

**COUNCIL OF THE TOWN OF LA PLATA
ORDINANCE 09-15**

Introduced By:	Mayor Roy G. Hale
Date Introduced:	September 15, 2009
Town Council Public Hearing:	September 15, 2009
Amendments Approved:	
Date Approved:	September 22, 2009
Date Effective:	October 8, 2009

1 **An Ordinance concerning**

2
3 **Issuance of Bonds, Notes or Similar Instruments with Respect to the Heritage**
4 **Green Special Taxing District, and Related Matters**
5

6 FOR the purpose of authorizing and empowering Town of La Plata (the "Town") to issue, sell
7 and deliver, from time to time, its bonds, notes or other similar instruments in an
8 aggregate principal amount not to exceed \$45,000,000.00 and bearing interest at a rate or
9 rates not to exceed 12% per annum, to finance, reimburse or refinance the cost of certain
10 infrastructure improvements relating to the Heritage Green Special Taxing District
11 identified herein and other costs permitted under the Special Taxing District Act and
12 other applicable law identified herein; providing that one series of such obligations (the
13 "MWQFA Note") shall be issued to the Maryland Water Quality Financing
14 Administration ("MWQFA") to evidence a loan from MWQFA to the Town for certain
15 wastewater system improvements and related purposes specified herein; determining
16 certain details relating to the MWQFA Note, providing for the determination of other
17 details relating to the MWQFA Note and the loan from MWQFA, and approving the
18 forms of, and authorizing the completion, execution and delivery of, the MWQFA Note
19 and a loan agreement to be entered into by the Town and MWQFA; providing that the
20 MWQFA Note shall be payable in the first instance from certain special taxes identified
21 herein and shall also be payable from Town wastewater and water supply system
22 revenues and be backed by a pledge of the Town's full faith and credit and unlimited
23 taxing power; providing that certain other obligations identified herein as the Bonds shall
24 be issued, sold and delivered as provided herein; providing that the Bonds and the interest
25 thereon shall never constitute a general obligation debt of or a pledge of the Town's full
26 faith and credit and unlimited taxing power; providing for the further specification,
27 prescription, determination, provision for or approval of various other matters, details,
28 documents and procedures in connection with the authorization, issuance, security, sale
29 and payment for the MWQFA Note and the Bonds; making certain legislative findings,

30 among others, concerning the public benefit of the matters contemplated by this
31 Ordinance; providing that this title constitutes a fair summary of this Ordinance;
32 providing for the automatic revocation of this Ordinance under certain circumstances;
33 and generally providing for the issuance, sale, delivery and security of and for the
34 MWQFA Note and the Bonds in accordance with the authority identified herein.
35
36

37 RECITALS

38
39 WHEREAS, Section 44A of Article 23A of the Annotated Code of Maryland (the
40 "Special Taxing District Act"), authorizes any municipal corporation of the State of Maryland to
41 create a "special taxing district" (as such term is used in the Special Taxing District Act), levy ad
42 valorem taxes or special taxes and borrow money by issuing and selling its "bonds" (as such
43 term is used in the Special Taxing District Act) for the purpose of financing, refinancing or
44 reimbursing the "cost" (as such term is used in the Special Taxing District Act) of the design,
45 construction, establishment, extension, alteration or acquisition of adequate storm drainage
46 systems, sewers, water systems, roads, bridges, culverts, tunnels, streets, sidewalks, lighting,
47 parking, parks and recreation facilities, libraries, schools, and other infrastructure improvements
48 as necessary, whether situated within the special taxing district or the municipal corporation or
49 outside of the municipal corporation if notification is given to the governmental unit having
50 jurisdiction over the infrastructure improvement and if the infrastructure improvement is
51 reasonably related to other infrastructure improvements within the special taxing district, for the
52 development and utilization of land, each with respect to any defined geographic region within
53 the municipal corporation; and
54

55 WHEREAS, the bonds authorized to be issued by the Special Taxing District Act are
56 special obligations of a municipal corporation payable from a special fund created by the
57 municipal corporation for the purpose of paying debt service on the bonds and from other assets
58 or revenues pledged by the municipal corporation for that purpose; and
59

60 WHEREAS, pursuant to a resolution of the Council of Town of La Plata, a municipal
61 corporation of the State of Maryland (the "Town"), adopted prior to the enactment of this
62 Ordinance (the "Designation Resolution"), the Town created a special taxing district to be known
63 as the "Heritage Green Special Taxing District" (the "District") in order to encourage and
64 promote a mixed use development in the District, including single-family homes, townhouses,
65 condominium units and apartments, together with commercial and light industrial uses; and
66

67 WHEREAS, the District encompasses an area or areas of approximately 1,030 acres of
68 land located approximately 2,400 linear feet east of U.S. Route 301 and approximately 1,200
69 linear feet north of MD Route 6 (Charles Street), but excluding the area of Rosewick Road, and
70 is generally bordered by Aggregate Industries property to the northwest, Rosewick Road
71 property to the northeast, CSXT railroad tracks to the west, the residential communities of
72 Hickory Ridge and Agricopia, La Plata High School, Charles County maintenance facilities and
73 the Fraternal Order of Police to the east, and various properties located between MD Route 6
74 (Charles Street) and the southern border of the District to the south, as more particularly
75 identified on Exhibits A - D of the Designation Resolution; and

76
77 WHEREAS, the Designation Resolution was adopted pursuant to a request entitled
78 "Application to Create the Heritage Green Special Taxing District as a Special Taxing District
79 and Provide for the Financing, Reimbursing or Refinancing of the Cost of Related Infrastructure
80 Improvements" (the "Request"), which Request is on file with the Town Clerk; and
81

82 WHEREAS, the Request was signed by Heritage Green Development, LLC (the
83 "Owner"), the current owner of all of the real property (identified in the Designation Resolution
84 as the "Property") within the geographic confines of the District, which intends to undertake and
85 promote the development of the District as described in the Designation Resolution; and
86

87 WHEREAS, as specified in the Request, the Owner has asked the Town (i) to undertake
88 to issue its bonds, notes or other similar instruments in one or more series from time to time, in
89 order to finance, reimburse or refinance all or a portion (as applicable) of the cost (within the
90 meaning of the Special Taxing District Act) of the infrastructure improvements identified on
91 Attachment 5 to the Request, which identified infrastructure improvements include (without
92 limitation) (A) a new sewage pumping station and appurtenances, new force main and gravity
93 sewer lines to convey sewage from the new pumping station to the La Plata Wastewater
94 Treatment Plant west of U.S. Route 301, and decommissioning of the Town's Willow Lane and
95 Phoenix Run pumping stations (collectively, the "Town Sewer Facilities"), and (B) on-site as
96 well as off-site public infrastructure and improvements necessary to support a planned mixed use
97 development, including (without limitation) roads and sidewalks, traffic signals and traffic
98 studies therefor, water, sewer, landscaping and such other infrastructure improvements as may be
99 permitted by the Special Taxing District Act and other applicable law, all servicing or benefiting
100 the development of and property within the District, and to be dedicated to the Town, Charles
101 County or the State of Maryland (collectively, the "Project Infrastructure" and, together with the
102 Town Sewer Facilities, the "Public Improvements"), and (iii) to levy, impose and collect special
103 taxes in accordance with Subsection (n) of the Special Taxing District Act on the Property in
104 order to pay (A) debt service on any Special Tax Obligations (as hereinafter defined) of the
105 Town issued to finance, reimburse or refinance the cost of the Public Improvements and (B)
106 other costs and expenses permitted under the Special Taxing District Act; and
107

108 WHEREAS, pursuant to the Designation Resolution, the Council established a special
109 fund as required by the Special Taxing District Act designated as the "Heritage Green Special
110 Taxing District Fund" (the "Special Fund") and determined certain other matters with respect to
111 the Special Fund as required by the Special Taxing District Act; and
112

