
CALIFORNIA MARITIME INFRASTRUCTURE AUTHORITY

and

HUMBOLDT BAY HARBOR, RECREATION AND CONSERVATION DISTRICT

LOAN AGREEMENT
Dated as of May 1, 1998

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THIS LOAN AGREEMENT, dated as of May 1, 1998, between the **CALIFORNIA MARITIME INFRASTRUCTURE AUTHORITY**, a joint exercise of powers authority of the State of California (as further defined in Section 1.01 of the Fiscal Agent Agreement hereinafter referenced, the "Authority"), and **HUMBOLDT BAY HARBOR, RECREATION AND CONSERVATION DISTRICT**, a political subdivision of the State of California (as further defined in Section 1.01 of the Fiscal Agent Agreement hereinafter referenced, the "District"),

WITNESSETH:

WHEREAS, the District has duly filed its application with the Authority for a loan under Part 1 of Division 6 of the Harbors & Navigation Code of the State of California to finance the local share of the cost of construction of a harbor deepening project as described in Exhibit A hereto (as defined in the Fiscal Agent Agreement hereinafter identified, the "Project") and to pay costs of issuance and related costs;

WHEREAS, the Authority, after due investigation and deliberation, has duly adopted its resolution approving said application of the District;

WHEREAS, in order to provide funds for such loan the Authority proposes to issue its California Maritime Infrastructure Authority Revenue Bonds (Humboldt Harbor Project) Series 1998 in the aggregate principal amount of \$1,500,000 (the "Bonds") pursuant to a fiscal agent agreement, dated as of the date hereof (as further defined therein, the "Fiscal Agent Agreement"), between the Authority and BNY Western Trust Company (as further defined in the Fiscal Agent Agreement, the "Fiscal Agent") and to execute and deliver a promissory note in the amount of \$1,400,000 to Six Rivers National Bank (the "Parity Obligation"); and

WHEREAS, the Authority and the District desire to enter into this loan agreement (as further defined in the Fiscal Agent Agreement, this "Agreement") to specify the terms and conditions of the loan from the Authority to the District of the proceeds of the Bonds and the Parity Obligation and to require and confirm the obligation of the District to make payments at such times and in such manner as described herein;

NOW, THEREFORE, the parties hereto hereby agree as follows:

SECTION 1. Definitions of Certain Terms; Construction. (a) Unless otherwise defined in this Agreement, all terms used herein which are defined in the Fiscal Agent Agreement shall have the meanings assigned to such terms in the Fiscal Agent Agreement.

(b) The headings or titles of the several Sections hereof, and any table of contents appended to copies hereof, shall be solely for convenience of reference and shall not affect the meaning, construction or effect of this Agreement. All references herein to "Articles," "Sections" and other subdivisions are to the corresponding Articles, Sections or subdivisions of this Agreement; the words "herein," "hereof," "hereby," "hereunder" and other words of similar import refer to this Agreement as a whole and not to any particular Article, Section or subdivision hereof; and words of any gender shall mean and include words of the other genders.

(c) The parties hereto acknowledge that each such party and its respective counsel have participated in the drafting and revision of this Agreement and the Fiscal Agent Agreement. Accordingly, the parties agree that neither the Authority nor the District shall be deemed to be the drafting party of this Agreement or the Fiscal Agent Agreement for purposes of any rule of construction which disfavors the drafting party.

SECTION 2. Representations and Warranties of the District. The District makes the following representations and warranties to the Authority:

(a) The District is political subdivision of the State of California duly organized under the laws of the State, has the requisite legal right, power and authority to enter into this Agreement and to carry out and consummate all transactions contemplated by this Agreement, and by proper corporate action has duly authorized the execution and delivery of this Agreement.

(b) This Agreement has been duly executed and delivered by the District and constitutes the legal, valid and binding agreement of the District, enforceable in accordance with its terms.

