

Meeting Date: 5/12/2015

Report Type: Consent

Report ID: 2015-00439

Title: (City Council/Housing Authority/Redevelopment Agency Successor Agency) Approve the Third Amendment of Joint Exercise of Powers Agreement for the Sacramento City Financing Authority, substituting the Housing Authority of the City of Sacramento for the Redevelopment Agency Successor Agency of the City of Sacramento

Location: Citywide

Recommendation: Pass 1) a City Council Resolution approving the third amendment to joint-exercise-of-powers agreement between the City of Sacramento, the Redevelopment Agency Successor Agency of the City of Sacramento, and the Housing Authority of the City of Sacramento; 2) a Housing Authority Resolution approving the third amendment to joint-exercise-of-powers agreement between the City of Sacramento, the Redevelopment Agency Successor Agency of the City of Sacramento, and the Housing Authority of the City of Sacramento; 3) a Redevelopment Agency Successor Agency Resolution approving the third amendment to joint-exercise-of-powers agreement between the City of Sacramento, the Redevelopment Agency Successor Agency of the City of Sacramento, and the Housing Authority of the City of Sacramento; 4) a Motion by the City Council approving an indemnification agreement between City of Sacramento and the Housing Authority of the City of Sacramento; and 5) a Motion by the Housing Authority Governing Board approving an indemnification agreement between City of Sacramento and the Housing Authority of the City of Sacramento.

Contact: Damien Charléty, Debt Analyst, (916) 808-5517; Janelle Gray, Debt Manager, (916) 808-8296, Office of the City Treasurer

Presenter: Damien Charléty, Debt Analyst, (916) 808-5517, Office of the City Treasurer

Department: City Treasurer

Division: City Treasurer

Dept ID: 05001011

Attachments:

- 1-Description/Analysis
- 2-Third Amendment to Joint Exercise of Powers Agreement - Sacramento City Financing Authority
- 3-Indemnification Agreement for 3rd Amendment to JPA Agreement for SCFA
- 4-City Council Resolution for 3rd Amendment to JPA Agreement for SCFA
- 5-Housing Authority Resolution for 3rd Amendment to JPA Agreement for SCFA
- 6-Successor Agency Resolution for 3rd Amendment to JPA Agreement for SCFA

City Attorney Review

Approved as to Form
Joseph Cerullo
5/6/2015 6:32:05 PM

Approvals/Acknowledgements

Department Director or Designee: Russ Fehr - 5/1/2015 3:10:02 PM

Description/Analysis

Issue Detail: In 1989, the City and the Redevelopment Agency of the City of Sacramento (the “**RDA**”) entered into a Joint Exercise of Powers Agreement (the “**Original JPA**”) by which they created the Sacramento City Financing Authority (“**SCFA**”) for the purposes set forth in the Original JPA and to exercise the powers described in the Original JPA.

The City and the RDA subsequently amended the Original JPA by entering into two amendments to the Original JPA, both dated as of April 1, 1999.

Following the dissolution of redevelopment agencies statewide, the City elected to become the RDA’s “successor agency.” As such, the City acts as a separate legal entity known as the Redevelopment Agency Successor Agency of the City of Sacramento (“**RASA**”). By law, RASA succeeded the RDA as a member of SCFA.

Now, the City, RASA, and the Housing Authority of the City of Sacramento (the “**Housing Authority**”) desire to enter into a third amendment to Joint Exercise of Powers Agreement in order to substitute the Housing Authority for RASA as a member of SCFA. In addition, the City and the Housing Authority desire to enter into a separate agreement by which the City agrees to indemnify the Housing Authority against any liability that results from SCFA’s acts or omissions while performing under the Original JPA as amended.

Policy Considerations: Substituting the Housing Authority for RASA in SCFA will not place any financial or other liabilities on the City or the Housing Authority and will not impede their independent operations.

Additionally, given the HUD directive to mitigate legal risk to the Housing Authority, and given that the Housing Authority, a separate legal entity, is unable to pay for a defense should a lawsuit arise, an indemnification agreement is legally prudent. The City’s obligation to indemnify does not cover liabilities arising from the Housing Authority’s own acts or omissions.

Economic Impacts: Not applicable, administrative action.

Environmental Considerations: None, as substitution of the Housing Authority as a member of the SCFA and approval of the indemnification agreement are not “projects” subject to CEQA. (Cal. Code Regs., tit. 14, § 15378, subs. (b)(2), (b)(4), (b)(5).)