113 WHEREAS, pursuant to the Designation Resolution and as required by the Special
114 Taxing District Act, the Council also provided for the levy, imposition and collection of certain
115 special taxes with respect to the District (as identified in the Designation Resolution, the "Special
116 Taxes"); and
117

118 WHEREAS, pursuant to subsection (g) of the Special Taxing District Act, the Council
119 may implement its authority under the Special Taxing District Act to issue its bonds for the
120 purpose of financing, reimbursing or refinancing the cost of the Public Improvements and other
121 costs permitted under the Special Taxing District Act and other applicable law, by adopting a

122 resolution or an ordinance that (i) specifies and describes the proposed undertaking and states
123 that it has complied with certain conditions precedent to the issuance of the bonds, (ii) specifies
124 the maximum principal amount of the bonds to be issued, (iii) specifies the maximum rate or
125 rates of interest the bonds are to bear, and (iv) agrees to a covenant to levy upon all real and
126 personal property within the District ad valorem or special taxes in rate and amount sufficient in
127 each year in which any of the bonds are outstanding to provide for the payment of the principal
128 of and interest on the bonds; and
129

130 WHEREAS, Title VI of the Federal Water Pollution Control Act (commonly known as
131 the "Clean Water Act"), as amended by the Water Quality Act of 1987 ("Title VI"), authorizes
132 the Environmental Protection Agency to award grants to qualifying states to establish and
133 capitalize state water pollution control revolving funds ("SRFs") for the purpose of providing
134 loans and other forms of financial assistance (but not grants) to finance, among other things, the
135 construction of publicly-owned wastewater treatment facilities, and the implementation of
136 estuary conservation management plans and nonpoint source management programs; and
137

138 WHEREAS, as contemplated by Title VI, the General Assembly of Maryland at its 1988
139 session enacted the Maryland Water Quality Financing Administration Act, codified at Sections
140 9-1601 through 9-1622, inclusive, of the Environment Article of the Annotated Code of
141 Maryland, as amended (the "MWQFA Act"), establishing the Maryland Water Quality Financing
142 Administration ("MWQFA") and establishing an SRF designated the Maryland Water Quality
143 Revolving Loan Fund (the "SRF Fund") to be maintained and administered by MWQFA; and
144

145 WHEREAS, the MWQFA Act authorizes MWQFA, among other things, to make a loan
146 from the SRF Fund to a "local government" (as defined in the MWQFA Act) for the purpose of
147 financing or refinancing all or a portion of the cost of a "wastewater facility" project (as defined
148 in the MWQFA Act); and
149

150 WHEREAS, in accordance with the American Recovery and Reinvestment Act of 2009
151 (the "ARRA"), the Environmental Protection Agency has awarded a grant to MWQFA (the
152 "ARRA Funds") for deposit into the SRF Fund to be used to finance eligible projects; and
153

154 WHEREAS, the Town is a "local government" within the meaning of the MWQFA Act;
155 and
156

157 WHEREAS, the MWQFA Act authorizes a local government to issue a bond, note or
158 other evidence of obligation (a "loan obligation" as defined in the MWQFA Act) to evidence its
159 indebtedness under a loan agreement with respect to a loan from MWQFA, to sell any such
160 bond, note or other evidence of obligation to MWQFA at private sale, without public bidding,
161 and to establish a dedicated source of revenues for repayment of such loan; and
162

163 WHEREAS, pursuant to conversations between representatives of MWQFA and the
164 Town, MWQFA has indicated it should be able to loan money to the Town from the SRF Fund,
165 which loan shall be made in whole or in part from ARRA Funds, in order to finance or reimburse
166 all or a portion of the cost of the Town Sewer Facilities and related costs, and any such loan shall

167 be evidenced by the issuance by the Town to MWQFA of a bond of the Town (the "MWQFA
168 Note"); and

169
170 WHEREAS, MWQFA has further indicated that the Town, in addition to securing
171 payment of the MWQFA Note by the Special Fund created pursuant to the Special Taxing
172 District Act, will be required to pledge its wastewater and water supply system revenues and its
173 full faith and credit and unlimited taxing power of the Town to payment of the MWQFA Note;
174 and

175
176 WHEREAS, the Town, as authorized by the MWQFA Act, will be required by MWQFA to
177 pledge any moneys that the Town is entitled to receive from the State of Maryland, including the
178 Town's share of the State income tax, to secure its obligations under the loan agreement with
179 MWQFA; and

180
181 WHEREAS, Sections 31 through 37, inclusive, of Article 23A of the Annotated Code of
182 Maryland (the "Enabling Act") authorize a Maryland municipal corporation to issue its general
183 obligation bonds for any public purpose and, pursuant to Section 37 of the Enabling Act, in
184 addition to the pledge of its full faith and credit and taxing power for the payment of the
185 principal of and interest on such bonds, to secure payment by the additional pledge thereto of any
186 other revenues of the municipal corporation, including payments to said municipal corporation
187 from the State or federal governments and special benefit assessments, taxes, fees or service
188 charges which such municipal corporation is authorized and empowered to impose, levy or
189 charge, and to the extent that any such revenues are sufficient in any year to provide for the
190 payment of the principal of and interest on the bonds to which they are pledged, such municipal
191 corporation shall not be obligated in such year to levy property taxes also pledged thereto and the
192 failure of such municipal corporation to levy such property taxes, so long as said additional
193 revenues are sufficient to satisfy such pledge, shall not be taken or construed as a breach of any
194 of the covenants of the municipal corporation described in the Enabling Act; and

195
196 WHEREAS, Section C8-21 of the Charter of the Town of La Plata, as published in
197 Municipal Charters of Maryland, Volume 5, 2008 Replacement Edition, as amended (the
198 "Charter") provides that any bonds issued under the authority of Article 23A of the Annotated
199 Code of Maryland (1957 Edition and 1964 Supplement), as amended from time to time, or under
200 any other authority heretofore or hereafter enacted, may be sold by the Town at private sale
201 without advertising or publication of notice of sale or solicitation of competitive bids if the
202 ordinance or ordinances authorizing the issuance of such bonds shall so specify, and Section C8-
203 20 of the Charter provides that the power and obligation of the Town to pay any and all bonds,
204 notes or other evidences of indebtedness issued by it under the authority of the Charter shall be
205 unlimited; and

206
207 WHEREAS, it is contemplated that the MWQFA Note will be issued pursuant to the
208 combined authority of the Special Taxing District Act, the MWQFA Act, the Enabling Act and
209 the Charter; and

210
211 WHEREAS, it is contemplated that the Town will provide for the financing,
212 reimbursement or refinancing of costs of the Project Infrastructure from one or more series of

213 bonds issued from time to time solely pursuant to the authority of the Special Taxing District Act
214 (the "Bonds" and, together with the MWQFA Note, the "Special Tax Obligations"); and
215

216 WHEREAS, MWQFA is requiring that the Bonds be secured from Special Taxes on
217 deposit in the Special Fund on a basis subordinate to the MWQFA Note; and
218

219 WHEREAS, this Ordinance constitutes the ordinance contemplated by Subsection (g) of
220 the Special Taxing District Act, the Enabling Act and Section C8-21 of the Charter; and
221

222 WHEREAS, Subsection (g)(2) of the Special Taxing District Act provides that an
223 ordinance contemplated by Subsection (g) thereof may authorize its chief executive officer, by
224 executive order, to specify or determine certain matters as outlined in such Subsection; and
225

226 WHEREAS, Sections C43-A, C43-E and C5-5A of the Charter together provide that the
227 Mayor shall be the chief executive officer of the Town except to the extent a Town Manager has
228 been appointed in accordance with Section C5-1 of the Charter, in which case the Town Manager
229 shall serve as the chief executive officer of the Town (in either such applicable case, the "Chief
230 Executive Officer"); and
231

