

**FISCAL AGREEMENT  
BETWEEN  
THE REDEVELOPMENT AGENCY OF THE  
CITY OF PITTSBURG AND THE CONTRA COSTA COUNTY  
EAST BAY REGIONAL PARK DISTRICT**

This Fiscal Agreement (the "Agreement") is entered into pursuant to Health & Safety Code Section 33401(b), by and between the Redevelopment Agency of the City of Pittsburg (the "Agency") and the East Bay Regional Park District (the "District") (collectively, the "Parties") and is executed as of the 7th day of September, 1993, with reference to the following facts:

A. These Recitals refer to and utilize certain capitalized terms which are defined in Article 1 of this Agreement. The parties intend to refer to those definitions in connection with the use thereof in this Agreement.

B. The Agency has prepared and the City Council has adopted the Amended Plan which expands the Agency's financial resources to assist in redeveloping the Project Area and adds certain territories to the Project Area.

C. Pursuant to (1) Section 16 of Article XVI of the constitution of the State of California, (2) Health and Safety Section 33670 et seq., and (3) the Amended Plan, the Agency is entitled to receive Tax Increment Revenue to pay the principal of and interest on loans of, monies advanced to, or indebtedness incurred by, the Agency to finance, in whole or in part, redevelopment in accordance with the Amended Plan.

D. The District is a taxing agency with territory located within the Project Area and has concerns over the potential negative impact of the Amended Plan on its financial situation.

E. A fiscal review committee was convened for the Amended Plan pursuant to Health and Safety Code Section 33353 and meetings were held that were attended by the Parties and other affected taxing entities.

F. The fiscal review committee determined, and the Agency has found that, but for the fiscal mitigation measures set forth in this Agreement, the Project undertaken pursuant to the Amended Plan would create a financial burden or detriment on the District as defined in Health and Safety Code Section 33012 by requiring an increase in the level of the District's services and capital facilities.

G. In consideration of this Agreement determining the obligations of the Agency with respect to the Project and the Amended Plan, the District is foregoing the right to contest the adoption of the Amended Plan.

NOW, THEREFORE, the Parties agree as follows:

ARTICLE 1  
DEFINITIONS

The following general definitions shall govern this Agreement:

1.1 "Agency" means the Redevelopment Agency of the City of Pittsburg.

1.2 "Amended Plan" means the Third Amendment to the Community Development Plan for the Los Medanos Community Development Project, which has been prepared by the Agency and adopted by the City Council by Ordinance No. 93-1063, June 7, 1993, and includes as a part thereof the Amended and Restated Community Development Plan for the Los Medanos Community Development Project.

1.3 "Bond Override Funds" means the portion of the taxes in excess of the amount identified in Health and Safety Code Section 33670(a) from a designated area which are attributable to a tax rate levied by the District pursuant to Measure AA approved by the voters in November of 1988 for the purpose of producing revenues in an amount sufficient to make annual repayments of the principal of, and interest on, any bonded indebtedness for the acquisition and improvement of real property.

1.4 "Chevron Subarea" means that portion of the Project Area shown as the "Chevron Subarea" on the attached Exhibit A and described on the attached Exhibit B.

1.5 "City" means the City of Pittsburg, California.

1.6 "City Council" means the City Council of the City of Pittsburg, California.

1.7 "Community Redevelopment Law" means the California Community Redevelopment Law (Health and Safety Code Section 33000 et seq.).

1.8 "District" means the East Bay Regional Park District.

1.9 "District Share" means the proportionate percentage share of the Tax Increment Revenue that the District would have received as property taxes from the respective subareas of the Project Area at the time of the effective date of this Agreement if there were no provision in the Amended Plan for the division of taxes pursuant to Health & Safety Code Section 33670 et seq. The Parties acknowledge and agree that for ease of administering this Agreement and for purposes of this Agreement, the District's Share for the Chevron, Northeast, Willow Pass and Southwest Subareas shall be 3.71%.

1.10 "Existing Bond Issues" means the following bonds issued by the District prior to the date of this Agreement or bonds issued hereafter to refund or refinance such bonds:

- a. East Bay Regional Park District General Obligation Bonds, Series 1989A, in the principal amount of \$45,000,000; and
- b. East Bay Regional Park District General Obligation Bonds, Series 1992B, in the principal amount of \$60,000,000.

