis of the Santa Cruz Port District's (the District) financial performance provides an overview of the District's financial activities for the fiscal years ended March 31, 2018 and 2017. Please read in conjunction with the District's basic financial statements.

#### FINANCIAL HIGHLIGHTS

During FY16, the Port Commission adopted a Reserve Policy and an annual contribution goal to the Capital Improvement Program (CIP) fund. The Reserve Policy is intended to strengthen the financial stability of the District against economic uncertainty, unexpected situations such as natural or man-made disasters, unanticipated drop in revenues, and other unforeseen emergencies or extraordinary circumstances that the Port District may face that are infrequent in occurrence.

The policy provides that the Port District will strive to hold in reserve an amount equal to 25 percent of the District's annual operating expenses in the current fiscal year's adopted general fund budget. The District recognizes that reserve fund amounts may fluctuate and may need to be rebuilt over time as needed. The reserve fund will generally come from one-time revenue and from excess revenues over expenditures. Examples of one-time revenue include infrequent sales of Port District assets, infrequent revenues from development and grants, or other sources that are typically non-recurring in nature. The use of reserves shall generally be limited to unanticipated, non-recurring needs, not for normal or recurring annual operating expenditures.

As of March 31, 2018, the unrestricted Reserve Fund balance was \$1,592,380. Excluding depreciation and amortization, this figure represents approximately 95% of the Reserve Fund goal based on FY18 annual operating expenses. The District's FY19 budget funded an additional \$180,532 contribution to the Reserve Fund, which is anticipated to meet the reserve fund's goal in FY19.

The CIP fund contribution goal was set at \$500,000 annually to fund current and future infrastructure maintenance and improvements. The FY18 budget funded \$500,000 to the CIP fund from FY17 proceeds.

The Port District finalized a Memorandum of Agreement (MOA) with the US Army Corps of Engineers (Corps) in FY16. The District had taken over responsibility for maintenance dredging from the Corps in 1986. That agreement provided funding for the purchase of the dredge *Seabright*, and a small annual contribution for operations and maintenance costs through July 2013. The District began work on a successor agreement in 2008. The agreement provides that the Corps will contribute up to \$385,000 per year toward the dredging operation, provided funding is available in either the President's Budget or the Corps' annual work plan. Delays by the Corps resulted in the District being eligible for funding in the Corps' 2014 work plan once the MOA was executed. The District received revenue from the Corps of \$400,000 in FY17 and \$485,000 in FY18. The excess funding received in FY17 and FY18 is attributable to the Corps catching up on funding shortfalls from previous years.

## SANTA CRUZ PORT DISTRICT

MANAGEMENT'S DISCUSSION AND ANALYSIS  
Years Ended March 31, 2018 and 2017

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### FINANCIAL HIGHLIGHTS (Continued)

A number of factors influenced District operations and had the potential to cause revenue losses in FY18. The commercial salmon season was severely limited due to regulation and salmon fishing was generally slow. Despite the potential for losses, launch revenue increased in FY18, attributable in part to an increase in the day launch rate.

A continual series of storms and swell during January and February 2017 brought a high volume of sand into the north harbor and buried the north harbor disposal pipeline. The storm events were a declared disaster and the District is eligible for disaster assistance for three identified recovery projects through the State of California Office of Emergency Services and the Federal Emergency Management Agency for equipment-related damage and dredging of the north harbor. As many as twenty-five north harbor slips were unusable due to shallow conditions as a result of shoaling. Dredging was conducted in the north harbor between October 2017 and April 2018. The dredging activity restored adequate depths to most berths, though a handful of slips remain shallow. Dredging of the north harbor area will resume in October 2018.

Winter conditions, shoaling and high surf also contributed to a partial failure of a seawall on the harbor's west side. The seawall was constructed of steel sheet piles in 1964, and had an expected lifespan of approximately 30 years. The District has conducted frequent periodic inspections, corrosion testing and repairs to the seawall over the years. Aldo's Harbor Restaurant was constructed on top of the seawall.

Temporary repairs were performed on the seawall in November 2015, via a partnership with the District and Aldo's. The temporary repairs allowed the restaurant to continue to operate while long-term plans could be developed for a replacement seawall and restaurant building. By early June 2016, a sinkhole had formed under Aldo's Restaurant, and the restaurant and public pier were subsequently closed. Aldo's Restaurant is currently operating out of temporary "al fresco" quarters on the west side of the harbor while engineering design work and environmental permits are secured for a replacement seawall structure. Construction of the replacement seawall is anticipated to occur between June-November 2019.

A separate, secure wireless link was created during FY15 to serve a new electronic card key system the District installed to serve all of its shower rooms. The system was funded to enhance security and reduce unauthorized use of the shower rooms. The FY16 and 17 budgets included funding to expand the system to include all of the locked restroom facilities and dock gates. The project was expected to go to bid in FY18; however, delays were encountered when the system installed in FY15 was not able to be expanded. The project was redesigned to include fabrication of new dock gates. A revised plan was developed in FY19, and a contract for the electronic key system was awarded and funded. The new electronic key system will interface with the District's existing marina management software.

In July 2017, a small phase 1 project for removal and replacement of sixteen dock piles was put out to bid. A single bid was received. The bid was rejected by the Commission in July 2017, due to the high cost. A larger phase 1 project was put out to bid in early-2018, and a contract was awarded to Bellingham Marine in March 2018. The phase 1 pile replacement project commenced in June 2018, and will be completed by November 30, 2018.

## SANTA CRUZ PORT DISTRICT

### MANAGEMENT'S DISCUSSION AND ANALYSIS Years Ended March 31, 2018 and 2017

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#### FINANCIAL HIGHLIGHTS (Continued)

A section of the roadway and parking area near the fishery on the harbor's east side was repaved by a contract crew in FY18. Additionally, in-house crews performed sealing and pavement repairs throughout the harbor, including re-painting traffic markings where needed. Pavement repair and upkeep is an ongoing Capital Improvement Project.

Other Capital Improvement Projects completed in FY18 included re-painting Walton Lighthouse, replacing flashing at 2222 East Cliff Drive, rehabilitation of the D and J dock restrooms by in-house crews, and installation of two additional parking pay stations.

In FY13, the District adopted its first 5-Year Capital Improvement Plan (CIP). The CIP lists projects for the current year (FY18) in detail, and provides capital needs forecasts extending out through FY22. The CIP was updated in FY18 and provided funding for one new project; additional funding for seven existing projects totaling \$346,000; and an additional \$154,000 in funding to the unallocated Capital Improvement Project fund. The CIP is updated as part of each budget adoption cycle.

Funding for the CIP has been derived primarily from the operating budget. CIP projects are budgeted and reported within the Capital Improvement Fund. The vast majority of expenses within the Capital Improvement Fund are capitalized upon project completion and include force account labor where applicable. As a result, salary costs in the operating budget are decreased.

The Port District continues to operate the Santa Cruz Harbor Boatyard (SCHB), which opened for business on April 7, 2014, as a Do-It-Yourself facility. Boaters may perform their own work or hire contractors from list of registered contractors authorized to work in the yard. The Port District obtained all the necessary permits and manages and documents the work of boat owners and contractors for reporting to various regulatory agencies. The District has invested in equipment, including a 50-metric ton Marine Travelift boat hoist, supplies and training to ensure compliance with permits and best management practices for stormwater run-off and sanitary sewer discharges.

The District's loan agreement with BBVA Compass Bank for a \$2,000,000 Line of Credit (LOC) was modified in August 2017, to extend the maturity of the LOC from October 1, 2017, to August 1, 2019.

In December 2017, the Port District entered into a three-year Memorandum of Understanding (MOU) with the Harbor Employees Association and a two-year MOU with the Operating Engineers Union (Local 3) on salaries and benefits. In January 2018, the Port District entered into a three-year salary and benefit agreement with the Harbor Management Group. The MOUs and labor agreement reflect comparable labor market findings from an updated Classification and Compensation Study completed by Public Sector Personnel Consultants (PSPC) in 2017.



## SANTA CRUZ PORT DISTRICT

### MANAGEMENT'S DISCUSSION AND ANALYSIS Years Ended March 31, 2018 and 2017

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#### *Fiscal Year Ended March 31, 2018*

##### **Operating Revenues**

Operating revenues were \$9,070,739; \$66,544 of which were non-cash lease revenues from O'Neill Sea Odyssey, leaving total revenues at \$9,004,195, or about 105% of budgeted revenues, and were \$576,023, or 6% higher than the prior year. Visitor-related income sources (visitor berthing fees, launch fees, parking, and RV) were \$1,185,192, \$114,706, or 10% over the prior year. Parking and visitor berthing revenue increased over FY17. The increase in parking revenue is attributable, in part, to parking management and enforcement efforts. Launch revenue also increased over FY17 by about 10%, due in part to an increase to the day launch rate. Slip rent, at \$4,220,697, was \$52,103, or 1% under budget, and approximately \$45,503 higher, or 1% greater than the prior year. The 6% overall increase in operating revenues in FY18 is primarily attributable to increases in parking, visitor berthing, gasoline fuel sales, and tenant reimbursement of sewer / garbage and utility charges.

##### **Operating Expenses**

Operating expenses (before depreciation and amortization) were \$6,662,767, \$163,373, or 2% under budget (net of Capital Project budget and expenditures), and approximately \$165,764, or 3% higher than the prior year. Non-dredging expenses of \$5,428,765 were consistent with budget, and were \$191,049 or 4% over the prior year. Dredging expenses of \$1,234,002 were 9% over budget, and approximately \$25,285, or 2% lower than the prior year. This decrease is attributable to higher unanticipated costs incurred in FY17, primarily due to crew overtime, consulting services, contract dredge crew support and costs associated with bringing in a replacement workboat (*Sammy G*) and crew when the workboat *Dauntless* was out-of-service for several weeks in February 2017.

##### **Net Position**

The District's net position at March 31, 2018, is \$27,995,362. This is an increase of \$941,530 or 3% from the March 31, 2017, net position of \$27,053,832.

Other key changes in the statement of net position are as follows:

Current Assets increased \$1,951,270 in FY18, primarily due to increases in cash and grants receivable.

Deferred outflows of resources increased by \$112,668 in FY18, to \$1,242,383. This increase is primarily related to the change in the net pension liability as calculated per GASB Statement No. 68.

The Current and Other Liabilities increased by \$655,565 in FY18, to \$7,061,572. This is due primarily to the change in the net pension liability as calculated per GASB Statement No. 68.

Long term debt obligations decreased by \$1,047,957 in FY18 to \$11,917,360. This is primarily due to principal reductions in the Port District's taxable and non-taxable bond financing with BBVA Compass Bank.

Deferred inflows of resources increased by \$59,119 in FY18, to \$283,631. This increase was due to the change in the net pension liability as calculated per GASB Statement No. 68.

## SANTA CRUZ PORT DISTRICT

### MANAGEMENT'S DISCUSSION AND ANALYSIS Years Ended March 31, 2018 and 2017

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#### *Fiscal Year Ended March 31, 2017*

##### **Operating Revenues**

Operating revenues were \$8,494,716; \$66,544 of which were non-cash lease revenues from O'Neill Sea Odyssey, leaving total revenues at \$8,428,172, or about 104% of budgeted revenues, and were \$136,206, or 2% higher than the prior year. Visitor-related income sources (visitor berthing fees, launch fees, parking, and RV) were \$1,070,486, \$61,290, or 6% over the prior year. Parking revenue significantly increased in FY17. The increase in parking revenue is attributable, in part, to phased implementation of the Parking Management Plan and the addition of a provisional Parking Coordinator position in FY 16. Launch and visitor berthing revenue decreased from FY16. Slip rent, at \$4,175,194, was \$23,806, or 1% under budget, and approximately \$29,055, or 1% less than the prior year. The 2% overall increase in operating revenues in FY 17 is primarily attributable to increases in parking, concession and boatyard revenue.

##### **Operating Expenses**

Operating expenses (before depreciation and amortization) were \$6,497,003, \$1,130,424, or 15% under budget (net of Capital Project budget and expenditures), and approximately \$304,620, or 5% higher than the prior year. Non-dredging expenses of \$5,237,716 were consistent with budget, and were \$583,825 or 12% over than the prior year. Dredging expenses of \$1,259,287 were 19% over budget, and approximately \$229,731, or 22% higher than the prior year. This increase is attributable to crew overtime, consulting services, contract dredge crew support and costs associated with bringing in a replacement workboat (*Sammy G*) and crew when the workboat *Dauntless* was out-of-service for several weeks in February 2017.

##### **Net Position**

The District's net position at March 31, 2017, is \$27,053,832. This is an increase of \$170,535 or 1% from the March 31, 2016, net position of \$26,883,297.

Other key changes in the statement of net position are as follows:

Current Assets decreased \$1,373,259 in FY17, primarily due to final collection of the tsunami-related receivable from CalEMA.

Deferred outflows of resources increased by \$473,576 in FY17, to \$1,129,715. This increase is primarily related to the change in the net pension liability as calculated per GASB Statement No. 68.

The Current and Other Liabilities increased by \$727,842 in FY17, to \$6,406,007. This is due primarily to the change in the net pension liability as calculated per GASB Statement No. 68.

Long term debt obligations decreased by \$1,016,205 in FY17 to \$12,965,317. This is primarily due to principal reductions in the Port District's taxable and non-taxable bond financing with BBVA Compass Bank.

Deferred inflows of resources increased by \$7,539 in FY17, to \$224,512. This increase was due to the change in the net pension liability as calculated per GASB Statement No. 68.

## SANTA CRUZ PORT DISTRICT

### MANAGEMENT'S DISCUSSION AND ANALYSIS Years Ended March 31, 2018 and 2017

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#### USING THIS ANNUAL REPORT

This annual report consists of management's discussion and analysis, the basic financial statements, and notes to the financial statements. Management's discussion and analysis provides a narrative of the District's financial performance and activities for the year ended March 31, 2018. The basic financial statements provide readers with a broad overview of the District's finances, in a manner similar to a private-sector business. The notes provide additional information that is essential to a full understanding of the data provided in the basic financial statements.

The basic financial statements consist of three statements:

- The *Statement of Net Position* presents information on all of the District's assets, deferred outflows, liabilities and deferred inflows, with the difference reported as net position. Over time, increases or decreases in net position may serve as a useful indicator of whether the financial position of the District is improving or deteriorating.
- The *Statement of Revenues, Expenses, and Change in Net Position* presents information showing how the District's net position changed during the most recent fiscal year. All changes in net position are reported as soon as the underlying event giving rise to the change occurs, regardless of the timing of related cash flows. Certain revenues and expenses are reported in this statement that will result in cash flows in future periods.
- The *Statement of Cash Flows* presents information showing how the District's cash changed during the most recent fiscal year. It shows the sources and uses of cash.

