

[Draft of 25 May 2005]

**FIRST AMENDMENT TO MERGED DOWNTOWN
ADVANCE REPAYMENT AGREEMENT**

Dated as of June 1, 2005

by and between the

REDEVELOPMENT AGENCY OF THE CITY OF SACRAMENTO

and the

CITY OF SACRAMENTO,

Relating to the

**Sacramento City Financing Authority
2005 Refunding Revenue Bonds
(Solid Waste, Redevelopment and Master Lease Program Facilities)**

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**FIRST AMENDMENT TO
merged downtown ADVANCE REPAYMENT AGREEMENT**

This FIRST AMENDMENT TO MERGED DOWNTOWN ADVANCE REPAYMENT AGREEMENT (the "First Amendment to Advance Repayment Agreement") is made and entered into as of June 1, 2005, by and between the REDEVELOPMENT AGENCY OF THE CITY OF SACRAMENTO, a public body corporate and politic duly organized and existing under and by virtue of the laws of the State of California (the "Agency") and the CITY OF SACRAMENTO, a municipal corporation duly organized and existing under and by virtue of the Constitution and laws of the State of California (the "City");

WITNESSETH:

WHEREAS, the Agency is authorized pursuant to the Community Redevelopment Law, being Part 1 of Division 24 (commencing with Section 33000) of the Health and Safety Code of the State of California (the "Law") to undertake redevelopment activities within and of benefit to its Merged Downtown Redevelopment Project (the "Redevelopment Project");

WHEREAS, the Agency previously undertook certain of such redevelopment activities and the City advanced funds to the Agency (the "2002 Advance") to finance such redevelopment activities pursuant to that certain Merged Downtown Advance Payment Agreement, dated as of July 1, 2002 (the "Original Advance Repayment Agreement") by and between the Agency and the City;

WHEREAS, in order to obtain funds to make the 2002 Advance, the City leased certain City-owned properties (together, the "City-owned Property") to the Sacramento City Financing Authority (the "Authority") and used the proceeds of the Authority's single up-front lease payment for the City-owned Property (the "Authority Lease Payment") to fund the 2002 Advance to the Agency;

WHEREAS, the Authority funded the Authority Lease Payment with a portion of the proceeds of its Sacramento City Financing Authority 2002 Revenue Bonds, Series A (City Hall and Redevelopment Projects) (the "2002 Bonds");

WHEREAS, debt service on the 2002 Bonds is required to be paid in part with the proceeds of certain lease payments (the "Lease Payments") to be paid by the City in consideration of the leaseback of certain City-owned Property by the Authority to the City pursuant to a Master Project Lease, dated as of July 1, 2002, between the City and the Authority, as amended (the "Master Project Lease");

WHEREAS, the Agency is required to repay the 2002 Advance to the City in installments sufficient to meet the City's Lease Payment obligations under the Master Project Lease attributable to the portion of the proceeds of the 2002 Bonds used by the City to fund the 2002 Advance to the Agency pursuant to the Original Advance Repayment Agreement and may provide for the discharge and satisfaction of [all] [a portion of] such 2002 Advance [with stated payment dates of [to come]] (the "Prior Advance Payments") pursuant to Section 6.03 of the Original Advance Repayment Agreement; and

WHEREAS, the Agency and the City have determined that it is in their best interests (through the sale and delivery of revenue bonds of the Authority secured in part by payments due under the First Amendment to Advance Repayment Agreement (and together with the Original Advance Repayment Agreement, the "Advance Repayment Agreement") to refund [all] [a portion of] the 2002 Bonds [with stated maturity dates of [to come]] (the "Prior Bonds") in accordance with their terms from the proceeds of sale of the Sacramento City Financing Authority 2005 Refunding Revenue Bonds (Solid Waste, Redevelopment and Master Lease Program Facilities) (the "Refunding Bonds") issued under the terms of an Indenture (the "2005 Indenture") dated as of June 1, 2005, by and between the Authority and The Bank of New York Trust Company, N.A. (the "Trustee"); and