1.11 "Los Medanos Core Subarea" means that portion of the Project Area shown as the "Los Medanos Core Area" on the attached Exhibit A and described on the attached Exhibit C.

1.12 "Los Medanos 2 Subarea" means that portion of the Project Area shown as the "Los Medanos 2 Subarea" on the attached Exhibit A and described on the attached Exhibit D.

1.13 "Northeast Subarea" means that portion of the Project Area shown as the "Northeast Subarea" on the attached Exhibit A and described on the attached Exhibit E.

1.14 "Parties" means the Agency and the District.

1.15 "Project" means the program of redevelopment to be undertaken by the Agency in the Project Area pursuant to the provisions of the Amended Plan and the Community Redevelopment Law.

1.16 "Project Area" means the Los Medanos Community Development Project Area of the Amended Plan. The Project Area encompasses the Los Medanos Core Subarea, the Los Medanos 2 Subarea, the Southwest Subarea, the Chevron Subarea, the Northeast Subarea and the Willow Pass Subarea.

1.17 "Project Area Assessed Valuation" for a given Fiscal Year means the assessed valuation of Project Area property as determined by the County Auditor-Controller in calculating Tax Increment Revenue payable to the Agency for that Fiscal Year.

1.18 "Southwest Subarea" means that portion of the Project Area shown as the "Southwest Subarea" on the attached Exhibit A and described on the attached Exhibit F.

1.19 "Tax Increment Revenue" means those taxes allocated to and received by the Agency pursuant to Health and Safety Code Section 33670 et seq. from increases in assessed valuation of the property in the Project Area above the valuation shown on the assessed valuation roll last equalized prior to the date of adoption of the City ordinances adopting the Amended Plan less any Bond Override Funds.

1.20 "Willow Pass Subarea" means that portion of the Project Area shown as the "Willow Pass Subarea" on the attached Exhibit A and described on the attached Exhibit G.

ARTICLE 2  
PAYMENTS TO THE DISTRICT

2.1 Payments to the District Based on Annual Inflation Factor for the Chevron, Northeast, Southwest and Willow Pass Subareas. The Agency shall pay, during the period commencing with Fiscal Year 1994-95 and ending in Fiscal Year 2032-2033, to the District, one hundred percent (100%) of the District Share of the real property tax revenues, if any, that are attributable to increases in the assessed value of the taxable real property in the Chevron, Northeast, Southwest and Willow Pass Subareas of the Project Area, as the assessed value is established by the assessment roll last equalized prior to the effective date of City's ordinance adopting the Amended Plan ("base year assessed valuation"), which increases are calculated annually pursuant to subdivision (f) of Section 110.1 of the Revenue and Taxation Code. The Parties understand and agree that such amount shall be paid by the Agency to the District in exchange for the amount of real property tax revenues that would have been allocated to the District had the District made the election pursuant to Health and Safety Code Section 33676(a)(2) with respect to the Chevron, Northeast, Southwest and Willow Pass Subareas. The base year assessed valuation (subject to verification by County Auditor-Controller) for each Subarea is as follows:

<u>Subarea</u>	<u>Base Year Assessed Valuation</u>
Chevron	\$ 4,762,458
Northeast	\$644,549,511
Southwest	\$ 4,905,484
Willow Pass	\$ 13,169,232

2.2 Payments to the District Other Than Those Based on Annual Inflation Factor and Bond Override Funds. Commencing with Fiscal Year 1994-95 and continuing until Fiscal Year 2032-2033, the Agency shall pay to the District fifty-five percent (55%) of the District's Share of Tax Increment Revenue generated from the Chevron, Northeast, Southwest and Willow Pass Subareas less the amounts paid for such Fiscal Year from such Subareas pursuant to Section 2.1.

2.3 Payments to District Based on Bond Override Funds.

The Agency shall make the payments described below to the District from Bond Override Funds and the District agrees that all payments received pursuant to this Section 2.3 shall be used to assist with improvements of regional facilities within the Pittsburg area.

(a) Payments Relating to Chevron, Northeast, Southwest and Willow Pass Subareas and the New Bond Issuances. Commencing with Fiscal Year 1994-95 and continuing until Fiscal Year 2032-2033, the Agency shall pay to the District (i) eighty percent (80%) of Bond Override Funds generated from the Chevron, Northeast, Southwest and Willow Pass Subareas for repayment of the Existing Bond Issues; and (ii) eighty percent (80%) of Bond Override Funds generated from the Project Area for repayment of bonds which have not been issued as of the date of this Agreement.