232 WHEREAS, the Request (or applicable portions thereof) constitutes the request of the
233 property owners contemplated by Subsections (c)(1) and (g)(3)(ii) of the Special Taxing District
234 Act; and
235

236 WHEREAS, prior to passing this Ordinance, the Council held a public hearing after
237 giving not less than ten (10) days notice in a newspaper of general circulation in the Town in
238 accordance with subsection (m) of the Special Taxing District Act; and
239

240 WHEREAS, pursuant to Subsection (g)(3)(i) of the Special Taxing District Act, except as
241 may be required by the Maryland Constitution, this Ordinance and the Bonds may not be subject
242 to referendum by reason of any other State of Maryland or local law; and
243

244 WHEREAS, no provision in the Charter or other applicable law subjects this Ordinance
245 to petition-to-referendum with respect to the MWQFA Note.
246

247 **SECTION 1. FINDINGS AND DETERMINATIONS: BE IT RESOLVED BY**
248 **THE COUNCIL OF THE TOWN OF LA PLATA** that it is hereby found and determined that:
249

250 (i) (A) The Recitals to this Ordinance (the "Recitals") are deemed a
251 substantive part of this Ordinance and are incorporated by reference herein, (B) capitalized terms
252 defined in the Recitals to this Ordinance and not defined in Sections 1-26 hereof will have the
253 meanings given to such terms in the Recitals hereto, and (C) references to the Subsections and
254 Sections, as applicable, of the Special Taxing District Act, the MWQFA Act, the Enabling Act or
255 the Charter in this Ordinance are to such provisions of the Special Taxing District Act, the
256 MWQFA Act, the Enabling Act or the Charter, respectively, as the same may be replaced,
257 supplemented or amended from time to time, to the extent applicable;
258

259 (ii) The following terms used in the Recitals and elsewhere in this Ordinance
260 shall have the meanings given to such terms in the Special Taxing District Act: "special taxing
261 district", "cost", "infrastructure improvements", "bonds" (except when used with regard to
262 specific reference to provisions of the MWQFA Act, the Enabling Act and the Charter, as
263 applicable), "special fund", "ad valorem tax" and "special tax"; and
264

265 (iii) The findings and determinations set forth in Section 1 of the Designation
266 Resolution are hereby ratified and confirmed with respect to the subject matter of this Ordinance
267 and the issuance of the Special Tax Obligations provided for herein; and
268

269 (iv) The issuance of Special Tax Obligations for the purpose of providing
270 funds to initially finance or reimburse infrastructure improvements benefiting the District serves
271 the public purposes of providing public improvements within the Town, directly and indirectly
272 enhancing the taxable base of the Town, encouraging the development of residential areas,
273 commerce and industry within the Town, increasing the general health and welfare of the
274 residents of the Town and increasing employment within the Town; and
275

276 (v) The infrastructure improvements proposed by the Owner to be initially
277 financed or reimbursed from Special Tax Obligation proceeds include, but are not limited to, the
278 Public Improvements, and the specific Special Tax Obligation-financed Public Improvements
279 shall be identified or provided for in one or more development or other agreements as provided
280 for in Sections 14 and 16 hereof); and
281

282 (vi) The Public Improvements, in addition to providing general public benefits
283 to the Town and its citizens and the general public, specifically benefit the Property by providing
284 needed infrastructure improvements for the use of the residents, tenants and businesses to be
285 located in the District, and their visitors and invitees; and
286

287 (vii) The Town Sewer Facilities constitute a "wastewater facility" for purposes
288 of the MWQFA Act and the MWQFA Note constitutes a "loan obligation" for purposes of the
289 MWQFA Act; and
290

291 (viii) By the adoption of the Designation Resolution and enactment of this
292 Ordinance, the Town has complied with the provisions of the Special Taxing District Act,
293 including but not limited to Subsections (e) and (g) of the Special Taxing District Act, requiring
294 such actions to be performed prior to the issuance of any bonds pursuant to the authority of the
295 Special Taxing District Act.
296

297 **SECTION 2. AUTHORIZED MAXIMUM AMOUNT AND NATURE OF**
298 **SPECIAL TAX OBLIGATIONS: BE IT FURTHER ENACTED BY THE COUNCIL OF**
299 **THE TOWN OF LA PLATA** that the issuance and sale by the Town of the Special Tax
300 Obligations, from time to time, in one or more series, in an aggregate principal amount not to
301 exceed Forty-Five Million Dollars (\$45,000,000.00), and bearing interest at a maximum rate or
302 rates of interest not to exceed twelve percent (12%) per annum, all as may be determined
303 pursuant to this Ordinance, is hereby authorized and approved. Except as provided in this

304 Ordinance with respect to the MWQFA Note, any series of the Special Tax Obligations shall
305 mature not later than thirty (30) years from the date of issuance.
306

307 **SECTION 3. AUTHORIZATION OF MWQFA NOTE: BE IT FURTHER**
308 **ENACTED BY THE COUNCIL OF THE TOWN OF LA PLATA** that pursuant to the
309 authority of the Special Taxing District Act, the MWQFA Act, the Enabling Act and the Charter,
310 the Town hereby determines to issue and sell, upon its full faith and credit, one series of general
311 obligation bonds, which shall be issued as a single installment bond, for the public purpose of
312 financing, reimbursing or refinancing all or a portion of the cost of the Town Sewer Facilities,
313 together with related costs and activities, the acquisition of necessary property rights and equipment,
314 related site and utility improvements and related financial and legal expenses, costs of issuance and
315 to the extent permitted by MWQFA, capitalized interest, and any other cost (within the meaning of
316 the Special Taxing District Act) permitted by MWQFA (collectively, the "Water Quality Project").
317 Such bond shall be issued in an aggregate principal amount not to exceed Eight Million Dollars
318 (\$8,000,000) (as of the date of introduction of this Ordinance, the aggregate principal amount of the
319 MWQFA Note is not expected to exceed \$6,000,000), and shall be designated as the "Town of La
320 Plata Water Quality Bond" or by such other designation as may be required by MWQFA and by
321 series (identified in the Recitals to this Ordinance as the "MWQFA Note"). The Chief Executive
322 Officer, on behalf of the Town, is hereby authorized and directed to determine and approve the final
323 designation of the MWQFA Note and the final aggregate principal amount of the MWQFA Note,
324 provided that such final aggregate principal shall not exceed Eight Million Dollars
325 (\$8,000,000), such determination and approval to be effected by the Chief Executive Officer's
326 execution and delivery of an executive order pursuant to Section 14 hereof.
327

328 **SECTION 4. DETAILS OF MWQFA NOTE: BE IT FURTHER ENACTED BY**
329 **THE COUNCIL OF THE TOWN OF LA PLATA** that (a) the MWQFA Note shall be issued
330 and sold upon the full faith and credit of the Town, shall be dated the date of its delivery, shall be
331 numbered R-1 and shall be issued in the form of a single, fully-registered bond, without coupons
332 attached. The MWQFA Note shall be issued in installment form.
333

334 (b) It is the intention of the Town that principal of the MWQFA Note shall be
335 paid in installments on such dates and in such amounts as shall be determined by MWQFA in
336 consultation with the Chief Executive Officer and the Town Treasurer to achieve, as nearly as
337 possible, level principal payments or level debt service payments (determined on an annualized
338 basis) over an approximately 20-year amortization period that commences after completion of the
339 Water Quality Project in accordance with MWQFA's program requirements, and the MWQFA
340 Note shall mature not later than thirty (30) years from the date of its issuance and shall otherwise
341 meet the program requirements of MWQFA. The final amortization of the MWQFA Note shall be
342 provided for by the Chief Executive Officer's execution and delivery of an executive order pursuant
343 to Section 14 hereof. The amortization schedule of the MWQFA Note is subject to revision after
344 execution and delivery of the MWQFA Note in accordance with the terms of the MWQFA Note,
345 the Loan Agreement (as defined in Section 8 below) and subsection (e) below.
346