**SANTA CRUZ PORT DISTRICT**

MANAGEMENT'S DISCUSSION AND ANALYSIS  
Years Ended March 31, 2018 and 2017

**FINANCIAL ANALYSIS OF THE DISTRICT AS A WHOLE**

The following summarizes net position:

	<b>2018</b>	<b>2017</b>	<b>2016</b>
<b>Assets</b>			
Current and other assets	\$ 10,097,024	\$ 8,145,754	\$ 9,519,013
Capital assets net of depreciation	35,191,917	36,648,514	35,926,090
Other assets	<u>726,601</u>	<u>725,685</u>	<u>725,384</u>
Total Assets	46,015,542	45,519,953	46,170,487
<b>Deferred outflows</b>	<u>1,242,383</u>	<u>1,129,715</u>	<u>656,139</u>
	<u>\$ 47,257,925</u>	<u>\$ 46,649,668</u>	<u>\$ 46,826,626</u>
% change over prior year	1%	0%	
<b>Liabilities</b>			
Current liabilities	\$ 2,426,320	\$ 2,247,246	\$ 2,217,766
Long-term debt	11,917,360	12,965,317	13,981,522
Unearned revenue	582,260	648,804	715,348
Net pension liability	<u>4,052,992</u>	<u>3,509,957</u>	<u>2,745,051</u>
Total Liabilities	18,978,932	19,371,324	19,659,687
<b>Deferred inflows</b>	<u>283,631</u>	<u>224,512</u>	<u>283,642</u>
	<u>\$ 19,262,563</u>	<u>\$ 19,595,836</u>	<u>\$ 19,943,329</u>
% change over prior year	-2%	-2%	
<b>Net position</b>			
Net investment in capital assets	\$ 21,576,916	\$ 21,952,729	\$ 20,180,661
Restricted for debt service	726,601	725,685	725,384
Unrestricted	<u>5,691,845</u>	<u>4,375,418</u>	<u>5,977,252</u>
<b>Total net position</b>	<u>\$ 27,995,362</u>	<u>\$ 27,053,832</u>	<u>\$ 26,883,297</u>
% change over prior year	3%	1%	

Net investment in capital assets represents the District's long-term investment in capital assets, net of accumulated depreciation and related debt. The net investment in capital assets is not available for current operations.

## SANTA CRUZ PORT DISTRICT

MANAGEMENT'S DISCUSSION AND ANALYSIS  
Years Ended March 31, 2018 and 2017

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### CAPITAL ASSETS AND DEBT ADMINISTRATION

#### *Fiscal Year Ended March 31, 2018*

##### **Capital Assets**

Priorities for capital investment in FY18 focused on completing engineering design and permitting for replacement of Aldo's seawall after temporary repairs failed in June 2016 and a sinkhole formed behind the sheetpile seawall, bidding and awarding a contract for pile replacement and repair, amending the plan for an electronic key system for dock gates, restrooms and shower facilities, paving maintenance and repair, re-painting Walton Lighthouse, replacing flashing at 2222 East Cliff Drive, rehabilitating restrooms and adding two additional parking pay stations.

Investments in equipment and construction in progress related to the District's dredging operations included reconstruction of the beach valve box and completion of the fendering system on *Twin Lakes*. Other investments in equipment included acquisition of a used truck for the Facilities Department and new shuttle van for the Operations Department.

##### **Debt Administration**

The District's debt is related to facilities modernization and up-front funding for acquisition of the new dredge vessel *Twin Lakes*. The District's debt at March 31, 2018, totaled \$12,966,197. This represents a decrease of \$1,014,240 or 7%, from FY17's total debt of \$13,980,437.

## SANTA CRUZ PORT DISTRICT

MANAGEMENT'S DISCUSSION AND ANALYSIS  
Years Ended March 31, 2018 and 2017

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### CAPITAL ASSETS AND DEBT ADMINISTRATION (Continued)

#### *Fiscal Year Ended March 31, 2017*

##### **Capital Assets**

Priorities for capital investment in FY17 focused on acquisition of the new 16" dredge *Twin Lakes*, commencing engineering design and permitting for replacement of Aldo's seawall after temporary repairs failed in June 2016 and a sinkhole formed behind the sheetpile seawall, an unanticipated project replacing the fuel dispenser containment sumps and piping, rehabilitating restrooms (including an accessibility project at the D-Dock restroom), re-roofing the harbor office, and adding additional parking pay stations on the harbor's west side.

In addition to acquisition of the new dredge *Twin Lakes*, investments in equipment and construction in progress related to the District's dredging operations included replacement of the port and starboard engines in the workboat *Dauntless* with new diesel emissions-compliant John Deere marine engines. Other investments in equipment included a forklift, a WhisperWatt Power Generator for the Toyo pump, and new Yamaha engines for the Almar patrol boat.

##### **Debt Administration**

The District's debt is related to facilities modernization and up-front funding for replacement of the old dredge vessel *Seabright*. The District's debt at March 31, 2017, totaled \$13,980,437. This represents a decrease of \$983,100 or 7%, from FY16's total debt of \$14,963,537.

## **SANTA CRUZ PORT DISTRICT**

MANAGEMENT'S DISCUSSION AND ANALYSIS  
Years Ended March 31, 2018 and 2017

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### **CONTACTING THE DISTRICT'S FINANCIAL MANAGEMENT**

This financial report is designed to provide a general overview of the District's accountability for the District's assets. If you have questions about this report or need additional financial information, contact the Santa Cruz Port District office at 135 5<sup>th</sup> Avenue, Santa Cruz, California, 95062.

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**SANTA CRUZ PORT DISTRICT**

**STATEMENTS OF NET POSITION**  
**March 31, 2018 and 2017**

	2018	2017
<b>ASSETS</b>		
<b>CURRENT ASSETS</b>		
Cash and cash equivalents	\$ 9,737,760	\$ 7,952,713
Trade receivables	138,015	148,668
Grants receivable	129,666	39,776
Interest receivable	32,411	--
Inventory	7,256	4,597
Prepaid expenses	51,916	--
	<u>10,097,024</u>	<u>8,145,754</u>
<b>RESTRICTED ASSETS</b>		
Cash and cash equivalents (Note 2)	<u>726,601</u>	<u>725,685</u>
<b>CAPITAL ASSETS (Note 3)</b>		
Nondepreciable assets:		
Land	1,349,360	1,349,360
Construction in progress	605,977	484,401
Depreciable assets:		
Structures and improvements	29,405,675	29,336,818
Docks	21,562,506	21,562,506
Equipment	10,873,439	10,977,716
Office equipment	140,960	140,960
	<u>63,937,917</u>	<u>63,851,761</u>
Less accumulated depreciation	<u>28,746,000</u>	<u>27,203,247</u>
	<u>35,191,917</u>	<u>36,648,514</u>
Total Assets	46,015,542	45,519,953
Deferred amounts from pension plans (Note 7)	<u>1,242,383</u>	<u>1,129,715</u>
<b>TOTAL ASSETS AND DEFERRED OUTFLOWS OF RESOURCES</b>	<u><u>\$ 47,257,925</u></u>	<u><u>\$ 46,649,668</u></u>

The notes to financial statements are an integral part of these statements.



**SANTA CRUZ PORT DISTRICT**

**STATEMENTS OF NET POSITION**

March 31, 2018 and 2017

	2018	2017
<b>LIABILITIES</b>		
<b>CURRENT LIABILITIES</b>		
Accounts payable and accrued expenses	\$ 286,052	\$ 186,999
Accrued interest	91,117	99,012
Payroll liabilities	315,187	310,493
Current portion of long-term debt (Note 4)	1,048,837	1,015,120
Current portion of unearned revenue (Note 6)	66,544	66,544
Prepaid slip rents	181,220	154,165
Deposits	437,363	414,913
	<u>2,426,320</u>	<u>2,247,246</u>
Total current liabilities		
	<u>2,426,320</u>	<u>2,247,246</u>
LONG-TERM DEBT, less current portion (Note 4)	<u>11,917,360</u>	<u>12,965,317</u>
<b>OTHER LONG-TERM LIABILITIES</b>		
Unearned revenue, less current portion (Note 6)	582,260	648,804
Net pension liability (Note 7)	4,052,992	3,509,957
	<u>4,635,252</u>	<u>4,158,761</u>
Total Liabilities	<u>18,978,932</u>	<u>19,371,324</u>
<b>DEFERRED INFLOWS OF RESOURCES</b>		
Deferred amounts from pension plans (Note 7)	<u>283,631</u>	<u>224,512</u>
<b>NET POSITION</b>		
Net investment in capital assets	21,576,916	21,952,729
Restricted for:		
Debt service	726,601	725,685
Unrestricted	5,691,845	4,375,418
	<u>27,995,362</u>	<u>27,053,832</u>
Total Net Position		
	<u>27,995,362</u>	<u>27,053,832</u>
<b>TOTAL LIABILITIES, DEFERRED INFLOWS OF RESOURCES, AND NET POSITION</b>	<u>\$ 47,257,925</u>	<u>\$ 46,649,668</u>

The notes to financial statements are an integral part of these statements.

**SANTA CRUZ PORT DISTRICT**

**STATEMENTS OF REVENUES, EXPENSES, AND CHANGE IN NET POSITION**  
**Years Ended March 31, 2018 and 2017**

	2018	2017
Operating revenues:		
Charges for berthing and services	\$ 7,181,501	\$ 6,799,847
Rent and concessions	<u>1,889,238</u>	<u>1,694,869</u>
	<u>9,070,739</u>	<u>8,494,716</u>
Operating expenses:		
Depreciation and amortization	1,824,754	1,781,839
Dredging operations	1,234,002	1,259,287
Administrative services	1,121,642	1,016,517
Grounds	633,063	656,439
Harbor patrol	627,790	621,569
Fuel services	350,664	331,742
Property management	403,528	429,040
Marina management	492,804	461,217
Parking services	360,565	345,904
Boatyard operations	221,938	239,953
Buildings	259,087	238,023
Docks, piers, marine structures	317,187	263,642
Finance & purchasing	165,863	170,809
Environmental & permitting	131,817	156,750
Utilities	107,964	84,314
Aeration	44,900	42,498
Rescue services	97,308	90,519
Events	32,313	32,531
Port commission support	48,164	50,183
Capital projects	9,716	1,024
Ice production	2,452	5,042
	<u>8,487,521</u>	<u>8,278,842</u>
<b>Operating income</b>	<u>583,218</u>	<u>215,874</u>
Non-operating revenues (expenses):		
County revenues for public services	36,228	11,243
Grants	140,189	65,560
Dredging reimbursement (Note 11)	485,000	400,000
Interest income	96,293	46,245
Tsunami expense	--	(17,088)
Other income (expense)	44,912	(74,482)
Interest expense	<u>(444,310)</u>	<u>(476,817)</u>
	<u>358,312</u>	<u>(45,339)</u>
<b>Increase in net position</b>	<b>941,530</b>	<b>170,535</b>
<b>Net position, beginning</b>	<u>27,053,832</u>	<u>26,883,297</u>
<b>Net position, ending</b>	<u>\$ 27,995,362</u>	<u>\$ 27,053,832</u>

The notes to financial statements are an integral part of these statements.

**SANTA CRUZ PORT DISTRICT**

STATEMENTS OF CASH FLOWS

Years Ended March 31, 2018 and 2017

	2018	2017
<b>CASH FLOWS FROM OPERATING ACTIVITIES</b>		
Cash received from customers	\$ 9,064,353	\$ 8,414,109
Cash paid to suppliers and employees	<u>(6,124,109)</u>	<u>(6,175,006)</u>
Net cash provided by operating activities	<u>2,940,244</u>	<u>2,239,103</u>
<b>CASH FLOWS FROM NONCAPITAL FINANCING ACTIVITIES</b>		
County revenues received for public services	36,228	11,243
Grant monies received	39,775	52,909
Government revenues received for dredge operations	485,000	400,000
Cash received from other nonoperating activities	<u>86,570</u>	<u>7,640</u>
Net cash provided by noncapital financing activities	<u>647,573</u>	<u>471,792</u>
<b>CASH FLOWS FROM CAPITAL AND RELATED FINANCING ACTIVITIES</b>		
Capital expenditures	(409,815)	(2,590,115)
Proceeds from grantors and governmental agencies as reimbursement for capital expenditures	10,524	1,283,536
Interest paid on long-term debt	(452,205)	(484,415)
Principal paid on long-term debt	<u>(1,014,240)</u>	<u>(983,100)</u>
Net cash used by capital and related financing activities	<u>(1,865,736)</u>	<u>(2,774,094)</u>
<b>CASH FLOWS FROM INVESTING ACTIVITIES</b>		
Interest received from investments	<u>63,882</u>	<u>46,245</u>
Net increase (decrease) in cash and cash equivalents	1,785,963	(16,954)
<b>CASH AND CASH EQUIVALENTS, BEGINNING</b>	<u>8,678,398</u>	<u>8,695,352</u>
<b>CASH AND CASH EQUIVALENTS, ENDING</b>	<u>\$ 10,464,361</u>	<u>\$ 8,678,398</u>

The notes to financial statements are an integral part of these statements.

**SANTA CRUZ PORT DISTRICT**

**STATEMENTS OF CASH FLOWS**  
Years Ended March 31, 2018 and 2017

	2018	2017	
<b>RECONCILIATION OF OPERATING INCOME TO NET CASH FLOWS FROM OPERATING ACTIVITIES</b>			
Operating income	\$ 583,218	\$ 215,874	
Adjustments to reconcile operating income to net cash provided by operating activities:			
Depreciation and amortization	1,824,754	1,781,839	
(Increase) decrease in:			
Trade receivables	10,653	28,740	
Inventory	(2,659)	(4,597)	
Prepaid expenses	(51,916)	33,469	
Deferred outflows of resources - pensions	(112,668)	(473,576)	
Increase (decrease) in:			
Accounts payable and accrued expenses	103,747	(5,744)	
Net pension liability	543,035	764,906	
Deferred revenue	(66,544)	(66,544)	
Prepaid slip rents	27,055	(13,464)	
Deposits	22,450	26,911	
Deferred rent	--	(56,250)	
Deferred inflows of resources - pensions	59,119	7,539	
Net cash provided by operating activities	<u>\$ 2,940,244</u>	<u>\$ 2,239,103</u>	
<b>SUPPLEMENTAL DISCLOSURES</b>			
<b>SCHEDULE OF NONCASH INVESTING AND FINANCING ACTIVITIES</b>			
Capital asset additions	\$ 409,815	\$ 2,586,385	
Additions financed/included in accounts payable	--	3,730	
Cash paid to purchase capital assets	<u>\$ 409,815</u>	<u>\$ 2,590,115</u>	
<b>RECONCILIATION OF CASH AND CASH EQUIVALENTS TO THE STATEMENTS OF NET POSITION</b>			
	Current Assets	Restricted Assets	Statements of Cash Flows Total
<b>Year ended March 31, 2018</b>			
Cash and cash equivalents, beginning	\$ 7,952,713	\$ 725,685	\$ 8,678,398
Net increase	1,785,047	916	1,785,963
Cash and cash equivalents, ending	<u>\$ 9,737,760</u>	<u>\$ 726,601</u>	<u>\$ 10,464,361</u>
<b>Year ended March 31, 2017</b>			
Cash and cash equivalents, beginning	\$ 7,969,968	\$ 725,384	\$ 8,695,352
Net increase (decrease)	(17,255)	301	(16,954)
Cash and cash equivalents, ending	<u>\$ 7,952,713</u>	<u>\$ 725,685</u>	<u>\$ 8,678,398</u>

The notes to financial statements are an integral part of these statements.