(c) The execution and delivery of this Agreement and the consummation of the transactions herein contemplated will not conflict with or constitute a breach of or default under any law or administrative rule or regulation applicable to the District, any court or administrative decree or order applicable to the District or any material loan agreement, bond, debenture, note or other evidence of indebtedness or any material contract, agreement or lease to which the District is a party or by which any of the District's property is bound.

(d) There are no actions, suits or proceedings which have been served on the District or, to the knowledge of District, are otherwise pending or threatened against the District:

(1) to restrain or enjoin the issuance or delivery of any of the Bonds or the execution and delivery of the Parity Obligation or the collection of Revenues pledged under the Fiscal Agent Agreement;

(2) in any way contesting or affecting the authority for the issuance of the Bonds or the validity of the Bonds, the Fiscal Agent Agreement, this Agreement, the Parity Obligation or the Tax Agreement;

(3) in any way contesting the corporate existence or powers of the District; or

(4) which, if determined adversely to it, would materially adversely affect the consummation of the transactions contemplated by this Agreement or the financial condition, assets or properties of the District.

(e) The Project constitutes "port or harbor infrastructure" as that term is defined in Section 1698 of the Harbors and Navigation Code.

(f) The Audited Financial Statement of the District as of June 30, 1997, (copies of which, certified by David L. Moonie & Co., have been furnished to the Authority and the

Purchaser) present fairly, in all material respects, the financial position of the District as at June 30, 1997, and the activities and cash flows for the year then ended in accordance with generally accepted accounting principles, and since June 30, 1997, there has been no material adverse change in the assets, operations or financial condition of the District other than any such change which the District has disclosed in writing to the Authority.

(g) To the best knowledge of the District, no written information, exhibit or report containing current or historical information which was furnished to the Authority or the Purchasers by the District in connection with the negotiation of this Agreement and the consummation of the transactions contemplated hereby and thereby contains an untrue statement of a material fact or omits to state a material fact required to be stated therein or necessary to make the statements contained therein, in the light of the circumstances under which they were made, not misleading.

(h) The District has obtained all licenses, permits, franchises or other governmental authorizations necessary and material to the construction of the Project and agrees to obtain all such licenses, permits, franchises or other governmental authorizations as may be required in the future for its operations in all cases where failure to obtain such licenses, permits, franchises or other governmental authorizations could reasonably be expected to materially and adversely affect the condition (financial or otherwise) of the District or its ability to perform its obligations under this Agreement.

(i) No event of default under this Agreement has occurred and is continuing, and no event has occurred and is continuing which, with the lapse of time or the giving of notice or both, would constitute such an event of default.

(j) The District is not in default with respect to any order or decree of any court or any order, regulation or demand of any federal, state, municipal or governmental agency which default could reasonably be expected to have consequences that would materially and adversely affect the assets, operations or financial condition of the District.

(k) The District is not in default under and is not violating any provision of any material provision of any material indenture, mortgage, lien, grant, administrative regulations, order, judgment, decree or other instrument or restriction of any kind or character to which it is a party or by which it is bound or to which it or any of its assets is subject (other than which the District has disclosed in writing to the Authority). Neither the execution and delivery by the District of this Agreement nor compliance with the terms, conditions and provisions hereof or contemplated hereby will conflict with or result in a material breach of, or constitute a default under, any of the foregoing.

(l) The District acknowledges, represents and warrants that it understands the nature and structure of the transactions relating to the financing of the Project; that it is familiar with the provisions of all of the documents and instruments relating to such financing to which the District is a party or of which it is a beneficiary, including the Fiscal Agent Agreement; that it understands the risks inherent in such transactions; and that it has not relied on the Authority for any guidance or expertise in analyzing the financial or other consequences of the transactions

contemplated by this Agreement and the Fiscal Agent Agreement or otherwise relied on the Authority for any advice or otherwise except to issue the Bonds.

(m) The District hereby agrees to all of the terms and provisions of the Fiscal Agent Agreement and accepts each of its obligations thereunder. The District hereby approves the initial appointment under the Fiscal Agent Agreement of the Fiscal Agent.