347 (c) The MWQFA Note, or so much of the principal amount thereof as shall have
348 been advanced from time to time under the terms of the Loan Agreement, shall bear interest from its
349 dated date at an annual rate of interest equal to one per centum (1.0%) per annum, provided that the

350 MWQFA Note is executed and delivered within any applicable time period required by MWQFA
351 under the provisions of the ARRA. In the event the MWQFA Note is not executed and delivered
352 within the applicable time period required by MWQFA with respect to loan funds made available
353 by ARRA, the MWQFA Note, or so much of the principal amount thereof as shall have been
354 advanced from time to time under the terms of the Loan Agreement shall bear interest from its dated
355 date at an annual rate of interest as shall be determined in accordance with MWQFA's program
356 requirements (which generally is calculated as a percentage of the average of the Bond Buyer 11-
357 Bond Index for the month prior to the month in which a loan obligation is executed and delivered to
358 MWQFA). Interest due on the unpaid principal amounts advanced under the Loan Agreement shall
359 accrue on the basis of a 30-day month, 360-day year from the date of the respective advances of
360 such principal amount, and shall be paid semiannually on such dates as may be approved by
361 MWQFA and as determined by the Chief Executive Officer's execution and delivery of an
362 executive order pursuant to Section 14 hereof until the principal amount of the MWQFA Note has
363 been paid.
364

365 (d) If MWQFA determines at any time to reduce the maximum amount of the
366 Loan Commitment (as defined in the Loan Agreement) relating to the MWQFA Note in accordance
367 with Section 3.08 of the Loan Agreement, the Maximum Principal Amount (as defined in the Loan
368 Agreement) of the MWQFA Note shall be reduced accordingly and such Maximum Principal
369 Amount as so reduced shall be amortized as provided in the Loan Agreement. In such event, as
370 determined by MWQFA, the Town may execute and deliver (in the manner provided in Section 8
371 hereof for the original delivery of the MWQFA Note) a new MWQFA Note evidencing such
372 reduction in such Loan Commitment or MWQFA may deliver, and the Chief Executive Officer, on
373 behalf of the Town, shall acknowledge in writing, a certificate setting forth such reamortized
374 payment schedule, which shall be attached to the MWQFA Note and shall replace and supersede for
375 all purposes the original payment schedule for the MWQFA Note. The Chief Executive Officer, on
376 behalf of the Town, is hereby authorized and directed to approve, execute and deliver any such
377 certificate relating to a reamortized payment schedule and any other certificates, documents or
378 evidence required by MWQFA under Section 3.08 of the Loan Agreement.
379

380 (f) The Town shall pay (i) a late charge for any payment of principal of or
381 interest on the MWQFA Note that is received later than the tenth (10th) day following its due date,
382 in an amount equal to 5% of such payment, and (ii) interest on overdue installments of principal and
383 (to the extent permitted by law) interest at the Default Rate provided for in the Loan Agreement,
384 which Default Rate shall be equal to 100% of the average of the Bond Buyer 11-Bond Index for the
385 calendar month prior to the month in which the MWQFA Note is delivered.
386

387 (g) Both the principal of and interest on the MWQFA Note will be paid to the
388 registered owner thereof in lawful money of the United States of America, at the time of payment,
389 and will be paid by electronic funds transfer, or by check or draft mailed (by depositing such check
390 or draft, correctly addressed and postage prepaid, in the United States mails before the payment
391 date) to the registered owner at such address as the registered owner may designate from time to
392 time by a notice in writing delivered to the Town Treasurer or the Trustee (as defined in Section 14
393 hereof), as applicable.
394

395 (h) The MWQFA Note shall be issued with the expectation that interest payable
396 thereon shall be includable in the gross income of the holder thereof for federal income tax
397 purposes.
398

399 **SECTION 5. PREPAYMENT OF MWQFA NOTE: BE IT FURTHER ENACTED**
400 **BY THE COUNCIL OF THE TOWN OF LA PLATA** that the MWQFA Note shall be subject
401 to mandatory prepayment, in whole or in part, as, when and to the extent required by the United
402 States Environmental Protection Agency's (and its successors) State Revolving Fund Program
403 Regulations. Otherwise, the MWQFA Note may be prepaid by the Town, in whole or in part, only
404 at such times and in such amounts, and upon payment by the Town of such prepayment premium or
405 penalty, as the Director of MWQFA, in his or her discretion, may specify and approve.
406

407 **SECTION 6. EXECUTION OF MWQFA NOTE: BE IT FURTHER ENACTED**
408 **BY THE COUNCIL OF THE TOWN OF LA PLATA** that the MWQFA Note shall be
409 executed in the name of the Town and on its behalf by the Chief Executive Officer. The corporate
410 seal of the Town shall be affixed to the MWQFA Note and attested by the signature of the Town
411 Clerk. In the event any official whose signature shall appear on the MWQFA Note shall cease to be
412 such official prior to the delivery of the MWQFA Note or, in the event any such official whose
413 signature shall appear on the MWQFA Note shall have become such after the date of delivery
414 thereof, said MWQFA Note shall nevertheless be a valid and binding obligation of the Town in
415 accordance with its terms.
416

417 **SECTION 7. TRANSFER AND EXCHANGE OF MWQFA NOTE: BE IT**
418 **FURTHER ENACTED BY THE COUNCIL OF THE TOWN OF LA PLATA** that the
419 MWQFA Note shall be transferable only after the first principal payment date as set forth in the
420 MWQFA Note or the date upon which the Maximum Principal Amount of the MWQFA Note has
421 been borrowed, whichever is earlier. The MWQFA Note shall be transferable upon the books of the
422 Town at the office of the Town Treasurer or the Trustee, as applicable, by the registered owner in
423 person or by his attorney duly authorized in writing, upon surrender thereof, together with a written
424 instrument of transfer satisfactory to the Town Treasurer or the Trustee, as applicable, duly executed
425 by such registered owner or his duly authorized attorney. The Town shall, within a reasonable time,
426 issue in the name of the transferee a new registered bond or bonds of the same series, in such
427 denominations as the Town shall by resolution approve, in an aggregate principal amount equal to
428 the unpaid principal amount of the MWQFA Note or bonds issued in exchange therefor surrendered
429 and with the same maturities and interest rate, as applicable. If more than one bond is issued upon
430 any such transfer of the MWQFA Note, the installment of principal and interest to be paid on each
431 such bond on each payment date shall be equal to the product of the following formula: the total
432 installment due on each payment date multiplied by a fraction, the numerator of which shall be the
433 principal amount of such bond and the denominator of which shall be the aggregate principal
434 amount of the MWQFA Note then outstanding and unpaid. The new bond or bonds shall be
435 delivered to the transferee only after payment of any taxes on and any shipping or insurance
436 expenses relating to such transfer. The Town may deem and treat the party in whose name a bond is
437 registered as the absolute owner thereof for the purpose of receiving payment of or on account of
438 the principal thereof and interest due thereon and for all other purposes. If more than one bond is
439 issued upon any such transfer in accordance with this Section 7, references to the MWQFA Note in
440 this Ordinance shall be deemed to refer to all such bonds issued upon any such transfer and

441 references to the registered owner in this Ordinance shall be deemed to refer to the registered
442 owners of all such bonds issued upon any such transfer.