WHEREAS, certain of the proceeds of the sale of the Refunding Bonds will be deposited with the Trustee, acting as escrow agent (the "Escrow Agent") pursuant to an Escrow Agreement, dated as of June 1, 2005, between the Authority and the Escrow Agent, to be held in trust in a certain escrow account by the Escrow Agent and applied to the payment or redemption of [all][a portion] of the 2002 Advance (the "Prior Advance") and the discharge and satisfaction of the Prior Advance Payments, all as more particularly set forth herein and in the Escrow Agreement; and

WHEREAS, in accordance with Section 6.03 of the Advance Repayment Agreement, the Escrow Agreement by its terms constitutes an irrevocable setting aside in a special trust account with the Trustee of money in an amount which shall be sufficient, and Federal Securities (as defined in the Advance Repayment Agreement) the interest on and principal of which when paid will provide money which, together with such money, shall be sufficient, to pay when due the Prior Advance and the Prior Advance Payments, so that the Prior Advance and the Prior Advance Payments shall be deemed to have been paid within the meaning of and with the effect expressed in Section 6.03(b) of the Advance Repayment Agreement;

WHEREAS, in accordance with Section 2.06 of the Advance Repayment Agreement, the Agency may incur Agreement Parity Debt;

[**WHEREAS**, the requirements of Section 2.06 of the Advance Repayment Agreement have been satisfied with respect to the Refunding Loan (as defined below) [**NOTE: Need to confirm**];

WHEREAS, pursuant to this First Amendment to Advance Repayment Agreement, the Authority will lend to the Agency the net proceeds of such Agreement Parity Debt (as hereinafter defined, the "Refunding Loan") and the Agency will become obligated hereunder to make scheduled payments of principal and interest (the "Refunding Advance Payments") to the Trustee to pay a portion of the principal and interest on the Refunding Bonds; and

WHEREAS, pursuant to this First Amendment to Advance Repayment Agreement, in order to provide for the payment of a portion of the debt service on the 2002 Bonds that is not refunded by the Refunding Bonds (the "Remaining 2002 Bonds"), the Agency will remain obligated hereunder to make reduced 2002 Advance Payments as hereinafter described (the "Amended 2002 Advance Payments"); and

WHEREAS, all acts and proceedings required by law necessary to make this First Amendment to Advance Repayment Agreement, when executed by the Agency and the City, the valid, binding and legal obligation of the Agency and to constitute this First Amendment to Advance Repayment Agreement as Agreement Parity Debt (as defined in the Advance Repayment Agreement) and a valid and binding agreement for the uses and purposes herein set forth in accordance with its terms, have been done and taken, and the execution and delivery of this First Amendment to Advance Repayment Agreement have been in all respects duly authorized;

NOW, THEREFORE, in consideration of the premises and the mutual agreements herein contained, the parties hereto do hereby agree as follows:

ARTICLE I

DEFINITIONS

Section 1.01. Definitions.

(a) All the terms which are defined in Section 1.01 of the Original Advance Repayment Agreement shall (except as otherwise provided herein) have the same definitions, respectively, in the First Amendment to Advance Repayment Agreement that are given to such terms in Section 1.01 of the Original Advance Repayment Agreement.

(b) Unless the context otherwise requires, the terms defined in this section shall for all purposes hereof and of the Original Advance Repayment Agreement and of any certificate, opinion, report, request 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:

“2002 Advance” means the advance made by the City to the Agency pursuant to Section 2.01 of the Original Advance Repayment Agreement.

“2002 Advance Payments” means payments of principal and interest payable under Section 2.02 of the Original Advance Repayment Agreement by the Agency to the Prior Trustee, as assignee of the Authority under the Prior Indenture.

“2002 Bonds” means the Sacramento City Financing Authority 2002 Revenue Bonds, Series A (City Hall and Redevelopment Projects), [all][a portion] of which are refunded and defeased pursuant to the Escrow Agreement.

“2002 Bonds Escrow Account” means the account by that name established under the Escrow Agreement.

“2005 Indenture” means the Indenture, dated as of June 1, 2005, by and between the Authority and the Trustee, authorizing the issuance of the Refunding Bonds, as originally executed and delivered and as the same may from time to time be amended or supplemented in accordance with its terms.

“Advance” means the Remaining 2002 Advance together with the Refunding Advance.