## SANTA CRUZ PORT DISTRICT

NOTES TO FINANCIAL STATEMENTS  
Years Ended March 31, 2018 and 2017

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### NOTE 1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

**Nature of Business:** The Santa Cruz Port District (the District) is a political subdivision of the State of California. The District was organized on November 20, 1950, in conformity with Division 8, Part 4 of the Harbors and Navigation Code, Section 6200 et seq. The District was formed for the purpose of creating a legal entity to negotiate with various governmental agencies for the financing and construction of a small craft harbor and the subsequent operation of the facility. The District began the operation of the small craft harbor in January 1964.

**Accounting Policies:** The District is accounted for as an enterprise activity, and therefore follows the accrual basis of accounting. Under this method, revenues are recorded when earned and expenses are recorded at the time liabilities are incurred. Other significant accounting policies are:

**Basis of Accounting:** The accounting methods and procedures adopted by the District conform to accounting principles generally accepted in the United States of America as applied to governmental enterprise funds.

Private sector standards of accounting and financial reporting issued prior to December 1, 1989, are generally followed to the extent that those standards do not conflict with or contradict guidance of the Governmental Accounting Standards Board. Governments also have the option of following subsequent private-sector guidance for their business-type activities, subject to certain limitations. The District has elected not to follow subsequent private-sector guidance.

The District distinguishes operating revenues and expense from non-operating items. Operating revenues and expenses generally result from fees charged to users of the harbor facilities and maintaining harbor facilities. Operating expenses include maintenance, security, dredging, general and administrative expenses, and depreciation of capital assets. All revenues and expenses not meeting this definition are reported as non-operating revenues and expenses. Capital contributions are reported as a separate line item in the Statement of Revenues, Expenses, and Change in Net Position.

**Use of Restricted/Unrestricted Net Assets:** When an expense is incurred for purposes for which both restricted and unrestricted net assets are available, the District's policy is to apply restricted net assets first.

**Use of Estimates:** Preparing the District's financial statements in conformity with accounting principles generally accepted in the United States of America (GAAP) requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates.

**Cash and Cash Equivalents:** For purposes of the statement of cash flows, the District considers all highly liquid debt instruments purchased with a maturity of three months or less to be cash equivalents.

**SANTA CRUZ PORT DISTRICT**

NOTES TO FINANCIAL STATEMENTS  
Years Ended March 31, 2018 and 2017

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**NOTE 1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)**

**Trade Receivables:** Trade receivables consist of tenant and slipholder rents. The District believes its receivables to be fully collectible and, accordingly, no allowance for doubtful accounts is recorded.

**Interest Receivable:** Interest receivable consists of accrued interest from the Local Agency Investment Fund.

**Federal and State Grants:** Federal and state grants for the construction, acquisition, improvement of capital assets, or assistance for dredging costs are recorded as capital contributions. Revenues for reimbursement grants are recorded when allowable expenditures are made.

**Liability for Compensated Absences:** The District is required to recognize a liability for employees' rights to receive compensation for future absences. This obligation consists of the vested portion of leave balances, including vacation and compensatory time off, which are payable upon retirement. The liability for compensated absences at March 31, 2018 and 2017, included in payroll liabilities on the Statement of Net Position, was \$67,197 and \$61,653, respectively.

**Revenues (Pledged):** By resolution of the Board of Directors, all District revenues are pledged to secure debt service. The District derives its revenue principally from fees charged to users of the harbor facilities, rents, and concession fees.

**Income Taxes:** The District is a government agency that falls under Internal Revenue Code Section 115 and corresponding California Revenue and Taxation Code provisions. As such, it is not subject to federal or state income taxes.

**Inventory:** Inventory is stated at the lower of cost or market determined by the first-in, first-out method. Inventory consists of boat supplies and merchandize for resale.

**Capital Assets:** District capital assets, purchased or constructed, are recorded at cost. The cost of assets built by the District includes direct costs and eligible interest. Contributed assets are recorded at fair market value at the date of contribution.

The amount of interest capitalized as part of the District-constructed assets is the difference between the interest the District must pay on the bonds and loans issued to finance improvements, and the interest the District earns on bond and loan proceeds not yet expended. The interest as defined above is capitalized until the projects are placed in service at which time any remaining interest is expensed.

The District's policy is to capitalize all assets that cost \$5,000 or more, and to charge to current operations all additions under that limit. The costs of normal maintenance and repairs that do not add to the value of the asset or materially extend lives are also expensed in the current period, even if greater than \$5,000.

## SANTA CRUZ PORT DISTRICT

NOTES TO FINANCIAL STATEMENTS  
Years Ended March 31, 2018 and 2017

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### NOTE 1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)

**Depreciation and Amortization:** Depreciation expense is computed using the straight-line method over estimated useful lives ranging from three to fifty years.

**Restricted Assets:** Certain cash and investments of the District are classified as restricted because their uses are limited by commitments made by the District to its lenders.

**Net Position:** Net position as shown in the Statement of Net Position is classified in the following categories:

Net Investment in Capital Assets – This amount consists of capital assets, net of accumulated depreciation, and reduced by outstanding debt that is attributed to the acquisition, construction, or improvement of the assets.

Restricted – This amount is restricted by external creditors, grantors, contributors, or laws or regulations of other governments, as reduced by related outstanding debt.

Unrestricted – This amount is all remaining net position that does not meet the definition of “net investment in capital assets” or “restricted”.

#### **New Accounting Pronouncements:**

**Pending Accounting Standards:** GASB has issued the following statements which may impact the District’s financial reporting requirement in the future:

- GASB 75 - “Accounting and Financial Reporting for Postemployment Benefits Other Than Pensions”, effective for periods beginning after June 15, 2017.
- GASB 87 - “Leases”, effective for periods beginning after December 15, 2019.

**Deferred Outflows/Inflows of Resources:** In addition to assets, the Statement of Net Position will sometimes report a separate section for deferred outflow of resources. This separate financial statement element, *deferred outflows of resources*, represents a consumption of net position that applies to a future period and so will not be recognized as an outflow of resources (expense/expenditure) until that time. The District had only one item that qualified for reporting in this category, related to pensions as detailed in Note 7.

In addition to liabilities, the Statement of Net Position will sometimes report on a separate section for deferred inflow of resources. This separate financial statement element, *deferred inflows of resources*, represents an acquisition of net position that applies to a future period and so will not be recognized as an inflow of resources (revenue) until that time. The District had only one item that qualified for reporting in this category, related to pensions as detailed in Note 7.

**SANTA CRUZ PORT DISTRICT**

NOTES TO FINANCIAL STATEMENTS  
Years Ended March 31, 2018 and 2017

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**NOTE 2. CASH AND CASH EQUIVALENTS**

The District is a voluntary participant in the Local Agency Investment Fund (LAIF) that is regulated by California Government Code Section 16429 under the oversight of the Treasurer of the State of California. The District reports its investment in LAIF at the fair value amount provided by LAIF, which is the same as the value of the pool share. The balance available for withdrawal is based on the accounting records maintained by LAIF, which are maintained on an amortized cost basis. Included in LAIF's investment portfolio are collateralized mortgage obligations, mortgage-backed securities, other asset-backed securities, loans to certain state funds, and floating rate securities issued by federal agencies, government-sponsored enterprises, United States Treasury Notes and Bills, and corporations.

The investment policy of the District requires that all funds not required for immediate use be invested in one of the following acceptable investment instruments:

- a) U.S. government securities and debt obligations;
- b) Certificates of deposit which are fully insured or fully collateralized to 110% of principal for government securities and 150% of principal for first mortgage collateral;
- c) California's Local Agency Investment Fund.

The District has adopted GASB Statement No. 40, *Deposit and Investment Risk Disclosures*, which addresses common deposit and investment risks related to credit risk, concentration of credit risk, interest rate risk, and foreign currency risk. Under this statement, disclosures of these risks are required for uninsured and unregistered investments and deposits collateralized with securities held by the broker or pledging financial institution's trust department or agent, but not in the District's name. The District did not hold any investments or deposits falling into this category of risk (generally known as Category 3) at March 31, 2018.

**Restricted Cash:** Restricted cash consists of the following as of March 31:

	<b>2018</b>	<b>2017</b>
Restricted cash and cash equivalents for debt service:		
Money market funds / government obligations	<u>\$ 726,601</u>	<u>\$ 725,685</u>



**SANTA CRUZ PORT DISTRICT**

NOTES TO FINANCIAL STATEMENTS  
Years Ended March 31, 2018 and 2017

**NOTE 3. CAPITAL ASSETS**

The following is a summary of changes in capital assets for the year ended March 31, 2018:

	March 31, 2017	Additions	Deletions and Transfers	March 31, 2018
<b>Nondepreciable assets:</b>				
Land	\$ 1,349,360	\$ --	\$ --	\$ 1,349,360
Construction in progress	484,401	121,576	--	605,977
<b>Depreciable assets:</b>				
Structures and improvements	29,336,818	68,857	--	29,405,675
Docks	21,562,506	--	--	21,562,506
Equipment	10,977,716	219,382	(323,659)	10,873,439
Office equipment	140,960	--	--	140,960
	<u>63,851,761</u>	<u>409,815</u>	<u>(323,659)</u>	<u>63,937,917</u>
Accumulated depreciation	<u>(27,203,247)</u>	<u>(1,824,754)</u>	<u>282,001</u>	<u>(28,746,000)</u>
	<u>\$ 36,648,514</u>	<u>\$ (1,414,939)</u>	<u>\$ (41,658)</u>	<u>\$ 35,191,917</u>

The following is a summary of changes in capital assets for the year ended March 31, 2017:

	March 31, 2016	Additions	Deletions and Transfers	March 31, 2017
<b>Nondepreciable assets:</b>				
Land	\$ 1,349,360	\$ --	\$ --	\$ 1,349,360
Construction in progress	3,581,567	54,855	(3,152,021)	484,401
<b>Depreciable assets:</b>				
Structures and improvements	29,244,137	92,681	--	29,336,818
Docks	21,562,506	--	--	21,562,506
Equipment	6,999,115	2,432,722	1,545,879	10,977,716
Office equipment	134,833	6,127	--	140,960
	<u>62,871,518</u>	<u>2,586,385</u>	<u>(1,606,142)</u>	<u>63,851,761</u>
Accumulated depreciation	<u>(26,945,428)</u>	<u>(1,781,839)</u>	<u>1,524,020</u>	<u>(27,203,247)</u>
	<u>\$ 35,926,090</u>	<u>\$ 804,546</u>	<u>\$ (82,122)</u>	<u>\$ 36,648,514</u>

**SANTA CRUZ PORT DISTRICT**

NOTES TO FINANCIAL STATEMENTS  
 Years Ended March 31, 2018 and 2017

**NOTE 3. CAPITAL ASSETS (Continued)**

In January of 2015 the District accepted a 16,000 square foot vacated right of way along Brommer Street Extension, adjacent to lands owned by the District. Due to the very limited marketability of subject property, and the time and expense involved in getting a market appraisal, the District has opted to record the asset at zero value.

**NOTE 4. LONG-TERM DEBT**

Long-term debt and related current portion as of March 31, 2018 and 2017, is presented below:

	March 31, 2017	Additions	Reductions	March 31, 2018
Compass Bank taxable loan	\$ 1,882,579	\$ --	\$ (188,925)	\$ 1,693,654
Compass Bank tax-exempt loan	12,005,959	--	(808,531)	11,197,428
PG&E loan	83,331	--	(12,731)	70,600
Phone system	8,568	--	(4,053)	4,515
	<u>13,980,437</u>	<u>--</u>	<u>(1,014,240)</u>	<u>12,966,197</u>
Less current portion	<u>(1,015,120)</u>	<u>(33,717)</u>	<u>--</u>	<u>(1,048,837)</u>
	<u>\$ 12,965,317</u>	<u>\$ (33,717)</u>	<u>\$ (1,014,240)</u>	<u>\$ 11,917,360</u>

Total interest incurred and charged to expense during the years ended March 31, 2018 and 2017, was \$444,310 and \$476,817, respectively.

During the fiscal year ended March 31, 2014, the District refinanced its outstanding debt with loans privately placed with BBVA Compass Bank. The financing package included \$4,000,000 in new debt to be used to purchase a new dredge to replace the *Seabright*, which had reached the end of its useful life. The new dredge was placed in service in July 2016.

The new loans also reduced the District's payback period, with payoff occurring in 2029 rather than 2042 under the old loans. Through this combined financing and new debt, the District will realize cash flow savings of approximately \$3.8 million over the 16-year life of the loans.

The borrowing agreements with BBVA Compass Bank for the taxable and tax-exempt loans and line of credit include a restrictive covenant requiring net revenues for the fiscal year to be equal to at least 1.25 times the debt service. At March 31, 2018, the District was in compliance with the covenant.

The Compass Bank taxable loan, in the amount of \$2,384,445 was part of the refinance package noted above. Proceeds of the loan were used to payoff the existing Series 2004C revenue bonds, as well as to provide funding to payoff the OE3 pension liability. Terms of the note call for semi-annual principal and interest payments in May and November, ranging from \$114,000 to \$229,000, with an average payment of \$140,000, including interest at 4.74% per annum. Final payment on the loan is due November 1, 2026.

**SANTA CRUZ PORT DISTRICT**

NOTES TO FINANCIAL STATEMENTS  
 Years Ended March 31, 2018 and 2017

**NOTE 4. LONG-TERM DEBT (Continued)**

The Compass Bank tax-exempt loan, in the amount of \$14,418,961 was part of the refinance package noted above. Proceeds of the loan were used to pay off the existing Series 2004A revenue bonds, all of the Department of Boating and Waterways loans, as well as providing funding for the new dredge. Terms of the note call for semi-annual principal and interest payments in February and August, ranging from \$547,000 to \$590,000, including interest at 3.09% per annum. Final payment on the loan is due August 1, 2029.