SECTION 3. Representations and Warranties of the Authority. The Authority makes the following representations and warranties to the District:

(a) The Authority is duly organized and validly existing under the Constitution and the laws of the State, has the requisite legal right, power and authority to enter into this Agreement and the Fiscal Agent Agreement and to carry out and consummate all transactions contemplated of the Authority by this Agreement and the Fiscal Agent Agreement and by proper action has duly authorized the execution and delivery of this Agreement and the Fiscal Agent Agreement.

(b) The execution and delivery of this Agreement and the Fiscal Agent Agreement and the consummation of the transactions herein and therein contemplated will not in any material respect conflict with or constitute on the part of the Authority a breach of or default under any agreement or other instrument to which the Authority is a party or by which it is bound or any existing law, regulation, court order or consent decree to which it is subject.

SECTION 4. Loan Amount; Application of Proceeds of Bonds. The District hereby borrows from the Authority and the Authority hereby lends to the District the principal sum of \$2,900,000. The proceeds of the sale of the Bonds (\$1,500,000) plus the proceeds of the Parity Obligation (\$1,400,000), being the total amount loaned to the District, shall be deposited as set forth in Section 3.02 of the Fiscal Agent Agreement.

SECTION 5. Base Loan Payments. (a) The District agrees that it will pay to the Fiscal Agent, for the account of the Authority, Base Loan Payments in the amounts and at the times set forth in Exhibit B, attached hereto and incorporated herein.

Any amount at the time held by the Fiscal Agent in the District Account within the Bond Fund for the payment of debt service on the Bonds and the Parity Obligation shall be credited against the aforesaid Base Loan Payments then required to be met by the District, to the extent such amount is in excess of the amount required for payment of (i) any Bonds theretofore matured or called for redemption, and (ii) interest on the Bonds accrued to the date of redemption or maturity, in all cases where the Bonds have not been presented for payment.

The District acknowledges that the Fiscal Agent shall give notice:

(1) to the District in accordance with Section 5.02(b) of the Fiscal Agent Agreement at least five Business Days before each Interest Payment Date of the amount, if any, credited or to be credited to the District Account within the Bond Fund by such next Interest Payment Date and the amount of the Base Loan Payment then due from the District; and

(2) to the District, the Purchaser and the Authority in accordance with Section 5.01(d) of the Fiscal Agent Agreement if the District fails to make any payment required hereunder by the due date, such notice to be given by telephone, teletype or telegram followed by written notice.

SECTION 6. Additional Payments. In addition to the Base Loan Payments required to be made by the District, the District shall also pay to the Fiscal Agent or to the Authority or other payee, as the case may be, the following (the "Additional Payments"):

(a) All taxes and assessments of any type or character charged to the Authority or to the Fiscal Agent affecting the amount available to the Authority or the Fiscal Agent from payments to be received hereunder or in any way arising due to the transactions contemplated hereby (including taxes and assessments assessed or levied by any public agency or governmental authority of whatsoever character having power to levy taxes or assessments) but excluding any taxes based upon the capital and/or income of the Fiscal Agent or any other person other than the District; provided, however, that the District shall have the right to protest any such taxes or assessments and to require the Authority or the Fiscal Agent, as the case may be, at the District's expense, to protest and contest any such taxes or assessments assessed or levied upon them and that the District shall have the right to withhold payment of any such taxes or assessments pending disposition of any such protest or contest unless such withholding, protest or contest would materially adversely affect the rights or interests of the Authority or the Fiscal Agent;

(b) The reasonable annual (or other regular) fees and expenses of the Fiscal Agent, and all reasonable fees, charges and expenses of the Fiscal Agent for any extraordinary services rendered by the Fiscal Agent under the Fiscal Agent Agreement, including without limitation any amounts payable to the Fiscal Agent by the Authority from Additional Payments pursuant to Section 8.06 of the Fiscal Agent Agreement, as and when the same become due and payable;