“Advance Repayment Agreement” means the Original Advance Repayment Agreement as amended by the First Amendment to Advance Repayment Agreement and as the same may from time to time be further amended or supplemented in accordance with its terms.

“Amended 2002 Advance Payments” means the amended and reduced installment payments payable under Section 2.02(a) of this First Amendment to Advance Repayment Agreement by the Agency to the Prior Trustee, as assignee of the Authority under the Prior Indenture.

“Amended Allocable Share” means a percentage allocable to the First Amendment to Advance Repayment Agreement in relation to the entire issue of Refunding Bonds, which allocation may be made on any reasonable basis and may be different than the Proportionate Share.

“Escrow Agreement” means the Escrow Agreement, dated as of June 1, 2005, by and between the Authority and The Bank of New York Trust Company, N.A., as escrow agent, providing for the refunding and defeasance of the Prior Bonds and the discharge, payment and satisfaction of [all] [a portion of] the 2002 Advance.

“First Amendment to Advance Repayment Agreement” means this First Amendment to Merged Downtown Advance Repayment Agreement, dated as of June 1, 2005, by and between the Agency and the City, amending the Original Advance Repayment Agreement.

“Original Advance Repayment Agreement” means the Merged Downtown Advance Repayment Agreement, dated as of July 1, 2002, by and between the Agency and the City.

“Prior Advance” means [all] [that portion] of the 2002 Advance discharged and satisfied in accordance with Section 6.03(b) of the Original Advance Repayment Agreement and pursuant to the Escrow Agreement.

“Prior Advance Payments” means [all] [that portion] of the 2002 Advance discharged and satisfied in accordance with the Original Advance Repayment Agreement and pursuant to the Escrow Agreement.

“Prior Bonds” means [all] [that portion] of the 2002 Bonds refunded and defeased pursuant to the Escrow Agreement.

“Prior Indenture” means the Indenture, dated as of July 1, 2002, by and between the Authority and The Bank of New York Trust Company, N.A., as successor trustee, authorizing the issuance of the 2002 Bonds, as originally executed and delivered and as the same may from time to time be amended or supplemented in accordance with its terms.

“Prior Trustee” means The Bank of New York Trust Company, N.A., as successor

trustee under the Prior Indenture and any further successor trustee duly qualified and acting under the Prior Indenture.

“Refunding Advance” means the portion of the Advance described in Section 2.01 hereof and funded by proceeds of the Refunding Bonds and which shall constitute Agreement Parity Debt under the Advance Repayment Agreement.

“Refunding Advance Payments” means payments of principal and interest payable under and as more fully described in Section 2.02(b) of this First Amendment to Advance Repayment Agreement by the Agency to the Trustee, as assignee of the Authority under the 2005 Indenture, with respect to the Refunding Advance.

“Refunding Bonds” means the Sacramento City Financing Authority 2005 Refunding Revenue Bonds (Solid Waste, Redevelopment and Master Lease Program Facilities) issued and at any time outstanding under the 2005 Indenture.

“Remaining 2002 Advance” means that portion of the 2002 Advance that was funded with proceeds of the 2002 Bonds and that is not refunded or defeased pursuant to the Escrow Agreement and remains to be paid in accordance with Section 2.01 hereof through payment of the Amended 2002 Advance Payments in accordance with Section 2.02(a) of this First Amendment to Advance Repayment Agreement.

“Remaining 2002 Bonds” means that portion of the 2002 Bonds that is not refunded or defeased pursuant to the Escrow Agreement and remains Outstanding pursuant to the Prior Indenture.

“Trustee” means The Bank of New York Trust Company, N.A., a banking corporation duly organized and existing under and by virtue of the laws of the State and authorized to accept and execute trusts of the character set forth in the 2005 Indenture, at its Principal Corporate Trust Office (as that term is defined in the 2005 Indenture), and its successors or assigns, or any other bank or trust company having a corporate trust office in Los Angeles or San Francisco, California, which may at any time be substituted in its place as provided in Section 5.01 of the 2005 Indenture.

ARTICLE II

THE ADVANCE AND CERTAIN ADVANCE TERMS

Section 2.01. Authorization and Terms of Loan.