PG&E loan – In August 2014 the District entered into an on-bill financing loan agreement with PG&E, in the amount of \$120,368, for the purchase of energy efficient equipment. Terms of the loan call for monthly principal payments of \$1,157, to be included in the monthly utilities bill, over a period of 104 months.

Phone system - In September 2014 the District entered into a capital lease agreement with AVAYA Financial Services, in the amount of \$18,866, for new phone systems. Terms of the lease call for monthly principal payments of \$315 over a period of 60 months.

Debt service required under the notes for each of the succeeding five years and thereafter in five year increments are:

	Principal	Interest	Total
2019	\$ 1,048,837	\$ 417,503	\$ 1,466,340
2020	1,079,028	382,101	1,461,129
2021	1,117,541	345,468	1,463,009
2022	1,086,130	299,115	1,385,245
2023	1,118,370	261,682	1,380,052
2024-2028	5,384,339	749,430	6,133,769
2029-2031	2,131,952	63,608	2,195,560
	<u>\$ 12,966,197</u>	<u>\$ 2,518,907</u>	<u>\$ 15,485,104</u>

**NOTE 5. LINE OF CREDIT**

In September 2013 the District entered into a line of credit borrowing agreement with Compass Bank, with an established limit of \$4,000,000, which was reduced to \$2,000,000 during the year ended March 31, 2015, at the request of the District. The District's business assets are used as collateral to secure the line. The rate of interest is the greater of the Prime Rate Floor or the Wall Street Journal Money Rate, plus .25%. The effective rate at March 31, 2018 was 5.00%. There was no outstanding balance at March 31, 2018.

## SANTA CRUZ PORT DISTRICT

NOTES TO FINANCIAL STATEMENTS  
Years Ended March 31, 2018 and 2017

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### NOTE 6. UNEARNED REVENUE

In 2002, the District entered into a joint venture agreement with a not-for-profit tenant to recapitalize and reconstruct the building at 2222 East Cliff Drive. The agreement stated the tenant would pay 47% of the cost of the construction project and the District would pay 53% of the cost of the project. Title for the building remains with the District. In return for the cost sharing agreement, the tenant received a 24-year lease with payment terms similar to a ground only lease which extends through December 31, 2028.

The tenant's total contribution to the project was \$1,558,239. That amount was established as unearned revenue and will be amortized to concession rental income over the term of the lease. Since inception of the lease agreement the District has recognized \$909,435 of the unearned revenue as rental income. Of the remaining \$648,804, \$66,544 is considered current and \$582,260 is considered long-term.

### NOTE 7. PENSION PLANS

#### **Deferred Compensation Plan (457(a)):**

The District offers its employees a deferred compensation plan created in accordance with Internal Revenue Code Section 457. The plan, available to District employees based on eligibility, permits them to defer a portion of their salary until future years. The deferred compensation is not available to employees until termination, retirement, death, or unforeseeable emergency.

#### **Defined Benefit Pension Plan (CalPERS):**

##### **General Information:**

**Plan Description:** Effective April 1, 2003, the District adopted a cost-sharing multiple employer defined benefit pension plan (the Plan) that provides retirement and disability benefits, annual cost-of-living adjustments, and death benefits to plan members and beneficiaries. All qualified employees are eligible to participate in the District's Plan administered by the California Public Employees' Retirement System (CalPERS).

State statutes within the Public Employees' Retirement Law establish a menu of benefit provisions as well as other requirements. The District selected its optional benefit provisions from the benefit menu when it contracted with CalPERS and adopted those benefits through local ordinance. CalPERS issues a separate comprehensive annual financial report. Copies of the CalPERS annual financial report may be obtained from the CalPERS Executive Office, 400 P Street, Sacramento, CA 95814, or on their website.

**Benefits Provided:** CalPERS provides service retirement and disability benefits, annual cost of living adjustments and death benefits to plan members, who must be public employees and beneficiaries. Benefits are based on years of credited service, equal to one year of full time employment. Members with five years of total service are eligible to retire at age 50 with statutorily reduced benefits. All members are eligible for non-duty disability benefits after 10 years of service.

**SANTA CRUZ PORT DISTRICT**

NOTES TO FINANCIAL STATEMENTS  
Years Ended March 31, 2018 and 2017

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**NOTE 7. PENSION PLANS (Continued)**

**Defined Benefit Pension Plan (CalPERS) (Continued):**

**General Information (Continued)**

**Funding Policy:** Active plan members are required to contribute a percentage of their annual covered salary. The District has a 3-tiered CalPERS plan system for miscellaneous employees – 2.5% @ 55; 2% @ 60; and 2% @ 62. Plan placement is dependent on the eligible employee’s status as an existing member or new member. Depending on plan placement, active members contribute between 6.25% and 8% of their annual covered salary: 8% contribution for 2.5% @ 55; 7% contribution for 2% @ 60; and 6.25% contribution for 2% @ 62.

The District is required to contribute the actuarially determined remaining amounts necessary to fund the benefits for its members. The actuarial methods and assumptions used are those adopted by the CalPERS’ Board of Administration. The required employer contribution rate for the 2.5% @ 55 tier was 9.498% for April 2017 – June 2017 and 9.539% from July 2017 – March 2018. For the 2% @ 60 tier, the employer rate was 7.159% from April 2017 – June 2017 and 7.2% from July 2017 – March 2018. For the 2% @ 62 tier, the employer rate was 6.555% from April 2017 – June 2017 and 6.533% from July 2017 - March 2018. The contribution requirements of the plan members are established by State statute and the employer contribution rate is established and may be amended by CalPERS.

**Pension Liabilities, Pension Expense and Deferred Outflows/Inflows of Resources Related to Pensions:**

As of March 31, 2018, the District reported a \$4,052,992 net pension liability for its proportionate share of the net pension liability of the Plan.

The net pension liability of the Plan is measured as of June 30, 2017, and the total pension liability for the Plan used to calculate the net pension liability was determined by an actuarial valuation as of June 30, 2016 rolled forward to June 30, 2017 using standard update procedures. The District’s proportionate share of the net pension liability was based on a projection of the District’s long-term share of contributions to the pension plan relative to the projected contributions of all participating employers, actuarially determined.

The District’s proportionate share of the net pension liability for the Plan as of March 31, 2018 and 2017 was as follows:

Proportion - March 31, 2017	0.0406%
Proportion - March 31, 2018	0.0409%
Change - Increase (Decrease)	0.0003%

**SANTA CRUZ PORT DISTRICT**

NOTES TO FINANCIAL STATEMENTS  
 Years Ended March 31, 2018 and 2017

**NOTE 7. PENSION PLANS (Continued)**

**Defined Benefit Pension Plan (CalPERS) (Continued):**

**Pension Liabilities, Pension Expense and Deferred Outflows/Inflows of Resources Related to Pensions (Continued):**

For the year ended March 31, 2018, the District recognized pension expense of \$821,916. At March 31, 2018, the District reported deferred outflows of resources and deferred inflows of resources related to pensions from the following sources:

	Deferred outflows of resources	Deferred inflows of resources
Differences between actual and expected experience	\$ 4,924	\$ 70,550
Change in assumptions	610,993	46,589
Net differences between projected and actual earnings on plan investments	304,748	--
Change in employer's proportion	66,963	26,627
Differences between the employer's contributions and the employer's proportionate share of contributions	--	139,865
Pension contributions subsequent to measurement date	254,755	--
Total	\$ 1,242,383	\$ 283,631

The \$254,755 reported as deferred outflows of resources relates to contributions subsequent to the measurement date will be recognized as a reduction of the net pension liability in the year ending March 31, 2019. Other amounts reported as deferred outflows of resources and deferred inflows of resources related to pensions will be recognized as pension expense as follows:

Year ending March 31,	Amount
2019	\$ 283,154
2020	315,720
2021	187,164
2022	(82,041)
	\$ 703,997

**SANTA CRUZ PORT DISTRICT**

NOTES TO FINANCIAL STATEMENTS  
Years Ended March 31, 2018 and 2017

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**NOTE 7. PENSION PLANS (Continued)**

**Defined Benefit Pension Plan (CalPERS) (Continued):**

**Pension Liabilities, Pension Expense and Deferred Outflows/Inflows of Resources Related to Pensions (Continued):**

**Actuarial Assumptions:** The March 31, 2018 total pension liability was determined using the following actuarial methods and assumptions:

Valuation Date	June 30, 2016
Measurement Date	June 30, 2017
Actuarial Cost Method	Entry-Age Normal Cost Method
Actuarial assumptions:	
Discount rate	7.15%
Inflation	2.75%
Salary Increase	Varies by entry age and service.
Mortality	The probabilities of mortality are derived using CalPERS' membership data for all funds. The mortality table used was developed based on CalPERS' specific data. The table includes 20 years of mortality improvements using Society of Actuaries Scale BB. For more details on this table, please refer to the April 2014 experience study report.
Post Retirement Benefit Increase	Contract COLA up to 2.75% until Purchasing Power Protection Allowance Floor on Purchasing Power applies, 2.75% thereafter.

The underlying mortality assumptions and all other actuarial assumptions used in the June 30, 2016 valuation were based on the results of a 2014 actuarial experience study for the period 1997 to 2011. Further details of the Experience Study can be found on the CalPERS website.

**Discount Rate:** The discount rate used to measure the total pension liability was 7.15%. To determine whether the municipal bond rate should be used in the calculation of a discount rate, CalPERS stress tested plans that would most likely result in a discount rate that would be different from the actuarially assumed discount rate. Based on the testing, none of the tested plans run out of assets. Therefore, the current 7.15% discount rate is adequate and the use of the municipal bond rate calculation is not necessary. The long-term expected discount rate of 7.15% will be applied to all plans in the Public Employees Retirement Fund (PERF). The stress test results are presented in a detailed report that can be obtained from the CalPERS website.

**SANTA CRUZ PORT DISTRICT**

NOTES TO FINANCIAL STATEMENTS  
 Years Ended March 31, 2018 and 2017

**NOTE 7. PENSION PLANS (Continued)**

**Defined Benefit Pension Plan (CalPERS) (Continued):**

**Pension Liabilities, Pension Expense and Deferred Outflows/Inflows of Resources Related to Pensions (Continued):**

The long-term expected rate of return on pension plan investments was determined using a building-block method in which best-estimate ranges of expected future real rates of return (expected returns, net of pension plan investment expense and inflation) are developed for each major asset class.

In determining the long-term expected rate of return, CalPERS took into account both short-term and long-term market return expectations as well as the expected pension fund cash flows. Using historical returns of all the funds' asset classes, expected compound (geometric) returns were calculated over the short-term (first 10 years) and the long-term (11-60 years) using a building-block approach. Using the expected nominal returns for both short-term and long-term, the present value of benefits was calculated for each fund. The expected rate of return was set by calculating the single equivalent expected return that arrived at the same present value of benefits for cash flows as the one calculated using both short-term and long-term returns. The expected rate of return was then set equivalent to the single equivalent rate calculated above and rounded down to the nearest one quarter of one percent.

The table below reflects the long-term expected real rate of return by asset class. The rate of return was calculated using the capital market assumptions applied to determine the discount rate and asset allocation.

Asset class	New strategic allocation	Real return years 1-10 (a)	Real return years 11+ (b)
Global equity	47.00%	4.90%	5.38%
Fixed income	19.00%	0.80%	2.27%
Inflation assets	6.00%	0.60%	1.39%
Private equity	12.00%	6.60%	6.63%
Real estate	11.00%	2.80%	5.21%
Infrastructure and forestland	3.00%	3.90%	5.36%
Liquidity	2.00%	-0.40%	-0.90%

(a) An expected inflation of 2.5% used for this period.

(b) An expected inflation of 3.0% used for this period.



**SANTA CRUZ PORT DISTRICT**

NOTES TO FINANCIAL STATEMENTS  
Years Ended March 31, 2018 and 2017

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**NOTE 7. PENSION PLANS (Continued)**

**Defined Benefit Pension Plan (CalPERS) (Continued):**

**Pension Liabilities, Pension Expense and Deferred Outflows/Inflows of Resources Related to Pensions (Continued):**

**Sensitivity of the Proportionate Share of the Net Pension Liability to Changes in the Discount Rate:** The following presents the District's proportionate share of the net pension liability, calculated using the discount rate, as well as what the District's proportionate share of the net pension liability would be if it were calculated using a discount rate that is 1-percentage point lower or 1-percentage point higher than the current rate:

1% Decrease		6.15%
Net Pension Liability	\$	6,066,998
Current Discount Rate		7.15%
Net Pension Liability	\$	4,052,992
1% Increase		8.15%
Net Pension Liability	\$	2,384,955

**Pension Plan Fiduciary Net Position:** Detailed information about the Plan's fiduciary net position is available in the separately issued CalPERS financial reports.

**Payable to the Pension Plan:** At March 31, 2018, the District had no outstanding contributions payable to the pension plan required for the year ended March 31, 2018.

**NOTE 8. RISK MANAGEMENT**

The District covers its liability for significant claims by purchasing workers' compensation, property, and liability insurance. There have been no significant reductions in insurance coverage in the current year. Settlement amounts have not materially exceeded insurance coverage for the current and prior year.

**SANTA CRUZ PORT DISTRICT**

NOTES TO FINANCIAL STATEMENTS  
 Years Ended March 31, 2018 and 2017

**NOTE 9. OPERATING LEASES**

The District is the lessor of land and improvements under operating leases expiring in various years through 2032. Following is a summary of property held for lease at March 31, 2018 and 2017:

	<b>2018</b>	<b>2017</b>
Land	\$ 1,224,703	\$ 1,224,703
Structures and improvements	27,597,425	27,528,568
Docks	<u>21,526,256</u>	<u>21,526,256</u>
	50,348,384	50,279,527
Less accumulated depreciation	<u>22,710,353</u>	<u>21,361,786</u>
	<u>\$ 27,638,031</u>	<u>\$ 28,917,741</u>

Minimum future lease income to be received on non-cancelable leases as of March 31, 2018, for each of the next 5 years and in the aggregate is:

2019	\$ 667,961
2020	645,942
2021	518,568
2022	468,907
2023	271,246
Thereafter	<u>422,497</u>
	<u>\$ 2,995,121</u>

Minimum future lease income does not include contingent rentals that may be received under certain leases based on the volume of business conducted by the lessee. Contingent rental income on non-cancelable leases for the years ended March 31, 2018 and 2017, totaled approximately \$745,029 and \$627,716, respectively.