443
444 **SECTION 8. FORM OF MWQFA NOTE: BE IT FURTHER ENACTED BY THE**
445 **COUNCIL OF THE TOWN OF LA PLATA** that except as provided hereinafter, the MWQFA
446 Note shall be issued in substantially the form attached as Exhibit F to the form of Loan Agreement
447 attached hereto as Exhibit A and incorporated by reference herein. Appropriate variations and
448 insertions to provide dates, numbers and amounts, and modifications not altering its substance,
449 including, without limitation, to reflect matters determined in accordance with Sections 3 and 4(b),
450 (c), (d), and (f) hereof, may be made by the Chief Executive Officer. All of the covenants contained
451 in the form attached as Exhibit F to the form of Loan Agreement attached hereto as Exhibit A are
452 hereby adopted by the Town as and for the form of obligation to be incurred by the Town, and the
453 covenants and conditions are hereby made binding upon the Town, including the promise to pay
454 therein contained.

455
456 **SECTION 9. SALE OF MWQFA NOTE; LOAN AGREEMENT: BE IT**
457 **FURTHER ENACTED BY THE COUNCIL OF THE TOWN OF LA PLATA** that (a) the
458 Town hereby determines to sell the MWQFA Note by private sale, without public bidding, which
459 sale by private sale is hereby deemed by the Town to be in its best interest and in the interest of its
460 citizens due, in part, to the benefit of negotiated flexible terms and the beneficial interest rate.
461 Therefore, and pursuant to the authority of the Special Taxing District Act, the MWQFA Act, the
462 Enabling Act and the Charter, the MWQFA Note shall be sold by private sale, without public
463 bidding, for a price of the par amount of the MWQFA Note (such purchase price to be advanced in
464 accordance with the Loan Agreement) to MWQFA, in accordance with the form of the Loan
465 Agreement attached hereto as Exhibit A (the "Loan Agreement"), the terms and conditions of which
466 Loan Agreement are hereby incorporated by reference herein and approved by and adopted as the
467 obligations of the Town. The Chief Executive Officer is hereby authorized and directed to
468 complete, execute and deliver the Loan Agreement for and in the name of the Town with such
469 changes, insertions and deletions not substantially altering the substance of the Loan Agreement
470 (except to the extent required by MWQFA to reflect provisions of the ARRA or to reflect special
471 conditions imposed by MWQFA in connection with the issuance of the MWQFA Note) as shall be
472 approved by the Chief Executive Officer, such approval to be evidenced conclusively by the Chief
473 Executive Officer's execution and delivery of an executive order pursuant to Section 14 hereof.
474 Notwithstanding anything to the contrary contained in this Ordinance, advances under the Loan
475 Agreement or the MWQFA Note and prepayment or payment of the principal of and interest on the
476 MWQFA Note shall be made in accordance with the Loan Agreement. The Town agrees to abide
477 by and perform the covenants and agreements set forth in the final Loan Agreement as though such
478 covenants and agreements were set forth in full in this Ordinance.

479
480 (b) The Town is hereby authorized and directed to pay any fees or costs
481 provided for in the Loan Agreement that are not payable from MWQFA Note proceeds, including
482 (without limitation), any Administrative Fees (as defined in the Loan Agreement) and any ongoing
483 costs and expenses relating to the MWQFA Note or the Loan Agreement. The Town hereby
484 expressly acknowledges its absolute and unconditional obligation to make such payments.

485

486 (c) As authorized by Section 9-1606(d) of the MWQFA Act, and if required by
487 MWQFA, the Town hereby pledges any moneys that the Town is entitled to receive from the State
488 of Maryland, including the Town's share of the State income tax, to secure its obligations under the
489 Loan Agreement. Any such pledge shall be evidenced by and detailed in the Loan Agreement.
490

491 **SECTION 10. DELIVERY OF MWQFA NOTE; DESIGNATION OF**
492 **AUTHORIZED OFFICER: BE IT FURTHER ENACTED BY THE COUNCIL OF THE**
493 **TOWN OF LA PLATA** that as soon as may be practicable after the enactment of this Ordinance,
494 the MWQFA Note shall be suitably prepared in definitive form, executed and delivered to MWQFA
495 upon a date mutually satisfactory to MWQFA and the Chief Executive Officer. The Mayor, the
496 Town Manager, the Town Treasurer, the Town Clerk and all other officials and employees of the
497 Town are expressly authorized, empowered and directed to take any and all action necessary to
498 complete and close the sale and delivery of the MWQFA Note to MWQFA and to negotiate,
499 approve, execute and deliver all documents, certificates and instruments necessary or appropriate in
500 connection therewith. Each of the Chief Executive Officer and the Town Treasurer is hereby
501 expressly authorized to take any necessary actions under the Loan Agreement or the MWQFA Note
502 in order to requisition advances on behalf of the Town. Each of the Chief Executive Officer and the
503 Town Treasurer is hereby expressly designated an "Authorized Officer" for purposes of the Loan
504 Agreement.
505

506 **SECTION 11. ADVANCES OF PROCEEDS OF MWQFA NOTE;**
507 **APPROPRIATION OF PROCEEDS: BE IT FURTHER ENACTED BY THE COUNCIL**
508 **OF THE TOWN OF LA PLATA** that each advance of the proceeds of the MWQFA Note shall
509 be paid directly to the Town and shall be deposited by the Town Treasurer or other appropriate
510 Town official in the proper municipal accounts, or shall be paid at the direction of the Authorized
511 Officer, or shall be paid as otherwise required by MWQFA. Advances under the MWQFA Note
512 shall be used and applied by the Town exclusively and solely for the public purpose described in
513 Section 3 hereof. Nothing in this Ordinance shall be construed to authorize the expenditure of any
514 moneys except for a proper public purpose. The proceeds of the MWQFA Note are hereby
515 appropriated for the purposes set forth in this Ordinance.
516

517 **SECTION 12. SECURITY FOR THE MWQFA NOTE: BE IT FURTHER**
518 **ENACTED BY THE COUNCIL OF THE TOWN OF LA PLATA** that (a) the principal of
519 and interest on the MWQFA Note will be payable (i) in the first instance from moneys deposited in
520 the Special Fund, and (ii) in the second instance from revenues received by the Town from the
521 operation of or connection to the wastewater system and the water supply system serving the Town,
522 including (without limitation) charges for the use of or connection to such systems to the extent
523 available therefor. In the event such moneys are insufficient in any fiscal year to provide for the
524 prompt payment, when due, of the principal of and interest on the MWQFA Note, the Town shall
525 levy or cause to be levied, for each and every fiscal year during which the MWQFA Note may be
526 outstanding, ad valorem taxes upon all real and tangible personal property within its corporate limits
527 subject to assessment for unlimited municipal taxation in rate and amount sufficient to provide for
528 the payment, when due, of the principal of and interest on the MWQFA Note payable in each such
529 fiscal year and, in the event the proceeds from the collection of the taxes so levied may prove
530 inadequate for such purposes in any fiscal year, additional taxes shall be levied in the subsequent
531 fiscal year to make up any deficiency.

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(b) The full faith and credit and unlimited taxing power of the Town are hereby irrevocably pledged to the prompt payment of the principal of and interest on the MWQFA Note as and when the same are payable and to the levy and collection of the taxes hereinabove described as and when such taxes may become necessary in order to provide sufficient funds to meet the debt service requirements of the MWQFA Note. The Town hereby covenants with the registered owner of the MWQFA Note to take any action that may be appropriate from time to time during the period that the MWQFA Note remains outstanding and unpaid to provide the funds necessary to pay promptly the principal and interest due thereon.