The Agency and the City hereby agree that the terms of the 2002 Advance are hereby amended as follows.

- (a) The unpaid portion of the 2002 Advance shall be comprised of two portions, namely, (i) the Remaining 2002 Advance which shall be repaid in installments through the Amended 2002 Advance Payments in accordance with Section 2.02(a) hereof, and (ii) the Refunding Advance to be repaid in installments

through the Refunding Advance Payments in accordance with Section 2.02(b) hereof, both of which together constitute the Advance hereunder and are secured by the Tax Revenues and the covenants, terms and conditions of the Advance Repayment Agreement. The Advance Repayment Agreement constitutes a continuing agreement with the Authority to secure the full and final payment of the Advance, subject to the covenants, agreements, provisions and conditions of the Advance Repayment Agreement.

- (b) The discharged and satisfied portion of the 2002 Advance shall be comprised of the Prior Advance, which shall be repaid in installments through the Prior Advance Payments from moneys deposited into the 2002 Bonds Escrow Account in accordance with Section 6.03 of the Advance Repayment Agreement and pursuant to the Escrow Agreement. The Prior Advance and the Prior Advance Payments shall not be secured by either the Tax Revenues or the Advance Repayment Agreement.

Section 2.02. Repayment of Advance.

(a) Amended 2002 Advance Payments. The principal of the Remaining 2002 Advance shall be payable in installments on December 1 in each of the years and in the amounts, and interest on the Remaining 2002 Advance shall be payable in installments on December 1 and June 1 in each of the years and in the amounts, as follows and such principal and interest installments shall constitute the Amended 2002 Advance Payments:

<u>Date</u>	<u>Principal (December 1)</u>	<u>Interest</u>	<u>Total Debt Service</u>
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Except as amended by this First Amendment to Advance Repayment Agreement, all other terms and conditions relating to the installment payments of the Advance pursuant to Section 2.02 of the Original Advance Repayment Agreement shall apply to the Amended 2002 Advance Payments.

(b) Refunding Advance Payments. The principal of the Refunding Advance shall be payable in installments on December 1 in each of the years and in the amounts, and interest on the Refunding Advance shall be payable in installments on December 1 and June 1 in each of the years and in the amounts, as follows and such principal and interest installments shall constitute the Refunding Advance Payments:

<u>Date</u>	<u>Principal (December 1)</u>	<u>Interest</u>	<u>Total Debt Service</u>
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In the event principal of the Refunding Advance shall be prepaid pursuant to Section 2.03 hereof, the foregoing schedule of principal installment payments for the Refunding Advance Payments shall be reduced pro rata by installment as provided in Section 2.03 hereof.

Interest on each installment of principal of the Refunding Advance has been calculated on the basis of a 360-day year of twelve 30-day months, and shall accrue on each installment of principal from and including the date of issuance of the Refunding Bonds to but not including the interest payment date for the Refunding Bonds with respect to which such installment of principal is payable. Any installment of principal or interest which is not paid when due shall continue to accrue interest at the interest rate payable on the Refunding Bonds from and including the interest payment date for the Refunding Bonds with respect to which such principal or interest is payable to but not including the date of actual payment.

Any portion of the Refunding Advance deposited on the Closing Date into the Reserve Fund established by the Master Project Lease, as provided in Section 2.04, shall be credited to the final installment payments payable pursuant to this Section 2.02; provided that this sentence shall not apply to any portion of the Refunding Advance or other amounts in the Reserve Fund used to purchase a surety bond or similar credit instrument for deposit in the Reserve Fund. In addition, investment earnings on any portion of the Refunding Advance deposited in said Reserve Fund shall be credited annually to the installment payments payable pursuant to this Section 2.02. In the event the Agency shall determine to transfer a portion of the Refunding Advance for use in another redevelopment project area of the Agency, or in the event that the Agency shall determine to transfer to the Project Area a portion of an Refunding Advance made by the City, with respect to another redevelopment project area of the Agency and such Refunding Advance was funded with the proceeds or one or more one-time, up-front lease payment made by the Authority pursuant to the Master Site Lease (or similar financing provided by the City), the foregoing schedule of installment payments shall be recalculated by an Independent Financial Consultant in order to take into account the amount of any such transfer in a manner that does not change the aggregate annual installment payments with respect to the Refunding Advance and such other Refunding Advance. The schedule set forth in this Section 2.02 shall be deemed to be amended accordingly. Copies of any such recalculated schedule shall be provided promptly to the City, the Authority and the Trustee.