(b) Payments Relating to Los Medanos Core and Los Medanos 2 Subareas. Commencing with Fiscal Year 2004-2005 and continuing until the earlier to occur of (i) Fiscal Year 2032-2033 or (ii) retirement of the Existing Bond Issues, the Agency shall pay to the District eighty percent (80%) of the Bond Override Funds generated from the Los Medanos Core and Los Medanos 2 Subareas for repayment of the Existing Bond Issues.

2.4 Payments to Assist Regional Facilities. The Agency agrees to assist the District with improvements of regional facilities within the City of Pittsburg or within the vicinity of Pittsburg in the amount of Five Hundred Thousand Dollars (\$500,000). The Agency and District agree that this money will be paid to the District no later than Fiscal Year 2004-2005 as a

lump sum and that staff of the Agency and District will negotiate an agreement identifying such regional project(s) by December 31, 2003. As a material inducement for the approval of this Agreement, the District agrees to make a good faith effort to include the purchase of land, to be used as permanent open space, in or near southern Pittsburg, as a high priority project for the District and for the use of all or a portion of the Five Hundred Thousand Dollars (\$500,000) to be provided by the Agency in this Section 2.4.

If the Agency and District negotiate an agreement relating to the Five Hundred Thousand Dollars (\$500,000) in improvements prior to December 31, 2003 and the District undertakes identified projects prior to July 1, 2004, the District will advance the funding for the project to the Agency. Any funds so advanced shall earn interest at the interest rate then-in-effect for the State of California Local Agency Investment Fund or successor fund ("LAF"), adjusted each year to the interest rate then-in-effect for LAF. The advanced principal and accrued interest will be repaid by the Agency to the District no later than July 31, 2004, with the principal amount to be repaid from the Agency's Five Hundred Thousand Dollars (\$500,000) obligation under this Section 2.4 and the accrued interest to be paid from other Agency funds.

→ If an agreement is not entered into by June 30, 2004, the Agency shall deposit the Five Hundred Thousand Dollars (\$500,000) on July 1, 2004, in an account with the minimum interest rate then in effect for LAF, adjusted each year to the interest rate then in effect for LAF, where it shall remain until an agreement between the Agency and District regarding use of the funds is reached. The principal and interest in the account shall be distributed to the District within 30 days after execution of the above agreement.

"Improvements" is defined as acquisition, development, operations and maintenance of regional facilities for purposes of Sections 2.3 and 2.4.

**2.5 Time of Payment.** The Agency shall make the payments required pursuant to Sections 2.1, 2.2 or 2.3 for a given Fiscal Year within sixty (60) days of receipt by the Agency of the last installment of Tax Increment Revenue for such Fiscal Year. Each payment made by the Agency shall be accompanied by a statement setting forth in reasonable detail the basis on which the determination of the amount of payment has been made.

**2.6 Limitation on Payments.** Notwithstanding any other provision of this Agreement, no payments shall be made to the

District, if (a) the payment made to the District by the Agency pursuant to this Article 2 for any given Fiscal Year shall exceed the amount that the District would otherwise receive from property taxes, including Bond Override Funds, from the Project Area for that given Fiscal Year had the Amended Plan not provided for the division of taxes pursuant to Health and Safety Code Section 33670; or (b) the receipt of the payment would cause the District to exceed its expenditure limitations under Article XIII B of the California Constitution; or (c) the payment would be contrary to the provisions of Health and Safety Code Section 33401 or violate any other provisions of law. Any excess amounts under this Section 2.6 shall be retained by the Agency for distribution, in the Agency's sole discretion, for the purposes of paying indebtedness incurred by the Agency in carrying out the Amended Plan.

2.7 Effect of Change in Financing System. If there are any changes in State law after the date of this Agreement which alter the process of allocating Tax Increment Revenue or the calculation of the Tax Increment Revenue, the Parties agree to negotiate in good faith to revise this Agreement so that the basic goals of providing the Agency and the District with viable funding levels will be preserved. The operative concerns in this negotiation shall be that funding for Project implementation shall be preserved, that the District shall not suffer a net revenue loss, and that the District suffer no net loss of its Bond Override Funds, bearing in mind that the Agency's efforts create additional assessed valuation that would not exist absent the Agency's efforts.