**NOTE 10. OTHER POSTEMPLOYMENT BENEFITS (OPEB)**

**Public Employees' Medical and Hospital Care Act (PEMHCA)**

The District administers a multiple-employer defined benefit healthcare plan (the Plan). The Plan provides medical healthcare insurance for eligible retirees and their spouses through the California Public Employees' Retirement System (CalPERS) Health Benefits Program under the Public Employees' Medical and Hospital Care Act (PEMHCA). No dental, vision, or life insurance benefits are provided by the Plan. Currently there are 2 retired employee and 20 active employees participating in the Plan.

**SANTA CRUZ PORT DISTRICT**

NOTES TO FINANCIAL STATEMENTS  
 Years Ended March 31, 2018 and 2017

**NOTE 10. OTHER POSTEMPLOYMENT BENEFITS (OPEB) (Continued)**

**Funding Policy**

There is no statutory requirement for the District to pre-fund its OPEB obligation. The District has currently chosen to pay Plan benefits on a pay-as-you-go basis and does not maintain a trust fund for its OPEB obligation. The District’s fixed dollar benefit contribution cannot be less than the PEMHCA minimum for PEMHCA actives and retirees. The District accrued these benefits at the monthly statutory rate (\$133 for 2018) for each participant in the PEMCHA plan.

**Annual OPEB Cost and Net OPEB Obligation**

For the fiscal year ended March 31, 2018, the components of the District’s annual OPEB cost for the year, the amount actually contributed to the Plan, and changes in the District’s net OPEB obligation to the Plan are as follows. The Alternative Measurement Method under GASB No. 45 was used to calculate the actuarial obligation since the District has fewer than 100 plan members.

Annual required contribution (ARC)	\$ 73,100
Interest on net OPEB obligation	2,900
Adjustment to ARC	<u>(3,300)</u>
Annual OPEB cost (expense)	72,700
Actual contributions made (pay-as-you-go)	<u>--</u>
Increase in net OPEB obligation	72,700
Net OPEB Obligation - April 1, 2017	<u>77,100</u>
Net OPEB Obligation - March 31, 2018	<u><u>\$ 149,800</u></u>

Fiscal Year	Annual Required Contribution (ARC)	Percentage of ARC Contributed	Net OPEB Obligation
3/31/2015	\$ 24,000	0.00%	\$ 24,000
3/31/2016	\$ 25,700	0.00%	\$ 49,600
3/31/2017	\$ 27,500	0.00%	\$ 77,100
3/31/2018	\$ 72,700	0.00%	\$ 149,800

**SANTA CRUZ PORT DISTRICT**

NOTES TO FINANCIAL STATEMENTS  
Years Ended March 31, 2018 and 2017

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**NOTE 10. OTHER POSTEMPLOYMENT BENEFITS (OPEB) (Continued)**

**Funded Status**

The funded status of the plan as of April 1, 2017, the date of the latest actuarial review, was as follows:

Actuarial accrued liabilities (AAL)	\$ 417,700
Actuarial value of plan assets	--
Unfunded actuarial accrued liabilities (UAAL)	<u>\$ 417,700</u>
Funded ratio	0.00%
Covered payroll (active plan members)	<u>\$ 1,816,100</u>
UAAL as a percentage of covered payroll	23.00%

The projection of future benefit payments for an ongoing plan involves estimates of the value of reported amounts and assumptions about the probability of occurrence of events far into the future. Examples include assumptions about future employment, mortality, and the healthcare cost trend. Amounts determined regarding the funded status of the plan and the annual required contributions of the employer are subject to continual revision as actual results are compared with past expectations and new estimates are made about the future. The schedule of funding progress, presented as required supplementary information following the notes to financial statements, presents multi-year trend information about whether the actuarial value of plan assets is increasing or decreasing over time relative to the actuarial accrued liabilities for benefits.

**Actuarial Methods and Assumptions**

Projections of benefits for financial reporting purposes are based on the substantive plan (the plan as understood by the employer and the plan members) and include the types of benefits provided at the time of the valuation and the historical pattern of sharing of the benefit costs between employer and plan members to that point. The actuarial methods and assumptions used include techniques that are designed to reduce the effects of short-term volatility in actuarial accrued liabilities and the actuarial assets, consistent with the long-term perspective of the calculations.

In the April 1, 2017 actuarial valuation, the actuarial cost method used was Entry Age Normal (EAN). Under the EAN cost method, the normal cost for each participant is determined as a level percent of payroll throughout the participant's working career. The actuarial assumptions include a 3.86 percent discount rate, a 2.75 percent per year general inflation rate, aggregate payroll increases of 3 percent, and an annual healthcare cost trend rate of 4 to 7.5 percent. The UAAL is being amortized as a level percent of payroll over a fixed, closed twenty seven year period.

**SANTA CRUZ PORT DISTRICT**

NOTES TO FINANCIAL STATEMENTS  
Years Ended March 31, 2018 and 2017

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**NOTE 11. DREDGING REIMBURSEMENT**

In November, 2015, the District entered into an agreement with the Department of the Army Corps of Engineers (Corps) to reimburse the District for a portion of expected dredging costs, only if funds are specifically appropriated for that purpose. The agreement terminates on April 1, 2025. Due to the uncertainty of the availability of funds, revenue will be recorded when the funds are ultimately received. During the year ended March, 31, 2018, the District received \$485,000 in payments from Department of the Army Corps of Engineers (Corps) for dredging operations that occurred in 2016-17. During the year ended March, 31, 2017, the District received \$400,000 in payments from Department of the Army Corps of Engineers (Corps) for dredging operations that occurred in 2015-16.

**NOTE 12. SUBSEQUENT EVENTS**

Management has evaluated its March 31, 2018 and 2017 financial statements for subsequent events through **TBD**, the date of issuance of the financial statements. The District is not aware of any subsequent events that would require recognition or disclosure in the financial statements.

**SANTA CRUZ PORT DISTRICT**

**SCHEDULE OF PROPORTIONATE SHARE OF THE NET PENSION LIABILITY  
Last 10 Fiscal Years\***

	<u>March 31, 2018</u>	<u>March 31, 2017</u>	<u>March 31, 2016</u>
Measurement date	June 30, 2017	June 30, 2016	June 30, 2015
Plan's proportion of the net pension liability	0.0409%	0.0406%	0.0400%
Plan's proportionate share of the net pension liability	\$ 4,052,992	\$ 3,509,957	\$ 2,745,051
Plan's covered - employee payroll**	\$ 1,995,472	\$ 1,730,361	\$ 1,680,148
Plan's proportionate share of the net pension liability as a percentage of its covered - employee payroll	203.11%	202.85%	163.38%
Plan's proportionate share of the fiduciary net position as a percentage of the proportionate share of the Plan's total pension liability	73.31%	74.06%	78.40%
Plan's proportionate share of aggregate employer contributions	\$ 400,662	\$ 365,656	\$ 343,279

Notes to Schedule:

Changes in Benefit Terms:  
None

Change in Assumptions:  
None

\* - Fiscal year 2016 was the first year of implementation, therefore three years are shown.

\*\* - For the year ending on the measurement date

**SANTA CRUZ PORT DISTRICT**

**SCHEDULE OF CONTRIBUTIONS - DEFINED BENEFIT PENSION PLANS**  
**Last 10 Fiscal Years\***

	<u>March 31, 2018</u>	<u>March 31, 2017</u>	<u>March 31, 2016</u>
Actuarially determined contribution	\$ 332,430	\$ 309,357	\$ 188,042
Contributions in relation to the actuarially determined contribution	<u>(332,430)</u>	<u>(309,357)</u>	<u>(188,042)</u>
Contribution deficiency (excess)	<u>\$ --</u>	<u>\$ --</u>	<u>\$ --</u>
Covered-employee payroll**	\$ 2,160,998	\$ 1,912,027	\$ 1,692,156
Contributions as a percentage of covered-employee payroll	15.38%	16.18%	11.11%

Notes to Schedule:

Changes in Benefit Terms:  
None

Change in Assumptions:  
None

\* - Fiscal year 2016 was the first year of implementation, therefore three years are shown.

\*\* - For the fiscal year ending on the date shown

**SANTA CRUZ PORT DISTRICT**

**SCHEDULE OF FUNDING PROGRESS FOR OTHER POSTEMPLOYMENT HEALTHCARE BENEFITS**  
 Year Ended March 31, 2018

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Valuation Date	Actuarial Accrued Liability (a)	Actuarial Value of Assets (b)	Unfunded Liability (Excess Assets) (a)-(b)	Funded Status (b)/(a)	Annual Covered Payroll (c)	UAAL as a % of Payroll [(a)-(b)]/(c)
4/1/2014	\$ 227,800	\$ --	\$ 227,800	0.00%	\$ 1,525,400	14.93%
4/1/2017	\$ 417,700	\$ --	\$ 417,700	0.00%	\$ 1,816,100	23.00%

DRAFT





**INDEPENDENT AUDITORS' REPORT ON INTERNAL CONTROL OVER FINANCIAL REPORTING AND ON COMPLIANCE AND OTHER MATTERS BASED ON AN AUDIT OF FINANCIAL STATEMENTS PERFORMED IN ACCORDANCE WITH GOVERNMENT AUDITING STANDARDS**

Board of Commissioners  
Santa Cruz Port District  
Santa Cruz, California

We have audited, in accordance with the auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States, the basic financial statements of the Santa Cruz Port District (the District), as of and for the year ended March 31, 2018, and the related notes to the basic financial statements, which collectively comprise the District's basic financial statements, and have issued our report thereon dated **TBD**.

***Internal Control Over Financial Reporting***

In planning and performing our audit of the financial statements, we considered the District's internal control over financial reporting (internal control) to determine the audit procedures that are appropriate in the circumstances for the purpose of expressing our opinions on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of the District's internal control. Accordingly, we do not express an opinion on the effectiveness of the District's internal control.

A *deficiency in internal control* exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, misstatements on a timely basis. A *material weakness* is a deficiency, or a combination of deficiencies, in internal control, such that there is a reasonable possibility that a material misstatement of the District's financial statements will not be prevented, or detected and corrected on a timely basis. A *significant deficiency* is a deficiency, or a combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance.

Our consideration of internal control was for the limited purpose described in the first paragraph of this section and was not designed to identify all deficiencies in internal control that might be material weaknesses or significant deficiencies. Given these limitations, during our audit we did not identify any deficiencies in internal control that we consider to be material weaknesses. However, material weaknesses may exist that have not been identified.

### ***Compliance and Other Matters***

As part of obtaining reasonable assurance about whether the District's financial statements are free from material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit, and accordingly, we do not express such an opinion. The results of our tests disclosed no instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards*.

### ***Purpose of this Report***

The purpose of this report is solely to describe the scope of our testing of internal control and compliance and the results of that testing, and not to provide an opinion on the effectiveness of the District's internal control or on compliance. This report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the District's internal control and compliance. Accordingly, this communication is not suitable for any other purpose.

Date TBD



**HUTCHINSON and**  
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## **INDEPENDENT AUDITORS' REPORT ON ADDITIONAL INFORMATION**

Board of Commissioners  
Santa Cruz Port District  
Santa Cruz, California

Our report on our audit of the basic financial statements of the Santa Cruz Port District as of and for the years ended March 31, 2018 and 2017, appears on pages 1-2. The audit was conducted for the purpose of forming an opinion on the basic financial statements taken as a whole. The Schedule of Insurance Coverage on page 41 is presented for purposes of additional analysis and is not a required part of the basic financial statements. Such information has not been subjected to the auditing procedures applied in the audits of the basic financial statements, and, accordingly, we express no opinion on it.

**TBD**

**SANTA CRUZ PORT DISTRICT**

**SCHEDULE OF INSURANCE COVERAGE**

March 31, 2018

As of March 31, 2018, the District's insurance coverage was as follows:

	<u>LIMITS</u>	<u>DEDUCTIBLE</u>
<b>UMBRELLA / BUMBERSHOOT LIABILITY</b>		
Each Occurrence, excess of \$1,000,000 primary	\$14,000,000	\$25,000
<b>PROPERTY</b>		
Building , Business Personal Property, Business Income, Contractor's Equipment, Piers, Wharves, and Docks (Loss Limits and Deductibles are given as total, subject to sublimit described in policy)	\$43,297,310	See policy
<b>MARINA OPERATORS LEGAL LIABILITY</b>		
Each Occurrence	\$1,000,000	\$5,000
<b>BUSINESS AUTO</b>		
Liability, Combined Single Limit	\$1,000,000	None
Medical Payments	\$5,000	None
Uninsured/Underinsured Motorist	\$1,000,000	None
<b>HULL AND MACHINERY / PROTECTION AND INDEMNITY</b>		
Hull and Machinery	\$5,054,600	Per Schedule
Protection and Indemnity	\$1,000,000	\$1,000
<b>PUBLIC OFFICIALS Liability</b>		
Each Claim and in the Aggregate	\$2,000,000	\$25,000
Includes Employment Practices Liability		\$50,000
<b>UNDERGROUND STORAGE TANKS</b>		
Each Incident	\$1,000,000	\$50,000
Total Policy Aggregate Limit	\$2,000,000	
<b>GENERAL LIABILITY</b>		
General Aggregate	\$2,000,000	None
Products/Completed Operations Aggregate	\$2,000,000	None
Each Occurrence	\$1,000,000	None
<b>FLOOD</b>		
Each Incident and Aggregate (2 Properties)	\$500,000	\$1,250
	\$500,000	\$1,250

Santa Cruz Port District  
**Accounts Payable Monthly Check Register**  
 July 2018

Date	No.	Vendor	Description	Amount
7/2/2018	50054	Employee #183	Manual Paycheck	4,275.34
7/6/2018	50055	Allied Administrators for Delta Dental	Delta Dental Insurance	3,288.42
7/6/2018	50056	AmeriDyn	Microsoft Dynamics Software Training	100.00
7/6/2018	50057	Angie McGraw	Expense Reimbursement (Staff Recognition Luncheon)	158.72
7/6/2018	50058	AT&T	Telephone	530.13
7/6/2018	50059	AT&T Mobility	Tablet Service	235.50
7/6/2018	50060	Baker, Joe	Security Deposit Refund	2,027.20
7/6/2018	50061	Blake Anderson	Quarterly Uniform Allowance	190.00
7/6/2018	50062	Burke, Williams & Sorensen, LLP	Legal Consultation	2,790.50
7/6/2018	50063	California State Disbursement Unit	Wage Garnishment (Payroll Deduction)	250.00
7/6/2018	50064	Citi Cards	Office Supplies & Crane Operator Certification School	927.85
7/6/2018	50065	Comcast	Business Internet Service	387.66
7/6/2018	50066	Computer Technical Specialists, Inc.	E-mail Scanning & Backup Services	283.50
7/6/2018	50067	County of Santa Cruz Auditor	Citation Tax (May 2018)	2,304.00
7/6/2018	50068	County of Santa Cruz DPW	901 7th Avenue Lease	800.00
7/6/2018	50069	Crow's Nest Restaurant	1/2 Concession Lot Garbage & Compactor Lease (Tenant Reimbursable)	2,828.07
7/6/2018	50070	Darco Printing & Paper	Printing	190.53
7/6/2018	50071	David Hill	Quarterly Uniform Allowance	190.00
7/6/2018	50072	Don Kinnamon	Quarterly Uniform Allowance	190.00
7/6/2018	50073	Engle, Jack	Key Deposit Refund	20.00
7/6/2018	50074	FedEx Office	Shipping	27.72
7/6/2018	50075	Garda CL West, Inc.	Deposit Courier Service	253.28
7/6/2018	50076	Government Finance Officers Association	Membership Dues	160.00
7/6/2018	50077	Hub Parking Technology	Cartridge for Concession Parking Lot Ticket Printer	118.81
7/6/2018	50078	Jada Broadcasting	Boating Safety Public Service Announcement	598.00
7/6/2018	50079	Jordan Rank	Quarterly Uniform Allowance	190.00