(c) The reasonable fees and expenses of such accountants, consultants, attorneys and other experts as may be engaged by the Authority or the Fiscal Agent to prepare audits, financial statements or opinions or provide such other services as are reasonably required under this Agreement, the Fiscal Agent Agreement or the Tax Agreement;

(d) reasonable expenses of the Authority and any agency of the State selected by the Authority to act on its behalf in connection with the loan to the District under this Agreement, the Bonds, the Fiscal Agent Agreement or any other documents contemplated hereby or thereby, including without limitation reasonable expenses incurred by the Authority's counsel in connection with any litigation which may at any time be instituted involving such loan or the Bonds, the Fiscal Agent Agreement or any other documents contemplated hereby or thereby and reasonable expenses incurred by the Authority in supervision and inspection of the District and its operations with respect to the use and application of such loan; and

(e) Such amounts as may be necessary to satisfy the rebate requirements in accordance with the Tax Agreement and to pay the cost of calculation of such rebate requirements.

Such Additional Payments shall be billed to the District by the Authority or the Fiscal Agent from time to time, together with (i) a statement executed by a duly authorized officer or agent of the Authority or the Fiscal Agent, as the case may be, stating that the amount billed has been incurred or paid by the Authority or the Fiscal Agent for one or more of the above items and (ii) a copy of the invoice or statement for the amount so incurred or paid. Amounts so billed shall be paid by the District within thirty (30) days after receipt of the bill by the District. Payment by the District to either the Authority or the Fiscal Agent or a specified payee of the amount so billed by either such party shall fulfill such payment obligation of the District.

SECTION 7. Obligations of the District Unconditional. The District pledges its full faith and credit to the payments it is required to make under this Agreement. The obligations of the District to make the Base Loan Payments and Additional Payments and to perform and observe the other agreements on its part contained in this Agreement shall be absolute and unconditional general obligations of the District. Until such time as the principal of and premium, if any, and interest on all Bonds shall have been fully paid (or provision for the payment thereof shall have been made as provided in the Fiscal Agent Agreement), the District (i) will not suspend or discontinue any Base Loan Payments or Additional Payments, (ii) will perform and observe all of its other agreements contained in this Agreement and (iii) will not terminate this Agreement for any cause, including, without limiting the generality of the foregoing, any change in the laws of the United States of America or of the State or any political subdivision of either or any failure of the Authority to perform and observe any agreement, whether express or implied, or any duty, liability or obligation arising out of or connected with this Agreement. This Agreement shall be deemed and construed to be a "net contract," and the District shall pay absolutely net the Base Loan Payments, Additional Payments and all other payments required thereunder, free of any deductions, without abatement, diminution or set-off other than those herein expressly provided.

SECTION 8. Prepayment. (a) The District may at any time prepay all or any part of the Base Loan Payments payable under this Agreement, and the Authority agrees that the Fiscal Agent shall accept such prepayments when the same are tendered by the District. All such prepayments shall be deposited in the District Account within the Bond Fund and credited against the Base Loan Payments in the order of their due date or, at the election of the District exercised in a Written Request of the District, used for the redemption of Outstanding Bonds of the maturity, in the amount and on the redemption date specified in such Written Request; provided that the redemption date shall be such as to comply with the optional redemption provisions of Section 4.01(a) and the notice provisions of Section 4.03 of the Fiscal Agent Agreement. Notwithstanding any such prepayment, the District shall not be relieved of its obligations hereunder until all of the Bonds have been fully paid and retired (or provision for payment thereof shall have been made as provided in Article X of the Fiscal Agent Agreement).

(b) If the District is not in default in the payment of any Base Loan Payments or Additional Payments, the Authority, at the request of the District, at any time when the aggregate moneys in the Bond Fund established pursuant to the Fiscal Agent Agreement, including any

prepayment deposited therein under the foregoing paragraph, are sufficient to effect redemption of all or part of the then Outstanding Bonds, and if such Bonds are then redeemable under the provisions of the Fiscal Agent Agreement, shall forthwith take all steps that may be necessary to effect such redemption in accordance with the request of the District. The Authority agrees that it will redeem the Bonds pursuant to the Fiscal Agent Agreement only if and as requested in writing by the District.