(c) The foregoing provisions shall not be construed so as to prohibit the Town from paying the principal of and interest on the MWQFA Note from the proceeds of the sale of any other obligations of the Town or from any other funds legally available for that purpose. The Town may apply to the payment of the principal of or interest on the MWQFA Note any funds received by it from the State of Maryland or the United States of America, or any governmental agency or instrumentality, or from any other source, if such funds are granted or paid to the Town for the purpose of assisting the Town in accomplishing the type of project or projects which the MWQFA Note is issued to finance or refinance, and to the extent of any such funds received or receivable in any fiscal year, the taxes hereby required to be levied may be reduced proportionately.

SECTION 13. ADDITIONAL RESTRICTIONS RELATING TO MWQFA NOTE:
BE IT FURTHER ENACTED BY THE COUNCIL OF THE TOWN OF LA PLATA that notwithstanding anything to the contrary contained in this Ordinance, the Town shall use and apply proceeds of the MWQFA Note only as permitted by the Loan Agreement, the Clean Water Act, the ARRA and the Act (as defined in the Loan Agreement).

SECTION 14. DETERMINATION OF ADDITIONAL MATTERS RELATING TO MWQFA NOTE: **BE IT FURTHER ENACTED BY THE COUNCIL OF THE TOWN OF LA PLATA** that (a) prior to the sale, issuance and delivery, as applicable, of the MWQFA Note, the Chief Executive Officer, by one or more executive orders, is hereby authorized to specify, prescribe, determine, provide for, or approve, for the purposes and within the limitation of the Special Taxing District Act, the MWQFA Act, the Enabling Act, the Charter and this Ordinance, all matters, details, forms, documents, and procedures pertaining to the sale, security, issuance, delivery and payment of and for the MWQFA Note that are not otherwise provided for in Sections 3 through 13, inclusive, of this Ordinance, including, without limitation (but subject to the limitations in this Section 14), the matters specified to be determined by executive order of the Chief Executive Officer pursuant to Sections 3 through 13, inclusive, of this Ordinance, any of the matters specified in clauses (x) – (xviii) of Section 16 of this Ordinance (for purposes of this Section 14, references to the Bonds and the Project Infrastructure contained in clauses (x) – (xviii) of Section 16 of this Ordinance shall be construed to refer to the MWQFA Note and the Water Quality Project, respectively). The Chief Executive Officer’s execution and delivery of any such executive order shall constitute conclusive evidence of the Chief Executive Officer’s approval of the subject matter thereof.

(b) It is anticipated that MWQFA will require the Town to engage a trustee (the “Trustee”) and to issue and deliver the MWQFA Note pursuant to the terms and provisions

578 of a trust indenture or trust agreement and, in such case, the Chief Executive Officer may
579 approve the form and contents of, and the provisions for the execution and delivery of, any such
580 trust indenture or trust agreement and the engagement of the Trustee in accordance with the
581 provisions of this Section 14.
582

583 **SECTION 15. AUTHORIZED MAXIMUM AMOUNT AND NATURE OF**
584 **BONDS: BE IT FURTHER ENACTED BY THE COUNCIL OF THE TOWN OF LA**
585 **PLATA** that (a) the issuance and sale by the Town of the Bonds, from time to time, in one or
586 more series, in an aggregate principal amount not to exceed the difference between (i) Forty-Five
587 Million Dollars (\$45,000,000.00) and (ii) the final principal amount of the MWQFA Note, and
588 bearing interest at a maximum rate or rates of interest not to exceed twelve percent (12%) per
589 annum, all as may be determined pursuant to this Ordinance, is hereby authorized and approved.
590

591 (b) THE BONDS SHALL NOT BE AN INDEBTEDNESS OF THE TOWN
592 FOR WHICH THE TOWN IS OBLIGATED TO LEVY OR PLEDGE, OR HAS LEVIED OR
593 PLEDGED, AD VALOREM TAXES OR SPECIAL TAXES OF THE TOWN OTHER THAN
594 THE SPECIAL TAXES CONTEMPLATED BY THE DESIGNATION RESOLUTION AND
595 THE RATE AND METHOD. THE BONDS SHALL BE A SPECIAL OBLIGATION OF THE
596 TOWN AND MAY NOT CONSTITUTE A GENERAL OBLIGATION DEBT OF THE TOWN
597 OR A PLEDGE OF THE TOWN'S FULL FAITH AND CREDIT OR TAXING POWER. THE
598 ONLY FUNDS THE TOWN WILL BE OBLIGATED TO USE TO MAKE PAYMENT ON
599 THE BONDS WILL BE THOSE THAT RESULT FROM THE SPECIAL TAXES LEVIED ON
600 AND COLLECTED FROM PROPERTY LOCATED IN THE DISTRICT AND OTHER
601 MONEYS MADE AVAILABLE THEREFOR (INCLUDING FROM RESERVES AND
602 INVESTMENT EARNINGS, TO THE EXTENT APPLICABLE).
603

604 **SECTION 16. AUTHORITY OF CHIEF EXECUTIVE OFFICER TO**
605 **DETERMINE CERTAIN MATTERS RELATING TO THE BONDS: BE IT FURTHER**
606 **ENACTED BY THE COUNCIL OF THE TOWN OF LA PLATA** that (a) prior to the sale,
607 issuance and delivery, as applicable, of any series of the Bonds, the Chief Executive Officer, by
608 one or more executive orders, on behalf of the Town, is hereby authorized to specify, prescribe,
609 determine, provide for, or approve, for the purposes and within the limitations of the Special
610 Taxing District Act and this Ordinance, all matters, details, forms, documents, and procedures
611 pertaining to the sale, security, issuance, delivery, and payment of or for such Bonds, including,
612 without limitation, the following (references in the following clauses (i) – (xvi) to the Bonds are
613 deemed to refer to any series of the Bonds):
614

- 615 (i) The actual principal amount of the Bonds to be issued;
616
617 (ii) The actual rate or rates of interest for the Bonds;
618
619 (iii) The manner in which and terms upon which the Bonds are to be
620 sold;
621
622 (iv) The manner in which and the times and places that the interest on
623 the Bonds is to be paid;

- 624
625 (v) The time or times that the Bonds may be executed, issued and
626 delivered;
- 627
628 (vi) The form and tenor of the Bonds and the denominations in which
629 the Bonds may be issued;
- 630
631 (vii) The manner in which and the times and places that the principal of
632 the Bonds is to paid, within the limitations set forth in the Special Taxing District Act and this
633 Ordinance;
- 634
635 (viii) Provisions pursuant to which any or all of the Bonds may be called
636 for redemption prior to their stated maturity dates;
- 637
638 (ix) Provisions for obtaining insurance for the Bonds or for the
639 issuance of a guaranty, letter or credit, line of credit, or similar credit support for the Bonds;
- 640
641 (x) The form and contents of, and provisions for the execution and
642 delivery of, such financing or other documents that are not otherwise specifically identified in
643 this Ordinance or the Designation Resolution, and any amendments, modifications or
644 supplements thereto, as the Chief Executive Officer shall deem necessary or desirable to
645 evidence, secure or effectuate the issuance, sale and delivery of the Bonds, including, without
646 limitation, any trust indenture or trust agreement, agreements with consultants to or agents of the
647 Town with respect to the District or the Bonds, including, without limitation, any Administrator
648 contemplated by the Rate and Method, fee agreements, funding agreements, investment
649 agreements, security agreements, assignments, guarantees, financing agreements or escrow
650 agreements;
- 651
652 (xi) The creation of security for the Bonds, including, without
653 limitation, the subordination of the Bonds to the MWQFA Note with respect to the payment of
654 debt service and other permitted expenses therefor from the Special Fund, and provision for the
655 administration of the Bonds including, without limitation, the appointment of such trustees,
656 escrow agents, fiscal agents, payment agents, registrars, rebate monitors or other agents as the
657 Chief Executive Officer shall deem necessary or desirable to effectuate the transactions
658 authorized hereby;
- 659
660 (xii) Provisions for the preparation and distribution of both a
661 preliminary and a final official statement, placement memorandum, offering circular or other
662 disclosure document in connection with the sale of the Bonds, if such preliminary official
663 statement and final official statement, placement memorandum, offering circular or other
664 disclosure document are deemed to be necessary or desirable for the sale of the Bonds;
- 665
666 (xiii) The determination of the manner of sale of the Bonds, which may
667 be either at public or private (negotiated) sale, the identity of the underwriter or placement agent
668 for the Bonds, and the form and contents of, and provisions for the execution and delivery of,
669 any contract or contracts for the purchase and sale of the Bonds (or any portion thereof);