Except as amended by this First Amendment to Advance Repayment Agreement, all other terms and conditions relating to the installment payments of the Advance pursuant to Section 2.02 of the Original Advance Repayment Agreement shall apply to the Refunding Advance Payments.

Section 2.03. Optional Prepayment of the Refunding Advance. The Refunding Advance shall not be subject to optional prepayment prior to December 1, 20___. The principal of the

Refunding Advance shall be subject to optional prepayment on or after December 1, 20__, in whole on any date, or in part on any Interest Payment Date by such principal installments or portions thereof as shall be determined by the Agency, from any available source of funds, at a prepayment price equal to the amount of the principal installments so called for prepayment and together with accrued interest thereon to the redemption date of the Refunding Bonds to be redeemed from such prepayment.

The Agency shall be required to give the Trustee written notice of its intention to prepay the Refunding Advance under this Section and of the principal installments or portions thereof to be prepaid not less than sixty (60) days prior to the proposed prepayment date, and shall transfer to the Trustee all amounts required for such prepayment in accordance with the further requirements of the 2005 Indenture.

In the event that a portion of the principal of the Refunding Advance shall have been prepaid by the Agency pursuant to this Section, the amount of all future annual principal installments set forth in Section 2.02(b) shall be reduced by the aggregate amount of such principal so prepaid, based on calculations to be provided to the Trustee by an Independent Financial Consultant.

Section 2.04. Application of Refunding Advance Proceeds and Other Funds. On the date of issuance of the Refunding Bonds the total proceeds of the Refunding Advance (which equals the principal amount of the Refunding Advance (namely, \$ _____), plus the net original issue premium associated with the Refunding Advance (namely, \$ _____)), shall be applied by the Trustee in accordance with Section 2.12 of the 2005 Indenture. The Trustee shall be deemed to have distributed to the Agency on such date the Amended Allocable Share of all such Refunding Bond proceeds, which amounts were paid for and on behalf of the Agency by the Authority and the City from the total proceeds of the Refunding Advance by the application of such proceeds in accordance with the terms of the 2005 Indenture.

[In addition, the Authority shall cause the Trustee to transfer from the Reserve Account under the Prior Indenture an amount of cash equal to \$ _____, a portion of which (namely, \$ _____) shall be deposited into the 2002 Bonds Escrow Account and the remainder of which (namely, \$ _____) shall be deposited into the Reserve Account for the Refunding Bonds established pursuant to the 2005 Indenture. The Authority shall also cause the Trustee to deposit into such Reserve Account for the Refunding Bonds the [2005 Merged Downtown Reserve Instrument] in the face amount of \$ _____, which, together with such cash transfer and deposit into the Reserve Account for the Refunding Bonds, shall satisfy the initial Reserve Requirement.] **[NOTE, SUBJECT TO CHANGE: Must confirm arrangements for funding escrow with excess reserve funds and funding Reserve Account for Refunding Bonds with both transferred cash and surety reserve bond, if any.]**

ARTICLE III

TAX REVENUES; MISCELLANEOUS

Section 3.01. Use of Tax Revenues for Refunding Advance. The Refunding Advance constitutes Agreement Parity Debt under the Advance Repayment Agreement and Tax Revenues

necessary to pay the Refunding Advance Payments or to be on deposit in the Refunding Bonds Reserve Account shall be applied in the same manner and to the same extent as described in Article III of the Original Advance Repayment Agreement with respect to the Advance.

Section 3.02. Effect of Amendment; Ratification. Except as otherwise expressly amended by this First Amendment to Advance Repayment Agreement, all agreements, conditions, covenants and terms of the Original Advance Repayment Agreement shall continue in full force and effect and are hereby approved, confirmed and ratified by the Agency and the City.

REDEVELOPMENT AGENCY OF THE CITY OF SACRAMENTO

By

CITY OF SACRAMENTO

By