SECTION 9. Investments. The District, by its written request to the Fiscal Agent, may direct the investment by the Fiscal Agent of moneys in the funds and accounts established pursuant to the Fiscal Agent Agreement, subject to the limitations set forth in Section 5.04 of the Fiscal Agent Agreement. The District covenants that it will not direct the Fiscal Agent to make any investments and itself will not make any investments of the proceeds of the Bonds, or any other funds in any way pledged to the security of or reasonably expected to be used to pay the Bonds, which would cause any of the Bonds to be "arbitrage bonds" subject to federal income taxation by reason of Section 103(b)(2) of the Code. The District shall not purchase any obligations of the Authority, pursuant to an arrangement, formal or informal, in an amount related to the amount of the loans made to the District under this Agreement. Nothing in this Section shall prohibit the District from receiving Bonds by gift, bequest or devise or from purchasing Bonds in the secondary market other than pursuant to an arrangement related to the loan.

SECTION 10. No Liability of the State or the Authority. The District shall be solely responsible for the payment of amounts necessary to pay the Bonds. Neither the State nor the Authority shall be obligated to pay the Bonds or the interest thereon except from revenues provided by the District, and neither the faith and credit nor the taxing power of the State or of any political subdivision thereof shall be pledged to the payment of the principal of or the interest on the Bonds. The issuance of the Bonds shall not directly or indirectly or contingently obligate the State or any political subdivision thereof to levy or to pledge any form of taxation whatever therefor or to make any appropriation for their payment. Neither the members of the Authority nor any officer thereof nor any person executing the Bonds shall be liable personally on the Bonds or be subject to any personal liability or accountability by reason of the issuance thereof.

SECTION 11. Maintenance of Existence; Consolidation, Merger, Sale or Transfer Under Certain Conditions. (a) The District covenants and agrees that, so long as any of the Bonds are Outstanding, it will maintain its existence as a political subdivision of the State of California and will not voluntarily dissolve, sell or otherwise dispose of all or substantially all of its assets or consolidate with or merge into another public entity unless provision is made for the assumption by that entity of the obligations herein contained.

SECTION 12. [Reserved].

SECTION 13. Financial Statements of the District and Reporting of Other Information. The District shall furnish the following to the Authority and the Purchasers, so long as any Bonds remain Outstanding:

(a) its audited financial statements at the end of each of its fiscal years certified as to fairness of presentation and conformity with generally accepted accounting principles by an independent certified public accountant selected by the District, as soon as accepted by its Board but in any event within one hundred eighty (180) days after the end of such fiscal year;

(b) unaudited quarterly financial statements prepared by a certified public accountant delivered within thirty (30) days of the end of each calendar quarter;

(b) promptly upon the request of the Authority or the Purchaser, such other information regarding the financial position, results of operations, business or prospects of the District as the Authority, the Fiscal Agent may reasonably request from time to time.

SECTION 14. Inspection. The District shall, at any reasonable time and from time to time, permit the Authority and the Purchaser, and their respective representatives and agents, to (i) inspect the premises and the books and records of the District for the purpose of verifying compliance by the District with the covenants contained herein and all of the terms of the Act, (ii) examine and make copies of and abstracts from the records and books of account of the District, (iii) discuss the affairs, finances and accounts of the District with any of its officers or directors and (iv) communicate with the District's independent certified public accountants.

SECTION 15. Tax Covenants. (a) The District shall not take any action, or fail to take any action, if such action or failure to take such action would result in the interest on the Bonds not being excluded from gross income for federal income tax purposes under Section 103 of the Code. Without limiting the generality of the foregoing, the District covenants that it shall comply with the requirements of the Tax Agreement, which is incorporated herein as if fully set forth herein. This covenant shall survive the payment in full or the defeasance of the Bonds.