7/6/2018	50080	Jorgensen, Siegel, McClure & Flegel, LLP	Legal Consultation	912.50
7/6/2018	50081	Kevin King	Quarterly Uniform Allowance	190.00
7/6/2018	50082	Koby McCauley	Quarterly Uniform Allowance	190.00
7/6/2018	50083	Latisha Marshall	Quarterly Uniform Allowance	190.00
7/6/2018	50084	Long Distance Consolidated Billing	Telephone	12.40
7/6/2018	50085	Mesiti-Miller Engineering, Inc.	Consulting Services - Aldo's Seawall Design & Engineering Services	36,281.34
7/6/2018	50086	Mike, Lynette	Credit Balance Refund	8.75
7/6/2018	50087	Moffatt & Nichol	Dredging Volumes White Paper Report	4,389.00
7/6/2018	50088	Pacific Gas & Electric Company	Utilities	13,376.66
7/6/2018	50089	Ryan Stephenson	Expense Reimbursement (Cooler, Ice, and Shipping)	64.72
7/6/2018	50090	Santa Cruz Municipal Utilities	Utilities	9,793.08
7/6/2018	50091	South Bay Circulation	Legal Advertisement - Adoption of Vessel Insurance Ordinance 316	405.00
7/6/2018	50092	SC Fuels	Gasoline & Diesel for Fuel Dock	21,587.82
7/6/2018	50093	Sean Rothwell	Quarterly Uniform Allowance	190.00
7/6/2018	50094	Silke Communications	Harbor Patrol Radio Repair	104.50
7/6/2018	50095	Staples Credit Plan	Office Supplies	184.71
7/6/2018	50096	Summit Uniforms	Harbor Patrol Uniform Shorts	42.61
7/6/2018	50097	Syn-Tech Systems, Inc	Technical Support	101.25
7/6/2018	50098	Triton Construction	Fuel Dock Sump Pump Repairs & Operator Service	1,092.99
7/6/2018	50099	U.S. Bank Equipment Finance	Copy Machine Lease	151.31
7/6/2018	50100	US Relay	Monthly Webcam Service (2 Cameras)	484.00
7/6/2018	50101	VON LOELHOEFFEL, AXEL	Security Deposit Refund	362.80
7/6/2018	50102	Wendy L. Cumming	CPA Consulting Services	253.75
7/9/2018	50103	AAA Truck Finders, Inc.	Transportation Services (Backhoe)	1,555.00
7/9/2018	50104	Ace Portable Services	Portable Toilet Rental (Concession Parking Lot & O-Dock)	191.80
7/9/2018	50105	Amerigas	Fuel for Forklift	126.76
7/9/2018	50106	Bay Building Janitorial, Inc.	Janitorial Services	2,850.00
7/9/2018	50107	Bay Plumbing Supply, Inc.	Plumbing Supplies	193.59
7/9/2018	50108	Big Creek	Lumber for Fuel Dock and Brow Pier Repairs	681.95

7/9/2018	50109	Blue Tarp Financial, Inc.	Painting Supplies	213.51
7/9/2018	50110	Bow Wow Pet Waste Products	Pet Waste Station Bags	261.53
7/9/2018	50111	Callan Marine LTD	Consulting Services - <i>Twin Lakes</i>	15,411.59
7/9/2018	50112	Comerica Cardmember Services	American Red Cross Heroes Breakfast, Notary Services, Harassment Training Materials, Tablet Cases, Hydraulic & Motor for Trash Compactor, Scissor Lift Rental, Meeting Refreshments, Employee Recognition Luncheon, Advertising, Employee Welding Class, Shade Canopy, AED Batteries & Pads, Adapter Rings for Dock Gates	7,577.81
7/9/2018	50113	DMV	Registration Fee (Trailer for <i>Scout</i> )	10.00
7/9/2018	50114	Elevator Service Company	Elevator Contract Service (\$218.40 Tenant Reimbursable)	715.00
7/9/2018	50115	Fastenal Company	Angle Grinders, Wheel Sockets, Respirators, Cutting Wheels, Flap Disks, Safety Hats	2,498.63
7/9/2018	50116	Grainger	Materials for Dock Gate Installation, Saw, Wrench, Batteries, Office Supplies, Electrical Tape, Safety Glasses, Cable Protectors, Storm Drain Testing Supplies, Snatch Block with Shackle, Buoy Lights	4,548.74
7/9/2018	50117	Henderson Marine Supply, Inc.	Nonskid Paint	658.67
7/9/2018	50118	Home Depot Credit Services	Landscaping Tools, Plumbing Supplies, Electrical Supplies, Materials for Dock Gate Installation, Painting Supplies, Cleaning Supplies for <i>Twin Lakes</i>	1,129.74
7/9/2018	50119	Hose Shop	Coupler & Nipple for Backhoe	134.37
7/9/2018	50120	Independent Electric Supply, Inc.	Light Bulbs, Dredge Hydraulic Shop Supplies, Street Light Ballast	296.02
7/9/2018	50121	Jeff Winham	Trash Collection & Compaction	1,750.00
7/9/2018	50122	Johnson Hicks Marine Electronics	Antenna, Ratchet Handle, Speaker for <i>Dauntless</i>	231.25
7/9/2018	50123	Kelly-Moore Paint Company, Inc.	Painting Supplies	1,019.37
7/9/2018	50124	Lawson	Saw Blade	68.93
7/9/2018	50125	Lockton Insurance Brokers, LLC	Crime Insurance Policy	1,179.00
7/9/2018	50126	Matheson Tri-Gas, Inc.	Welding Supplies for Dock Gate Fabrication	790.19
7/9/2018	50127	McMaster-Carr Supply Company	Electrical Tape, Welding Rod, Signage	570.55

7/9/2018	50128	Mid County Auto Supply	Primer for Cover on <i>Twin Lakes</i> , Brake Handle for Patrol Truck, Gas Cap for Blazer, Parking Cart Service, Cleaning Supplies, Maintenance Truck Service, Generator Cooling Lines for <i>Twin Lakes</i> , Fuel Valve for Dredge Truck	624.59
7/9/2018	50129	Mission Uniform Service	Uniform Cleaning	849.68
7/9/2018	50130	Monteith Construction, Inc.	Transportation Services (Dozer)	480.00
7/9/2018	50131	MSC Industrial Supply Co.	Hydraulic Table Anchors	117.49
7/9/2018	50132	Peterson	Paint for Beach Dozer	404.96
7/9/2018	50133	Royal Wholesale Electric	Light Bulbs	24.33
7/9/2018	50134	Safety-Kleen Systems, Inc.	Hazmat Disposal	4,621.48
7/9/2018	50135	Santa Cruz Auto Parts	Belt for <i>Twin Lakes</i> Generator	9.21
7/9/2018	50136	Superior Alarm Company	Alarm Monitoring - 493 Lake Avenue	207.00
7/9/2018	50137	Supply Works	Janitorial Supplies	1,262.70
7/9/2018	50138	Target Specialty Products	Rodent Deterrent	207.66
7/9/2018	50139	The UPS Store	Shipping	575.66
7/9/2018	50140	Valero Marketing & Supply Company	Fuel for Fleet Vehicles	1,975.58
7/9/2018	50141	West Marine Pro	Bird Spikes, Buoy Lights & Floats, PFD for Dredge	378.31
7/13/2018	50142	Employee #24	Holiday Payout	761.64
7/18/2018	50143	Employee #183	Manual Paycheck	2,943.84
7/20/2018	50144	Allied Administrators for Delta Dental	Delta Dental Insurance	3,288.42
7/20/2018	50145	AT&T	Telephone	1,564.62
7/20/2018	50146	CIT	Telephone System Lease	337.76
7/20/2018	50147	Bartel Associates, LLC	Financial Audit Reports (GASB 68)	1,250.00
7/20/2018	50148	Baylis, Trevor	Security Deposit Refund	348.90
7/20/2018	50149	Bayside Oil II, Inc.	Waste Oil Removal	357.75
7/20/2018	50150	Brown, Dafna	Security Deposit Refund	158.92
7/20/2018	50151	Cale America, Inc.	CALE Monthly Service (8 Machines)	742.00
7/20/2018	50152	California Department of Tax and Fee Admonition	Underground Storage Tank Maintenance Fee	1,076.00
7/20/2018	50153	California State Disbursement Unit	Wage Garnishment (Payroll Deduction)	250.00
7/20/2018	50154	Carnes, Mitch	Security Deposit Refund	107.00



7/20/2018	50155	Carpi Clay & Smith	Washington Representation	800.00
7/20/2018	50156	Comcast	Business Internet Service	52.17
7/20/2018	50157	Compass Bank	Interest & Principal Non-Taxable Loan	589,854.77
7/20/2018	50158	Complete Mailing Service	Statement Mailing & Postage	535.80
7/20/2018	50159	Computer Technical Specialists, Inc.	Warranty Extension for Server, Beach Tower Network Equipment	1,222.42
7/20/2018	50160	Crawford, Jeff	Security Deposit Refund	435.55
7/20/2018	50161	Crow's Nest Restaurant	1/2 Concession Lot Garbage & Compactor Lease (Tenant Reimbursable)	2,364.34
7/20/2018	50162	Crystal Springs Water Co.	Drinking Water for Boatyard	34.50
7/20/2018	50163	Cummins-Allison Corp.	Currency Counter Repair & Replacement Cable	373.28
7/20/2018	50164	Darco Printing & Paper	Printing	863.61
7/20/2018	50165	Delacroix, Jacques	Security Deposit Refund	270.90
7/20/2018	50166	Ditto's Embroidery	Uniform Shirts for Boatyard	235.90
7/20/2018	50167	Fastenal Company	Bolts & Screws	439.61
7/20/2018	50168	FedEx Office	Shipping	183.90
7/20/2018	50169	Garda CL West, Inc.	Excess Items Fee	29.80
7/20/2018	50170	Gifford, Scott	Security Deposit Refund	246.84
7/20/2018	50171	Gsolutionz	Telephone System Maintenance Agreement	199.99
7/20/2018	50172	Hammond Glass Engraving	Employee Recognition Plaque	128.71
7/20/2018	50173	Hart, Rob	Security Deposit Refund	211.90
7/20/2018	50174	Hawkins, Tim	Security Deposit Refund	491.60
7/20/2018	50175	Hensleigh, Aubrie	Security Deposit Refund	500.00
7/20/2018	50176	Jorgensen, Siegel, McClure & Flegel, LLP	Legal Consultation	4,437.50
7/20/2018	50177	Kelly-Moore Paint Company, Inc.	Painting Supplies	795.77
7/20/2018	50178	LIGHTHALL, HOMER	Security Deposit Refund	491.60
7/20/2018	50179	Marelich, Dan	Security Deposit Refund	185.40
7/20/2018	50180	Marina Ware	Wireless Locks for Harbor Security Upgrades Project	12,000.00
7/20/2018	50181	Matheson Tri-Gas, Inc.	Welding Gas for Dock Gate Fabrication & Work Gloves	101.06
7/20/2018	50182	McCampbell Analytical, Inc.	Stormwater Testing	298.00
7/20/2018	50183	Mid County Auto Supply	Battery, Power Steering Pump	255.00

7/20/2018	50184	Mission Uniform Service	Uniform Cleaning	176.18
7/20/2018	50185	Moffatt & Nichol	Dredging Volumes White Paper Report	568.00
7/20/2018	50186	Operating Engineers Local Union No. 3	OE3 Dues (Payroll Deduction)	315.00
7/20/2018	50187	Pacific Crest Engineering, Inc.	Consulting Services - Boatyard and Maintenance Yard SWPPP	393.75
7/20/2018	50188	Pacific Gas & Electric Company	Utilities	1,361.40
7/20/2018	50189	Palace Art & Office Supply	Office Supplies	117.26
7/20/2018	50190	Santa Cruz Municipal Utilities	Utilities	6,953.32
7/20/2018	50191	SC Fuels	Gasoline & Diesel for Fuel Dock	22,074.00
7/20/2018	50192	Sicaud, Michel	Security Deposit Refund	275.00
7/20/2018	50193	Svensden's Boat Works	Boatyard Retail Items	445.17
7/20/2018	50194	UNUM Life Insurance Co. of America	Life, LTD & AD&D Insurance	1,118.50
7/20/2018	50195	Verizon Wireless	Cell Phone & Tablet Service	312.70
7/20/2018	50196	Wallace, Dave	Security Deposit Refund	52.50
7/20/2018	50197	West Marine Pro	Bird Spikes	171.97
7/20/2018	50198	California Department of Tax and Fee Administration	Q2 2018 Sales Tax Return	5,325.00
7/20/2018	50199	Compass Bank	Fee on Unused Line of Credit	416.67
7/24/2018	50200	Employee #24	Salary Advance	1,200.00
7/24/2018	50201	Employee #39	Salary Advance	2,000.00
7/24/2018	50202	Employee #102	Vacation Payout	1,294.67
7/5/2018	EFT	CalPERS	Retirement (Partial Payroll Deduction)	6,721.62
7/5/2018	EFT	CalPERS	Retirement (Partial Payroll Deduction)	636.39
7/5/2018	EFT	CalPERS	Retirement (Partial Payroll Deduction)	6,117.90
7/20/2018	EFT	CalPERS	Health Insurance Premiums	33,645.05
7/20/2018	EFT	CalPERS	Unfunded Accrued Liability	446.33
7/20/2018	EFT	CalPERS	Unfunded Accrued Liability	296.54
7/20/2018	EFT	CalPERS	Unfunded Accrued Liability	18,668.40
7/20/2018	EFT	CalPERS	Retirement (Partial Payroll Deduction)	6,693.86
7/20/2018	EFT	CalPERS	Retirement (Partial Payroll Deduction)	639.34
7/20/2018	EFT	CalPERS	Retirement (Partial Payroll Deduction)	6,420.63

7/10/2018	EFT	ChargeltPro	Harbor Office Credit Card Gateway Fee	15.00
7/10/2018	EFT	ChargeltPro	Harbor Office Credit Card Fees	1,458.57
7/11/2018	EFT	Comerica Bank	Bank Service Charges	1,416.85
7/10/2018	EFT	ElectronicPayments	Fuel Dock Credit Card Fees	638.17
7/6/2018	EFT	Empower Retirement	457 Savings Plan (Payroll Deduction)	2,494.21
7/23/2018	EFT	Empower Retirement	457 Savings Plan (Payroll Deduction)	2,500.39
7/10/2018	EFT	Merchant Services	Online Billpay Credit Card Fees	140.93
7/10/2018	EFT	Merchant Services	CALE Parking Machine Credit Card Fees (8 Machines)	1,854.74
7/10/2018	EFT	Merchant Services	Boatyard Credit Card Fees	211.89
7/5/2018	EFT	PAYCHEX	Payroll Service Fees	438.07
7/13/2018	EFT	PAYCHEX	Paychex Time & Labor Online Fees	268.00
7/20/2018	EFT	PAYCHEX	Payroll Service Fees	441.89
7/3/2018	EFT	Transaction Express	Online Billpay ACH Fees	266.45
<b>Total July 2018 Disbursements</b>				<b>\$ 938,316.15</b>



**Harbormaster's Report**  
 Regular Public Session of August 28, 2018

**Boatyard Report:**

Service	July 18'	June 18'	May 18'
Haul outs	23	15	25
Hang in straps	8	7	10
Haul from water onto trailer	0	0	0
Splash	14	18	22
To/From Trailer	1	1	0
Crane Ops	0	0	3
Masts	0	0	0
Trailer Boats (No Lift)	2	0	0

There were two emergency vessel haul outs during the month of July. One vessel was severely damaged by an in-cabin fire while transiting outside of the harbor; the other was taking on a large amount of water.