2.8 Priority of Agency's Obligations. The obligation of the Agency to make payments pursuant to Sections 2.1, 2.2, 2.3 and 2.4 of this Agreement shall be subordinate to the Agency's obligation to make payments of principal, interest or other amount on or in connection with bonds, notes or other indebtedness issued by the Agency to finance the implementation of the Amended Plan. An Agency obligation to make payments, pursuant to a reimbursement agreement or similar agreement, or to reimburse or otherwise compensate a person or entity who has or is obligated to make payments of principal, interest or other amounts on bonds, notes or other indebtedness issued by the Agency to finance the implementation of the Amended Plan shall be deemed to be an obligation in connection with such bonds, notes or other indebtedness for purposes of this Agreement.

The purpose of this subordination provision is solely to enable the Agency to use payments due to the District as debt service coverage for bonds, notes or other indebtedness that the Agency may issue or encumber. If, however, as a result of such

subordination, the Agency is unable to make any payment to the District when due, such payment deficit shall thereafter be repaid with interest. Any such payment deficit shall bear interest from the date due to the date of payment at the lesser of (a) the reference rate charged by Wells Fargo Bank N.A., San Francisco, from time to time, or (b) the maximum rate permitted by law.

2.9 Section 33676 Election Superseded. The District acknowledges that this Agreement supersedes any purported right to election under Health and Safety Code Section 33676 with respect to the Amended Plan or predecessor redevelopment plans. The District shall not make any election pursuant to Health and Safety Code Section 33676, and this Agreement supersedes any election previously made or purported to be made by the District pursuant to Health and Safety Code Section 33676. Any such election or purported election shall be null and void. The District shall take any action required by the County Auditor-Controller or other responsible County official required to rescind any such prior election and to notify the County Auditor-Controller or other responsible County official that the District has elected not to receive any amounts pursuant to Health and Safety Code Section 33676. The District shall receive no payment of Tax Increment Revenue other than as provided in this Agreement.

2.10 Indebtedness of the Agency. The payments to be made pursuant to this Article 2 shall constitute an indebtedness of the Agency incurred in carrying out the Project and a pledge of Tax Increment Revenue from the Project to repay such indebtedness under the provisions of Article XVI, Section 16 of the Constitution of the State of California and under the Community Redevelopment Law.

### ARTICLE 3 GENERAL PROVISIONS

3.1 Elimination of Financial Burden; No Contest of Plan. The District acknowledges and agrees that the payments to be made and the actions to be undertaken by the Agency pursuant to this Agreement will effectively eliminate any financial burden or detriment that would otherwise be caused by the adoption of the Amended Plan and implementation of the Project. In consideration of such payments and actions, the District agrees to forgo any right or remedy the District may have in law or equity to contest the preparation, adoption, or validity of the Amended Plan (including, without limitation, any right or remedy pursuant to the California Environmental Quality Act) and the implementation of the Project contemplated to be undertaken pursuant to the



Plan. Following termination, neither of the Parties shall have any further rights or obligations under this Agreement.

The District acknowledges and agrees that, following satisfaction of all other obligations of the Agency under the Amended Plan, the City and the Agency may cause expiration of the Amended Plan prior to the currently contemplated date for such expiration.

3.6 State Law. This Agreement, and the rights and obligations of the Parties hereto, shall be construed and enforced in accordance with the laws of the State of California.

3.7 Attorneys' Fees. In any action which a Party brings to enforce its rights hereunder, the unsuccessful Party shall pay all costs incurred by the prevailing Party, including reasonable attorneys' fees.

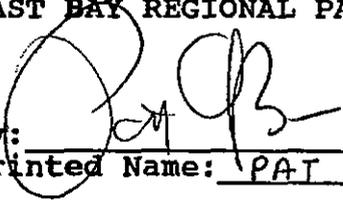
IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first written above.

DISTRICT:

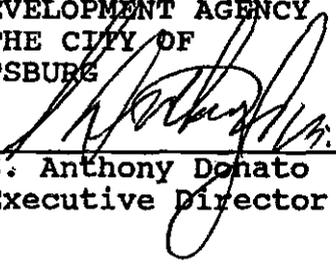
AGENCY:

EAST BAY REGIONAL PARK DISTRICT

REDEVELOPMENT AGENCY  
OF THE CITY OF  
PITTSBURGH

By: 

Printed Name: PAT O'BRIEN

By: 

S. Anthony Donato  
Executive Director