(b) Notwithstanding any provisions of this Section, if the District provides to the Fiscal Agent and the Authority an Opinion of Bond Counsel to the effect that any specified action required under this Section or the Tax Agreement is no longer required or that some further or different action is required to maintain the exclusion from federal income tax of interest on the Bonds, the Authority may conclusively rely on such opinion in complying with the requirements of this Section and the Tax Agreement, and the covenants hereunder shall be deemed to be modified to that extent.

SECTION 16. Other Covenants of the District. The District covenants as follows so long as any Bonds are Outstanding:

(a) **Annual Budgets.** The District covenants to take such action as may be necessary to include all such Base Loan Payments and Additional Payments due hereunder as a separate line item in its annual budgets, and to make necessary annual appropriations for all such Base Loan Payments and Additional Payments. The District will deliver to the Authority and the Purchaser copies of the portion of each annual District budget relating to the payment of Base Loan Payments and Additional Payments hereunder within thirty (30) days after the filing or adoption thereof.

(b) **Further Assurances.** The District will promptly execute and deliver or cause to be executed and delivered all such other and further instruments, documents or assurances, and promptly do or cause to be done all such other and further things, as may be necessary or reasonably required in order to further and more fully vest in the Authority all rights, interest, powers, benefits, privileges and advantages conferred or intended to be conferred upon them by this Agreement.

SECTION 17. [Reserved].

SECTION 18. Events of Default. The following shall be "events of default" under this Agreement, and the terms "events of default" or "default" shall mean, whenever they are used in this Agreement, any one or more of the following events:

(a) The District fails to make any Base Loan Payment or Additional Payment by its due date; or

(b) The District fails to observe and perform any covenant, condition or agreement on its part to be observed or performed under this Agreement other than as referred to in paragraph (a) above for a period of forty-five (45) days after written notice specifying such failure and requesting that it be remedied is given to the District by the Authority; provided, however, if the failure stated in the notice is correctable but cannot be corrected within the applicable period, the Authority will not unreasonably withhold its consent to an extension of such time if corrective action is instituted by the District within the applicable period and diligently pursued until the default is corrected; or

(c) Any of the representations or warranties of the District made herein or in any other document, certificate or writing furnished by the District to the Authority in connection with the application for or the negotiation of this Agreement or the issuance of the Bonds is false or incorrect in any material respect; or

(d) There is an unexcused default by the District under any agreement or instrument to which it is a party relating to the borrowing of money either (i) in failing to pay any installment of principal or interest in an aggregate amount of \$10,000 or more, which default shall not have been waived or excused within 90 days after the District received notice of such default or (ii) as a result of which indebtedness in an amount of \$200,000 or more shall have been accelerated and declared to be due and payable prior to its date of maturity; or

(e) The District applies for or consents to the appointment of any receiver, trustee, or similar officer for it or for all or any substantial part of its property or admits in writing its inability to pay its debts as they mature; or such a receiver, trustee or similar officer is appointed without the application or consent of the District and such appointment continues undischarged for a period of sixty (60) days; or the District institutes (by petition, application, answer, consent or otherwise) any bankruptcy, insolvency, reorganization, arrangement, readjustment of debt, dissolution, liquidation or similar proceeding relating to it under the laws of any jurisdiction; or any such proceeding is instituted (by petition, application or otherwise) against the District and remains undismissed for a period of sixty (60) days; or the District makes a general assignment for the benefit of creditors.

SECTION 19. Remedies on Default. (a) In the event any of the Bonds shall at the time be Outstanding and unpaid (and provision for the payment thereof shall not have been made as provided in the Fiscal Agent Agreement) and any event of default referred to in Section 18 hereof shall have happened and be continuing, the Authority or the Fiscal Agent may take any one or more of the following remedial steps:

(1) The Authority may, at its option, declare all installments of Base Loan Payments payable for the remainder of the term of this Agreement to be immediately due and payable, whereupon the same shall become immediately due and payable.