670
671 (xiv) To the extent that other obligated persons with respect to the
672 Bonds have not assured compliance with, or to the extent that the offering of the Bonds is not
673 exempt from the requirements of, Rule 15c2-12 of the United States Securities and Exchange
674 Commission, the determination of the form and contents of any written agreement or contract
675 required by law, or to the extent the same is deemed to be necessary or desirable even if not
676 required by law, for the benefit of the holders of the Bonds under which agreement or contract
677 the Town will undertake to provide annual financial information, audited financial statements,
678 material events notices, and other information to the extent required by such Rule or such
679 agreement or contract;

680
681 (xv) The negotiation, preparation, execution and delivery of any
682 development agreements, construction agreements, use agreements, memoranda of
683 understanding or other similar agreements, documents or instruments with the owners of any
684 property located in the District and/or their developers, contractors or agents and/or any other
685 applicable governmental agencies regarding the use and application of the proceeds of the Bonds
686 or the use or ownership of property located in the District or the Town or outside of the Town if
687 benefited by the Project Infrastructure or the use or ownership of the Project Infrastructure, or the
688 collection of the Special Taxes, and any documents, instruments or agreements necessary or
689 desirable to provide for the transfer of ownership (by whatever means appropriate, including,
690 without limitation, by deed, declaration, easement, right-of-way, plat or subdivision documents)
691 of the Project Infrastructure to the Town or other governmental agency or public body if required
692 by the Chief Executive Officer or in order to ensure that interest payable on any such Bonds shall
693 remain exempt from gross income of the holders thereof for federal income tax purposes, if
694 applicable;

695
696 (xvi) The specific Project Infrastructure and other costs permitted by the
697 Special Taxing District Act and other applicable law to be financed or reimbursed from proceeds
698 of the Bonds or the mechanics for determining the same;

699
700 (xvii) Any matters contemplated by Subsection (d)(2) of the Special
701 Taxing District Act, including, without limitation, the establishment and application of sinking
702 funds and reserve funds and provision for payment of capitalized interest on the Bonds;

703
704 (xviii) The determination of, or the provision for, such other matters in
705 connection with the authorization, issuance, execution, sale, delivery, and payment of the Bonds,
706 the security for the Bonds, and the consummation of the transactions contemplated by this
707 Ordinance as may be deemed appropriate by the Chief Executive Officer, including without
708 limitation, establishing procedures for the execution, acknowledgement, sealing and delivery of
709 such other and further agreements, documents and instruments, and the authorization of the
710 officials of the Town to take any and all actions, as are or may be necessary or appropriate to
711 consummate the transactions contemplated by this Ordinance in accordance with the Special
712 Taxing District Act and this Ordinance; and

713

714 (xix) The determination that any such Bonds shall be issued as build
715 America bonds in accordance with the ARRA and any designations or irrevocable elections
716 required by the ARRA with respect to the issuance of such build America bonds.
717

718 The Chief Executive Officer's execution and delivery of any such executive order shall
719 constitute conclusive evidence of the Chief Executive Officer's approval of the subject matter
720 thereof.
721

722 (b) The Council expressly authorizes any series of the Bonds (i) to be issued
723 as a single bond, (ii) to be issued in draw-down form, (iii) to be issued so that Bonds of such
724 series are delivered as funds are advanced, (iii) to be sold by private placement directly or
725 through a placement agent to an initial purchaser or purchasers, and/or (iv) to contain (and for
726 any related agreements, documents or instruments pursuant to which such series of Bonds is
727 issued, sold or delivered to contain) provisions for the conversion, remarketing and/or reoffering
728 of Bonds of such series (including provisions for partial and/or multiple conversions,
729 remarketings and/or reofferings), and the authority delegated to the Chief Executive Officer to
730 determine matters relating to any series of the Bonds pursuant to subsection (a) of this Section 16
731 by executive order is hereby expressly declared to include authority to determine any of the
732 matters referenced in this subsection (b) with respect to any such series of the Bonds by
733 executive order, and the Chief Executive Officer's authority to determine by executive order
734 matters relating to any such series of the Bonds is hereby expressly declared to include (without
735 limitation) authority to approve any amendments, modifications or supplements to any
736 agreements, documents or instruments initially entered into in connection with the initial
737 delivery of a series of the Bonds upon any conversion, remarketing and/or remarketing (in whole
738 or in part) thereof.
739

740 (c) Any such matters specified, prescribed, determined, provided for or
741 approved by the Chief Executive Officer, by executive order, in accordance with this Section 16,
742 shall be so undertaken by the Chief Executive Officer with the advice of bond counsel to the
743 Town and the Town Attorney, and the Chief Executive Officer's execution and delivery of any
744 such executive order shall constitute conclusive evidence of the Chief Executive Officer's
745 approval thereof and that such matters have been so determined with the advice of bond counsel
746 to the Town and the Town Attorney.
747

748 **SECTION 17. FURTHER AUTHORITY OF CHIEF EXECUTIVE OFFICER: BE**
749 **IT FURTHER ENACTED BY THE COUNCIL OF THE TOWN OF LA PLATA** that the
750 Chief Executive Officer, on behalf of the Town, by an executive order contemplated in Sections
751 14 or 16 hereof, is hereby authorized to condition the issuance of the MWQFA Note or any
752 series of the Bonds upon the execution, delivery and recording, as applicable, by the Town, the
753 Owner or subsequent owners of any portion of the Property, the developers of the Property or
754 other appropriate parties of any declaration of covenants, any development agreements,
755 construction agreements, use agreements, memoranda of understanding or other similar
756 agreements, documents or instruments contemplated by Sections 14 and Section 16(xv) hereof,
757 any notice to subsequent property owners within the District, any notification to a governmental
758 unit having jurisdiction over any Public Improvements located outside the Town, or any other
759 similar documents, instruments or certificates reasonably related to the transactions contemplated

760 by this Ordinance. The Chief Executive Officer, on behalf of the Town, with the advice of bond
761 counsel to the Town and the Town Attorney, is authorized to prepare or cause to be prepared,
762 negotiate or cause to be negotiated and execute and deliver any such documents, instruments or
763 certificates to which the Town is a party, and the same shall contain such terms, agreements and
764 conditions and be in such form as the Chief Executive Officer may approve, and the execution
765 and delivery of the same by the Chief Executive Officer shall constitute conclusive evidence of
766 the Chief Executive Officer's approval thereof and that such approval has been made with the
767 advice of bond counsel to the Town and the Town Attorney.
768

769 **SECTION 18. CERTIFICATIONS AS TO TAX MATTERS: BE IT FURTHER**
770 **ENACTED BY THE COUNCIL OF THE TOWN OF LA PLATA** that (a) the Chief
771 Executive Officer and the Town Treasurer, acting in concert on behalf of the Town, and
772 provided that such actions are within the bounds of their authority, are hereby authorized to
773 prepare or cause to be prepared, negotiate or cause to be negotiated, execute and deliver a tax
774 and section 148 certificate or similar certificate or agreement as to tax and arbitrage matters with
775 respect to any series of the Bonds that are (i) issued with the expectation that interest payable
776 thereon shall be excludable from gross income of the holders thereof for federal income tax
777 purposes or (ii) issued as build America bonds pursuant to the ARRA (the "Tax Certificate").
778 The Tax Certificate shall contain such terms, agreements and conditions (and reflect, if
779 applicable, any determinations or irrevocable elections provided for in any executive order
780 executed and delivered pursuant to Section 16 above) and be in such form as such officials shall
781 approve after consultation with bond counsel to the Town and the Town Attorney, and the
782 execution of the Tax Certificate by such officials shall constitute conclusive evidence of their
783 approval with respect thereto.
784