The Boatyard slips have been utilized to accommodate displaced vessels related to the pile repair and replacement project.

**Harbor Activities/Events/News:**

The 4<sup>th</sup> of July holiday was without any major events or incidents.

The timing belts were replaced on the *Almar* patrol boat, and routine maintenance and service was performed.

Three new seasonal, part-time employees have been hired and trained.

Ryan Stephenson was promoted to Boatyard Supervisor effective August 1, 2018. Staff is currently recruiting for the Boatyard Crew position.

**Training/Conferences:**

During the past month, harbor staff participated in the following training:

Water Taxi Skipper Training

One operations staff member is currently participating in water taxi skipper training.

Side-Tie Tow Training

In collaboration with the U.S. Coast Guard, Harbor Patrol participated in side-tie tow training.

Offshore Area Familiarization Training

Harbor Patrol participated in an offshore area familiarization training, which included a field study of various landmarks.

Dewatering Pump Training

Harbor Patrol participated in dewatering pump training.

**Fuel Prices**

Unleaded	\$4.29
Commercial Unleaded	\$4.08
Diesel	\$3.79
Commercial Diesel	\$3.69



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## Facilities and Engineering Manager's Report

Public Meeting of August 28, 2018

### Dredge Operations

#### Dauntless

*Dauntless* sandblasting and painting work is approximately 2/3 complete. Work is anticipated to be completed by the first week of September, when crews will begin installing the fendering system and the new Skagit Winch.

#### Snorkel

*Twin Lakes* snorkel fabrication is underway and expected to be complete by the end of September.

### Maintenance

#### Interior Painting – 365 B Lake Avenue

Crews painted the interior office of 365 B Lake Avenue (Nexus Wealth Advisors).

#### Exterior Painting – 493 Lake Avenue

Crews painted the exterior of 493 Lake Avenue (Johnny's Harborside). Crews removed old junction boxes and wiring and repaired all soffit lighting.

#### J-Dock Finger Restoration

Crews are working to restore the south-east finger of J-Dock, which was damaged during 2017-18 dredging operations. *Twin Lakes* unintentionally collided with the dock finger while operating in the north harbor. Bellingham Marine drove a new pile in the area, and crews are now able to install the dock finger and restore berthing to the slip.

### Miscellaneous

#### Pile Repair and Replacement Project – Phase I

Bellingham Marine has successfully completed the pile driving work for Phase I of the Pile Repair and Replacement Project. Bellingham crews have begun disassembling the 80' x 40' barge and demobilizing other heavy equipment in the launch ramp parking lot. The contractor will continue to repair docks and install new pile rings during demobilization. It is anticipated that Bellingham will be offsite by the end of August.

# Available Spaces and Waiting List Status 2018

Wait Size/Rate Type	A	B	C	D	E	F	FF	L	M	N	O	P	Q	R	S	T	Available Spaces	Total Spaces	% Vacant
SH 2x																	0	250	0%
SH1.7x																	0	5	0%
SH 60																	0	11	0%
SH 50					1												1	34	3%
SH 40																	0	90	0%
SH 30						1											1	149	1%
SH 24								1									1	84	1%
MULTI																	0	22	0%
SH Total	0	0	0	0	1	0	1	0	1	0	0	0	0	0	0	0	3	395	1%

Wait Size/Rate Type	# on Wait List	Approx. Years Wait	# Waiters vs. Total Slips	Total Offers - to 06/30/18	Slips Accepted - to 06/30/18	Average Offers per Accept
SH 2x	8	5	0	0	0	0.0
SH1.7x	5	4	100%	0	0	0.0
SH 60	13	8	118%	0	0	0.0
SH 50	37	18	109%	2	1	2.0
SH 40	89	20	99%	3	0	0.0
SH 30	92	15	62%	15	5	3.0
SH 24	22	5	26%	9	4	2.3
MULTI	15	2	68%	1	1	1.0

Wait Size/Rate Type	577 stand by	1037 total wait list
NH 45	12	1
NH 40	21	5
NH 35	33	4
NH 30	44	2
NH 25	32	2
NH 20	21	<1
NH Total	166	15

Wait Size/Rate Type	G	H	I	J	U	V	W	X	Available Spaces	Total Spaces	% Vacant
NH 45									0	28	0%
NH 40									0	18	0%
NH 35				2					2	34	6%
NH 30		18*	1	3**					23	190	12%
NH 25									0	117	0%
NH 20		1							1	69	1%
NH Total	0	0	1	0	1	1	0	2	0	456	6%

\*14 north harbor (J dock) slips unavailable due to shoaling, 3 rented at dory rate due to shoaling, 1 damaged  
 \*\* 2 north harbor (X dock) slips unavailable due to shoaling, 1 rented at dory rate due to shoaling

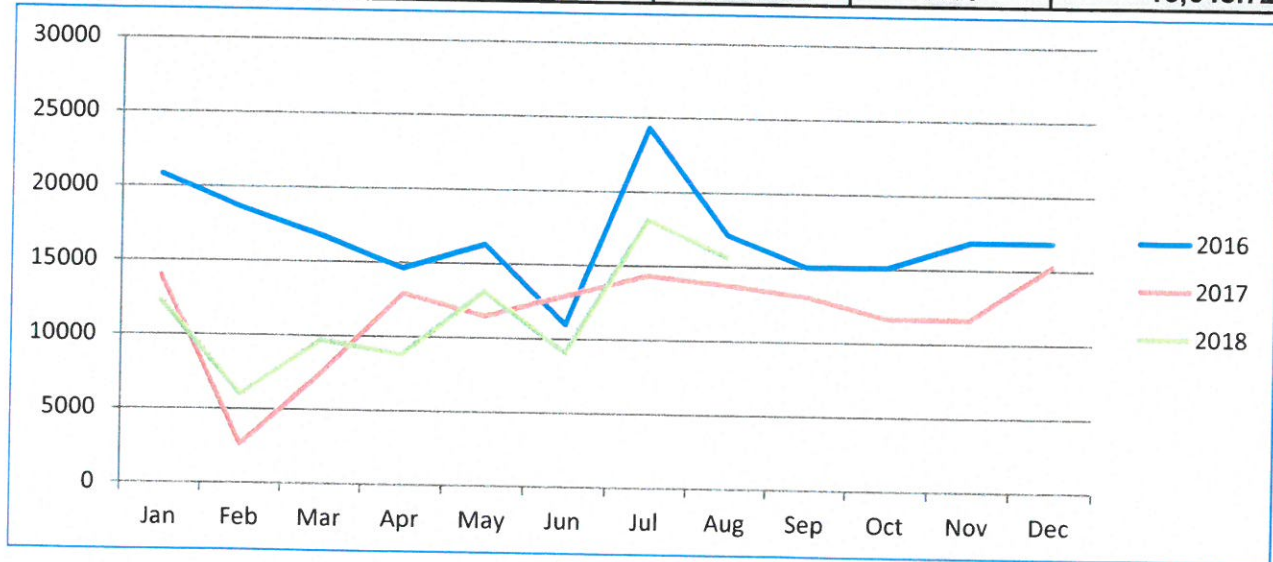
Wait Size/Rate Type	577 stand by	1037 total wait list
YCDS	16	3
Inside Ties	0	<1
Dory Ties	0	<1
AA-Dock Racks	67	2
U-Dock Racks	45	2
Rowing Racks	25	2
NHDS	39	1
7th & Brommer	31	1.5

Wait Size/Rate Type	Available Spaces	Total Spaces	% Vacant
YCDS	0	106	0%
Inside Ties	0	41	0%
Dory Ties	1	69	1%
AA-Dock Racks	0	70	0%
U-Dock Racks	0	30	0%
Rowing Racks	0	66	0%
NHDS	1	101	1%
7th & Brommer	1	82	1%

Santa Cruz Port District  
60 DAY DELINQUENT ACCOUNTS

The following accounts have balances 60 days delinquent as of August 20, 2018.

Account Number	Current Month	30 Day Balance	60 Day Balance	90 Day Balance	Total Balance
2210	1,292.71	1,287.75	581.50	0.00	3,161.96
2306	677.11	671.75	452.70	0.00	1,801.56
45891	506.17	871.60	114.07	0.00	1,491.84
56218	414.93	411.73	364.01	0.00	1,190.67
56083	404.74	370.03	375.71	0.00	1,150.48
3243	332.83	330.31	337.50	0.00	1,000.64
1918	332.54	330.02	302.50	0.00	965.06
55386	408.88	408.50	45.66	0.00	863.04
47985	365.12	365.12	56.17	0.00	786.41
56783	0.00	672.50	96.15	0.00	768.65
3131	258.63	256.71	229.80	0.00	745.14
56386	235.37	260.68	195.63	0.00	691.68
3083	268.28	87.61	151.66	0.00	507.55
55153	84.97	84.48	58.99	0.00	228.44
2030	84.66	84.48	21.31	0.00	190.45
57023	25.45	25.45	54.25	0.00	105.15
<b>Total:</b>	<b>5,692.39</b>	<b>6,518.72</b>	<b>3,437.61</b>	<b>0.00</b>	<b>15,648.72</b>