(2) The Authority may take whatever action at law or in equity may appear necessary or desirable to collect the payments then due and thereafter to become due hereunder, whether on the stated due date or by declaration of acceleration or otherwise, for damages or for specific performance or otherwise to enforce performance and observance of any obligation, condition or covenant of the District under this Agreement.

The term "**all installments**" shall mean an amount equal to the entire principal amount of the then Outstanding Bonds, together with all interest accrued or to accrue on and prior to the next succeeding redemption date or dates on which the Bonds can be and actually are redeemed after giving notice to the Holders thereof as required by the Fiscal Agent Agreement (less moneys available for such purpose then held by the Fiscal Agent) plus any other payments due or to become due under this Agreement, including, without limitation, any unpaid fees and expenses of the Authority, the Fiscal Agent and any paying agents of the Bonds which are then due or will become due prior to the time that the Bonds are paid in full and the trust established by the Fiscal Agent Agreement is terminated.

(b) No remedy herein conferred upon or reserved to the Authority or the Fiscal Agent is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement or now or hereafter existing at law or in equity or by statute. No delay in exercising or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right or power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Authority or the Fiscal Agent to exercise any remedy reserved to it by this Section, it shall not be necessary to give any notice, other than such notice as may be herein expressly required. The Fiscal Agent shall be deemed a third party beneficiary of all covenants and conditions herein contained.

(c) In the event the District should default under any of the provisions of this Agreement and the Authority or the Fiscal Agent should employ attorneys or incur other expenses for the collection of the payments due under this Agreement or the enforcement of performance or observance of any obligation or agreement on the part of the District herein contained, the District agrees that it will on demand therefor pay to the Authority or the Fiscal Agent the reasonable fees of such attorneys and such other reasonable expenses so incurred by the Authority or the Fiscal Agent.

SECTION 20. Expenses; Indemnification. The District shall pay Costs of Issuance and all other expenses, including without limitation reasonable attorneys fees, reasonably incurred by the Authority and the Fiscal Agent by reason of the execution of this Agreement or the offer, sale or delivery of the Bonds and will hold the Authority and the Fiscal Agent free and harmless of and from any claims of any kind for such or similar fees and expenses.

The District agrees to indemnify and hold harmless the Authority and its officers, directors, employees and agents from and against any and all losses, claims, damages, liabilities or expenses of every conceivable kind, character and nature whatsoever, including, but not limited to, losses, claims, damages, liabilities or expenses arising out of, resulting from or in any way connected with (i) the Project or (ii) the sale of any Bonds and the carrying out of any of the transactions contemplated by the Bonds; provided that such indemnification pursuant to this Section shall not apply to losses, claims, damages, liabilities or expenses resulting because of the negligence or willful default of the Authority. The District further agrees, to the extent permitted by law, to pay or to reimburse such Indemnified Parties for any and all reasonable costs, reasonable attorneys fees, reasonable liabilities or reasonable expenses incurred in connection with investigating, defending against or otherwise in connection with any such losses, claims, damages, liabilities, expenses or actions (other than losses, claims, damages, liabilities, expenses or actions resulting because of such Indemnified Party's negligence or willful default).

Promptly after receipt by the Authority of notice of the commencement of any action, the Authority shall, if a claim in respect thereof is to be made against the District under this Section, notify the District in writing of the commencement thereof. In case any such action shall be brought against the Authority, and the Authority shall notify the District of the commencement thereof, the District shall be entitled to participate in and, to the extent that it wishes, to assume the defense thereof, with counsel reasonably satisfactory to the Authority, and after notice from the District to the Authority of its election so to assume the defense thereof, the Authority shall cooperate with respect thereto and the District shall not be liable to the Authority under this Section for any legal or other expenses subsequently incurred by the Authority in connection with the defense thereof other than reasonable costs of any investigation; provided, however, that if the named parties to any such action (including any impleaded parties) include the Authority and the District, and the Indemnified Party reasonably concludes that representation of the Authority and the District by the same counsel would be inappropriate (whether or not such representation by the same counsel has been proposed) under applicable standards of professional conduct due to actual or potential differing interests between them, the Authority shall have the right to select separate counsel to assume such legal defense and to otherwise participate in the defense of such action on behalf of the Authority; provided, further, however, that the District shall not, in connection with any one such action or separate but substantially similar or related actions arising out of the same general allegations or circumstances, be liable for the fees and expenses of more than one separate firm of attorneys at any point in time for the Indemnified Party. The District shall not be liable for any settlement of any such action effected without its prior written consent, but if settled with the prior written consent of the District or if there is a final judgment for the plaintiff in any such action, the District shall indemnify and hold the Authority harmless from and against any loss or liability by reason of such settlement or judgment.