785 (b) The Town shall set forth in the Tax Certificate its reasonable expectations as
786 to relevant facts, estimates and circumstances relating to the use of the proceeds of the applicable
787 series of the Bonds or of any monies, securities or other obligations to the credit of any account of
788 the Town which may be deemed to be proceeds of such series of the Bonds pursuant to the Internal
789 Revenue Code of 1986, as amended (the "Code"), or the income tax regulations thereunder (the
790 "Regulations") (collectively, the "Bond Proceeds"). The Town covenants with the registered
791 owners of the Bonds of any such series that the facts, estimates and circumstances set forth in the
792 Tax Certificate will be based on the Town's reasonable expectations on the date of issuance of such
793 series of the Bonds and will be, to the best of the certifying officials' knowledge, true and correct as
794 of that date.
795

796 (c) The Town covenants with the registered owners of any such series of the
797 Bonds that it will not make, or (to the extent that it exercises control or direction) permit to be made,
798 any use of the Bond Proceeds that would cause the Bonds of such series to be "arbitrage bonds"
799 within the meaning of the Code and the Regulations, and that it will comply with those provisions
800 of the Code and the Regulations as may be applicable to the Bonds of such series on their date of
801 issuance and which may subsequently lawfully be made applicable to the Bonds of such series as
802 long as any applicable Bond remains outstanding and unpaid.
803

804 (d) The Town specifically covenants that it will comply with the provisions of
805 the Code and the Regulations applicable to any such series of the Bonds, including, without

806 limitation, compliance with provisions regarding the timing of the expenditure of the proceeds of
807 the Bonds, the use of such proceeds and the facilities financed with such proceeds, the restriction of
808 investment yields, the filing of information with the Internal Revenue Service, and the rebate of
809 certain earnings resulting from the investment of the proceeds of the Bonds or payments in lieu
810 thereof. The Town further covenants that it shall make such use of the proceeds of the Bonds of
811 such series, regulate the investment of the proceeds thereof and take such other and further actions
812 as may be required to maintain the exclusion from gross income for federal income tax purposes of
813 interest on the Bonds of such series. All officials, officers, employees and agents of the Town are
814 hereby authorized and directed to provide such certifications of facts and estimates regarding the
815 amount and use of the proceeds of the Bonds of such series as may be necessary or appropriate.
816

817 (e) The provisions of this Section 18 shall apply only to any series of Bonds that
818 is issued with the expectation that interest on the Bonds of such series shall be excludable from
819 gross income for purposes of federal income taxation or that is issued as build America bonds
820 pursuant to the ARRA.
821

822 **SECTION 19. ADDITIONAL AUTHORIZED DOCUMENTATION AND**
823 **ACTIONS: BE IT FURTHER ENACTED BY THE COUNCIL OF THE TOWN OF LA**
824 **PLATA** that the Chief Executive Officer, the Town Treasurer and the Town Clerk, acting
825 individually or in concert as appropriate (the "Authorized Representative"), and provided that
826 such actions are within the bounds of their authority, are authorized and directed to take any and
827 all actions and to execute, attest, affix the Town's seal to and deliver, and to file and record in
828 any appropriate public offices (if applicable) all documents, instruments, certifications, forms
829 (including but not limited to, appropriate IRS forms in respect to the Bonds), financing
830 statements, letters of instructions, written requests, contracts, agreements and other papers
831 customarily delivered in connection with the issuance of obligations in the nature of the Bonds,
832 whether or not herein mentioned and not otherwise provided for herein or in the Designation
833 Resolution, as may be necessary or convenient to evidence the approvals of the Town provided
834 in this Ordinance, to facilitate the issuance of any series of the Bonds and to consummate the
835 transactions contemplated in this Ordinance or in any of the documents herein authorized and
836 approved.
837

838 **SECTION 20. LIBERAL CONSTRUCTION OF ORDINANCE: BE IT**
839 **FURTHER ENACTED BY THE COUNCIL OF THE TOWN OF LA PLATA** that as
840 provided in Subsection (l) of the Special Taxing District Act, the provisions of this Ordinance
841 shall be liberally construed in order to effectuate and carry out the purposes of and the activities
842 authorized by the Special Taxing District Act and the matters contemplated by this Ordinance.
843

844 **SECTION 21. SEVERABILITY PROVISIONS: BE IT FURTHER ENACTED BY**
845 **THE COUNCIL OF THE TOWN OF LA PLATA** that the provisions of this Ordinance are
846 severable, and if any provision, sentence, clause, section or part hereof is held or determined to
847 be illegal, invalid, unconstitutional or inapplicable to any person or circumstance, such illegality,
848 invalidity, unconstitutionality or inapplicability shall not affect or impair any of the remaining
849 provisions, sentences, clauses, sections or parts of this Ordinance or their application to other
850 persons or circumstances. It is hereby declared to be the intent of the Council that this Ordinance
851 would have been adopted if such illegal, invalid, unconstitutional or inapplicable provision,

852 sentence, clause, section or part had not been included herein, and if the person or circumstances
853 to which this Ordinance or any part hereof are inapplicable had been specifically exempted
854 herefrom.

855
856 **SECTION 22. TITLE CONSTITUTES FAIR SUMMARY: BE IT FURTHER**
857 **ENACTED BY THE COUNCIL OF THE TOWN OF LA PLATA** that the title of this
858 Ordinance shall be deemed to be, and is, a fair summary of this Ordinance for publication and all
859 other purposes.

860
861 **SECTION 23. SUNSET DATE: BE IT FURTHER ENACTED BY THE**
862 **COUNCIL OF THE TOWN OF LA PLATA** that in the event no Special Tax Obligations are
863 issued pursuant to the Special Taxing District Act and other applicable law to finance, reimburse
864 or refinance the costs of the Public Improvements with respect to the District and other costs
865 permitted under this Ordinance and the Special Taxing District Act by December 31, 2011, this
866 Ordinance shall be automatically revoked without further action by the Council and shall be
867 considered terminated, null and void.

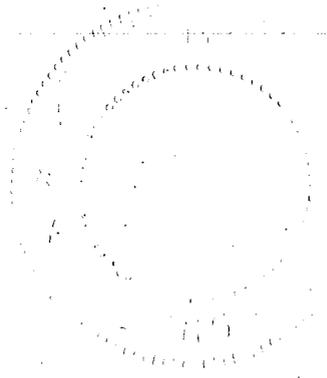
868
869 **SECTION 24. EFFECTIVE DATE: BE IT FURTHER ENACTED BY THE**
870 **COUNCIL OF THE TOWN OF LA PLATA** that this Ordinance shall be effective upon the
871 expiration of fifteen (15) calendar days following approval by the Council.

872
873 [CONTINUED ON FOLLOWING PAGE]
874

PASSED AND APPROVED this 22 day of September, 2009.

SEAL:

COUNCIL OF THE TOWN OF LA PLATA



[Signature]
Roy G. Hale, Mayor

[Signature]
R. Wayne Winkler, Councilman

(Absent)
C. Keith Back, Councilman

ATTEST:

[Signature]
Paretta D. Mudd, Councilwoman

[Signature]
Danielle Mandley, Town Clerk

[Signature]
Joseph W. Norris, Councilman

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