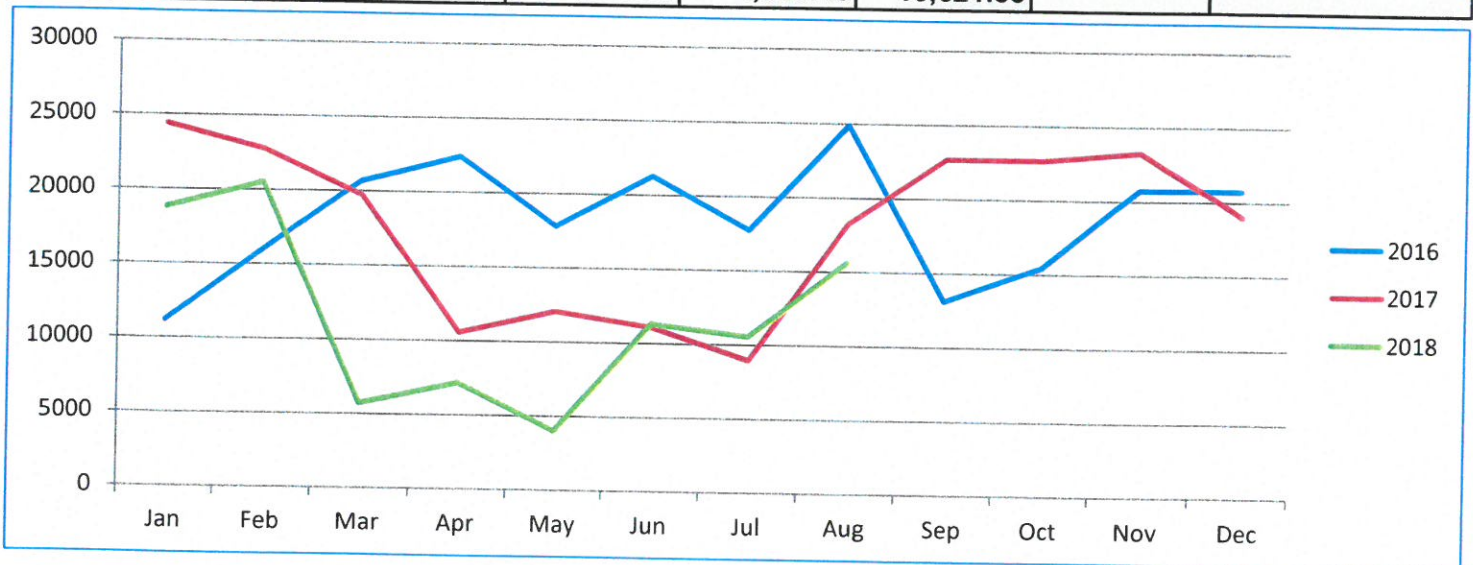




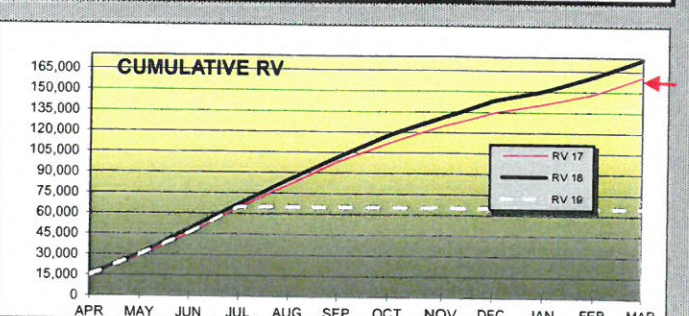
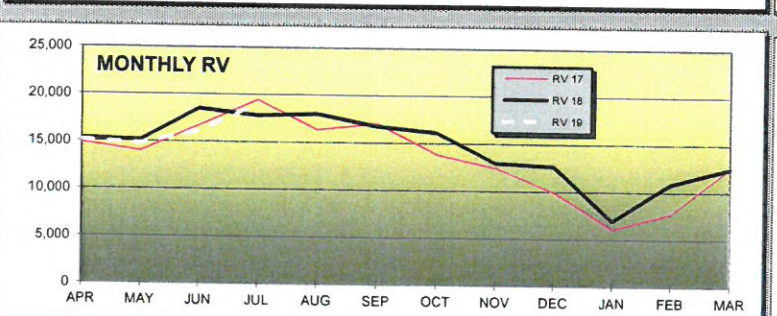
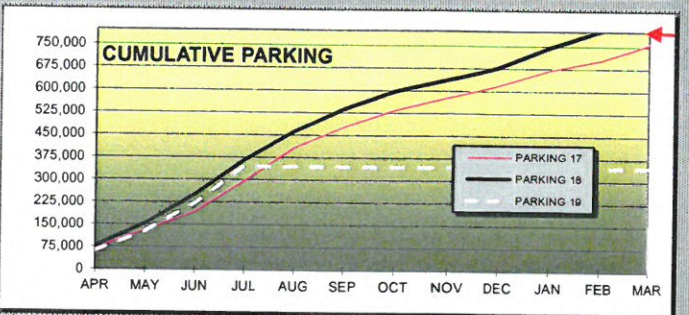
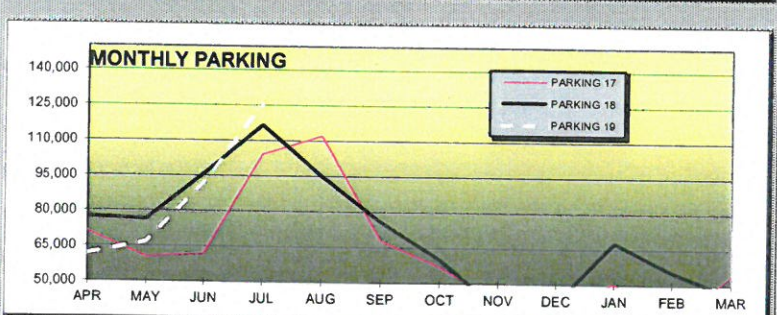
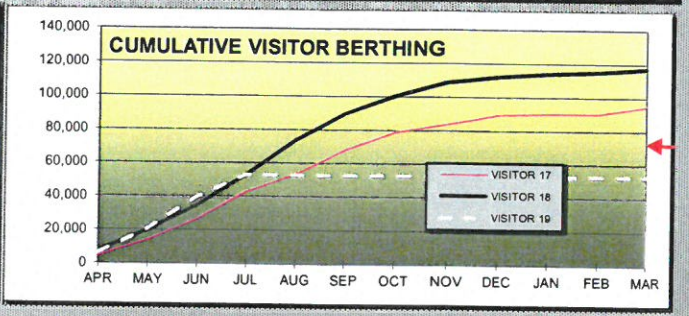
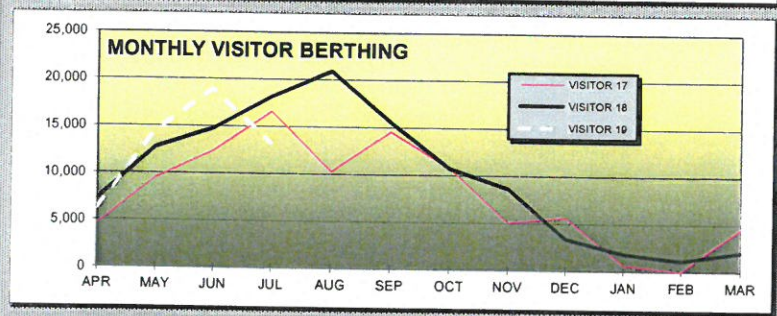
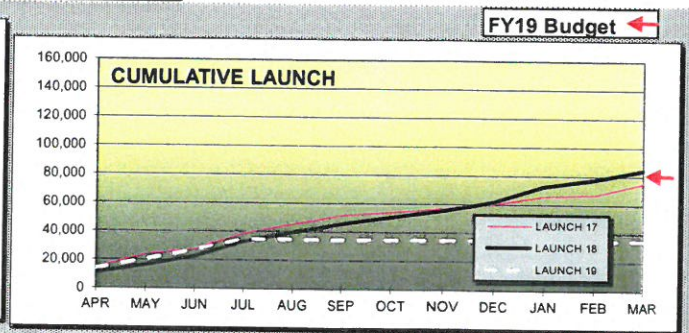
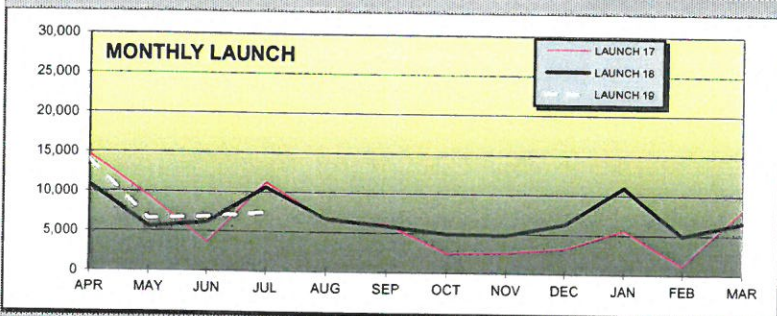
Santa Cruz Port District  
**90+ DAY DELINQUENT ACCOUNTS**

The following accounts have balances 90 days delinquent or greater as of August 20, 2018.

Account Number	Current Month	30 Day Balance	60 Day Balance	90+ Day Balance	Total Balance	Commercial Slip	Action
2862	672.85	667.59	637.32	656.73	2,634.49		Revoke 9/20/18
14099	522.55	503.42	459.97	659.73	2,145.67		Revoked/Liened
11159	597.72	632.72	602.74	25.00	1,858.18		Revoke 8/31/18
57130	444.51	441.10	412.69	434.28	1,732.58		Revoke 9/20/18
45545	0.00	344.64	317.09	949.15	1,610.88		Bad Debt
57268	454.84	451.32	453.23	73.92	1,433.31		Revoke 9/20/18
56356	359.86	357.14	329.42	351.70	1,398.12		Revoke 9/20/18
47602	66.02	674.16	118.97	142.99	1,002.14		Revoke 8/31/18
56994	27.78	27.78	0.00	476.20	531.76		Bad Debt
2617	28.13	28.13	0.00	432.33	488.59		Bad Debt
48170	81.85	81.38	55.92	80.46	299.61		Revoke 9/20/18
57049	26.35	26.35	0.00	215.45	268.15		Bad Debt
55795	81.39	80.93	34.51	21.52	218.35		Revoke 9/20/18
<b>TOTAL:</b>	<b>3,363.85</b>	<b>4,316.66</b>	<b>3,421.86</b>	<b>4,519.46</b>	<b>15,621.83</b>		



## SEASONAL INCOME





**TO:** Port District Commission  
**FROM:** Latisha Marshall, Harbormaster  
**DATE:** August 3, 2018  
**SUBJECT:** Crime/Incident/Citation Report July 2018

***Crime Reports, Assists Outside Department and Incident Reports:***

- 7/9/18 Harbor Patrol took an incident report after an adult male stole twenty dollars from a juvenile in the area of the concession parking lot. A harbor beach lifeguard confronted the suspect, retrieved the money, and then reported the incident to Harbor Patrol. The suspect fled the area.
- 7/10/18 Harbor Patrol responded to a report of a fuel spill in the area of R-Dock. A visiting commercial fishing vessel was transferring fuel to his day tank and unintentionally released fuel into the water. Appropriate containment measures were performed, and Coast Guard Sector San Francisco was notified. No injuries were reported. Staff recovered all costs associated with the incident.
- 7/16/18 Harbor Patrol took an incident report after a slip renter reported that his fuel filter had been disconnected from his vessel berthed on R-Dock. No suspect information is available.
- 7/18/18 Harbor Patrol took an incident report after a subject slipped and fell in the concession parking lot. The subject sustained an injury to her chin, and had a family member transport her to the hospital for further treatment. Harbor Patrol was unable to locate any trip hazards in the area.
- 7/24/18 Harbor Patrol took an incident report after a subject tripped and fell near the concession parking lot back gate. Harbor Patrol and other first responders treated the subject on scene for minor injuries.
- 7/25/18 Harbor Patrol took an incident report after a vessel lost power and unintentionally collided with another vessel berthed at the end-tie of C-Dock. Both vessels sustained minor damage. No injuries were reported.

***Search/Rescue/Recovery:***

- 7/8/18 Harbor Patrol responded to a report of a vessel fire off of Pleasure Point Beach. Harbor Patrol assisted the victims and their kayaks on to the *Almar* patrol boat and transported them to the harbor. The fire was extinguished, and the vessel was towed to the harbor and hauled out. No injuries were reported.

- 7/8/18 Harbor Patrol responded to a report of a kayaker in distress in the area of the Santa Cruz Wharf. The victim's kayak had capsized and she was unable to re-board. Harbor Patrol assisted the victim and her kayak on to the *Almar* patrol boat and transported her to the harbor. No injuries were reported.
- 7/14/18 Harbor Patrol responded to a report of two kayakers in distress in the area of Twin Lakes Beach. Harbor Patrol assisted the victims and their kayaks on to the *Almar* patrol boat and transported them to the harbor. No injuries were reported.
- 7/15/18 Harbor Patrol responded to a report of a vessel in distress in the area of Seabright State Beach. A small sailing vessel had capsized, and vessel operators were unable to right the vessel. Harbor Patrol assisted one victim on board the *Almar* patrol boat, and the other swam to a chase boat in the area. Both subjects were transported safely to the harbor. No injuries were reported.
- 7/15/18 Harbor Patrol responded to a report of a vessel in distress in the harbor entrance channel. A small sailing vessel had capsized while transiting the harbor entrance. Harbor Patrol assisted one subject on board the *Almar* patrol boat, while the other subject was able to right the vessel and self-rescue. No injuries were reported.
- 7/15/18 Harbor Patrol responded to a report of a swimmer in distress in the area of Capitola Wharf. Prior to Harbor Patrol's arrival, rescue swimmers assisted the subject safely to shore. Harbor Patrol returned to the harbor without further incident.
- 7/19/18 Harbor Patrol responded to a report of two stand-up paddle boarders in distress in the area of West Cliff Drive and Fair Avenue. Prior to Harbor Patrol's arrival, rescue swimmers assisted the subjects safely to shore. Harbor Patrol returned to the harbor without further incident.
- 7/22/18 Harbor Patrol responded to a report of two kayakers in distress in the area of Blacks Beach. Harbor Patrol assisted the victims and their kayaks on to the *Almar* patrol boat and transported them to the harbor. No injuries were reported.
- 7/23/18 Harbor Patrol responded to a report of an activated Emergency Position Indicating Radio Beacon (EPIRB) between Panther Beach and Laguna Creek Beach. After a thorough search of the area with assistance from U.S. Coast Guard Monterey, no vessel was located.
- 7/23/18 Harbor Patrol responded to a report of a swimmer in distress in the area of Panther Beach. Prior to Harbor Patrol's arrival, rescue swimmers assisted the subject safely to shore. Harbor Patrol returned to the harbor without further incident.
- 7/24/18 Harbor Patrol responded to a report of two swimmers in distress in the area of 38<sup>th</sup> Avenue and East Cliff Drive. Prior to Harbor Patrol's arrival, the subjects made it safely to shore.

7/28/18 Harbor Patrol responded to a report of a swimmer in distress in the area of Seacliff State Beach. The subject was swimming out to sea with an American flag held over his head. Once on scene, it was determined that the swimmer was not in distress. Harbor Patrol remained on scene until the swimmer returned safely to shore.

***July Parking Citations:*** 317

## Port Commission Review Calendar 2018-19

### 2018

#### January-March

- ✓ Committee assignments for 2018
- ✓ Sea Scouts' bi-annual report
- ✓ Slip vacancy bi-annual report / waiting list statistics
- ✓ FY 19 Budget
- ✓ Review 5-year CIP
- ✓ Ethics Training Update
- ✓ Form 700 Filing (due by 03/31 each year)

#### April-June

- ✓ Intero lease exp. 5/31/18 (no option)
- ✓ Dredge Report 2017-18
- ✓ 2017 Vessel Use List Review

#### July-September

- ✓ Review of O'Neill Sea Odyssey slip rent reduction / charter fee. PC action of 07/07
- \_\_\_ Sea Scouts' bi-annual report
- Slip vacancy bi-annual report / waiting list statistics
- Review / amend conflict of interest code

#### October-December

- \_\_\_ Annual review of business use of slips
- \_\_\_ Ethics training (Dec 2018)
- \_\_\_ Port Commission officers for 2019
- \_\_\_ Update on Murray Street Bridge Project
- \_\_\_ Biennial Update to Conflict of Interest Code

#### Committee Review Items (timeline not specified)

- ✓ Review sublet fee structure, partnership fee structure, vessel use list and monthly end-tie rates (Business-Finance Committee)
- ✓ Review of vessel use list policies (Policy/Operations Committee)
- ✓ Discuss insurance requirements for licensees (Policy/Operations Committee) review in process; future public workshop scheduled April 26, 2018

### 2019

#### January-March

- \_\_\_ Committee assignments for 2019
- \_\_\_ Sea Scouts' bi-annual report
- \_\_\_ Slip vacancy bi-annual report / waiting list statistics
- \_\_\_ FY 20 Budget
- \_\_\_ Review 5-year CIP
- \_\_\_ Ethics Training Update
- \_\_\_ Form 700 Filing (due by 03/31 each year)
- \_\_\_ Bi-annual Anti-Harassment/Anti-Discrimination Training

#### April-June

- \_\_\_ Dredge Report 2018-19
- \_\_\_ Vessel Use List Review

#### July-September

- \_\_\_ Vessel Insurance Policy Review
- \_\_\_ Review of O'Neill Sea Odyssey slip rent reduction / charter fee. PC action of 07/07
- \_\_\_ Sea Scouts' bi-annual report
- \_\_\_ Slip vacancy bi-annual report / waiting list statistics

#### October-December

- \_\_\_ Annual review of business use of slips
- \_\_\_ Port Commission officers for 2020
- \_\_\_ Nexus Wealth Advisors lease exp. 11/30/19 (2) 3 year options

#### Future Calendar

- ABC End-Tie review after Murray Street Bridge Retrofit
- March 2020 Marc Kraft PY&S sublease extension (2 years)

Updated 08/22/18  
Progress/CommissionReviewCalendar-2018.doc

#### Key

- \_\_\_ Pending
- In process
- ✓ Done