SECTION 21. Notices. All notices, certificates or other communications hereunder shall be sufficiently given and shall be deemed given (i) if hand delivered or delivered by courier, when delivered to the appropriate notice address, or (ii) if mailed by first class mail, postage prepaid, six Business Days after deposit in the United States mail addressed to the appropriate notice address specified in or pursuant to Section 11.07 of the Fiscal Agent Agreement. Any telecopy or other electronic transmission received by any party after 4:00 p.m., local time, as evidenced by the time shown on such transmission, shall be deemed to have been received the following Business Day. Any party may, by notice given hereunder, designate any further or different addresses to which subsequent notices, certificates or other communications shall be sent.

SECTION 22. Governing Law; Venue. This Agreement shall be construed in accordance with and governed by the constitution and the laws of the State applicable to contracts made and performed in the State. This Agreement shall be enforceable in the State, and any action arising out of this Agreement shall be filed and maintained in the Sacramento County Superior Court, Sacramento, California unless the Authority waives this requirement.

SECTION 23. Binding Effect. This Agreement shall inure to the benefit of and shall be binding upon the Authority, the District and their respective successors and assigns.

SECTION 24. Severability. In the event any provision of this 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 25. Amounts Remaining in Funds and Accounts. It is agreed that any amounts remaining in the funds and accounts established pursuant to the Fiscal Agent Agreement, after payment in full of the Bonds (or after provision for payment thereof as provided in the Fiscal Agent Agreement), shall be subject to the provisions of Section 5.05 of the Fiscal Agent Agreement.

SECTION 26. Agreement Represents Complete Agreement; Amendments. This Agreement and the Tax Agreement incorporated herein by reference in accordance with Section 15(a) represent the entire contract between the Authority and the District with respect to the Bonds, the loan of the proceeds thereof to the District and related matters. This Agreement may not be effectively amended, changed, modified, altered or terminated without the concurring written consent of the Fiscal Agent, given in accordance with the provisions of Article IX of the Fiscal Agent Agreement. The Authority shall not enter into any amendment of the Fiscal Agent Agreement pursuant to Section 9.01 or 9.02 thereof without the approval of the District, which approval shall not be unreasonably withheld.

SECTION 27. Execution of Counterparts. This Agreement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

SECTION 28. Term of Agreement. Except as otherwise provided herein, this Agreement shall remain in full force and effect from the date of execution hereof until no Bonds remain Outstanding under the Fiscal Agent Agreement.

IN WITNESS WHEREOF, the Authority and the District have caused this Agreement to be executed in their respective corporate names, all as of the date first above written.

**CALIFORNIA MARITIME
INFRASTRUCTURE AUTHORITY**

By _____
Chair

**HUMBOLDT BAY HARBOR, RECREATION
AND CONSERVATION DISTRICT**

By _____
Chairman

EXHIBIT A

Project

The term "*Project*" means, [project description to come from District]

EXHIBIT B

Base Loan Payment Schedule

Each payment is payable to the Fiscal Agent on the sixth (6th) Business Day prior to May 1 and November 1, in each of the years and in the amounts, as follows:

<u>Base Loan Payment Date</u>	<u>Base Loan Payment Amount</u>
	\$