Sustainability: Not applicable, administrative action.

Commission/Committee Action: It is anticipated that, at its meeting of May 6, 2015, the Sacramento Housing and Redevelopment Commission will approve staff’s recommendation of this item. Staff will notify the City Council if this does not occur.

Rationale for Recommendation: SCFA has been the joint-powers authority used to facilitate the City’s financings. Substituting the Housing Authority for RASA in SCFA will remove the post-dissolution successor agency from SCFA. The SCFA will remain in existence as long as SCFA obligations remain outstanding (currently through 2037).

Financial Considerations: Because SCFA is a component unit of the City, on-going administration of SCFA is integrated into the City's existing resources. There are no costs associated with entering into the indemnification agreement.

Local Business Enterprise (LBE): Not applicable.

**THIRD AMENDMENT TO
JOINT EXERCISE OF POWERS AGREEMENT**

between the

CITY OF SACRAMENTO

and

REDEVELOPMENT AGENCY SUCCESSOR AGENCY OF THE CITY OF SACRAMENTO

and

HOUSING AUTHORITY OF THE CITY OF SACRAMENTO

Dated as of _____, 2015

**relating to the
SACRAMENTO CITY FINANCING AUTHORITY**

THIRD AMENDMENT TO JOINT EXERCISE OF POWERS AGREEMENT

This Third Amendment to Joint Exercise of Powers Agreement, dated as of _____, 2015 (this “**Third Amendment**”), is between the CITY OF SACRAMENTO, a California municipal corporation (the “**City**”); the REDEVELOPMENT AGENCY SUCCESSOR AGENCY OF THE CITY OF SACRAMENTO (the “**Agency**”); and the HOUSING AUTHORITY OF THE CITY OF SACRAMENTO (the “**Housing Authority**”).

Background

Under the Community Redevelopment Law set forth in sections 33000 through 33855 of the California Health and Safety Code (the “**Law**”), the Sacramento City Council created the former Redevelopment Agency of the City of Sacramento (the “**Former RDA**”), which was authorized to transact business and exercise its powers in accordance with the Law. Upon the dissolution of the Former RDA on February 1, 2012, under Assembly Bill XI 26 (“**AB 26**”), the City agreed to serve as the successor agency to the Former RDA (the “**Agency**”).

The Joint Exercise of Powers Act, set forth in sections 6500 through 6599.3 of the California Government Code (the “**Act**”), authorizes two or more public agencies to jointly exercise by agreement any power common to them. In accordance with the Act, the City and the Former RDA entered into the Joint Exercise of Powers Agreement dated as of October 1, 1989 (the “**Original JPA**”), by which they created and established the Sacramento City Financing Authority for the purposes set forth in the Original JPA and to exercise the powers described in the Original JPA (the “**Authority**”). The City and the Former RDA subsequently amended the Original JPA by entering into the First Amendment to Joint Exercise of Powers Agreement dated as of April 1, 1999 (the “**First Amendment**”), and the Second Amendment to Joint Exercise of Powers Agreement dated as of April 1, 1999 (the “**Second Amendment**”). The Original JPA, the First Amendment, and the Second Amendment are collectively the “**Amended JPA.**”

The City, the Agency, and the Housing Authority now desire to enter into this Third Amendment in order to substitute the Housing Authority for the Agency as a member of the Authority. The City, the Agency, and the Housing Authority are each a “**Member**” and are collectively the “**Members**” of the Authority.

Based on the facts set forth in the Background, the parties agree as follows:

1. Substituted Member. The Amended JPA is hereby amended as follows so as to substitute the Housing Authority for the Agency as a Member of the Authority:

(a) The phrase *the Sacramento City Redevelopment Agency, a public corporation duly organized and existing under and by virtue of the laws of the State of California (the “Agency”)* in the preambles of the Original JPA and the First Amendment and the phrase *the Redevelopment Agency of the City of Sacramento, a public corporation duly organized and existing under and by virtue of the laws of the State of California (the “Agency”)* in the preamble of the Second Amendment are each replaced with this:

the Housing Authority of the City of Sacramento, a public agency existing under and by virtue of the laws of the State of California (the “Housing Authority”)

(b) The definition of “Agency” in Section 1 of the Original JPA is replaced with this:

Housing Authority

The term “Housing Authority” shall mean the Housing Authority of the City of Sacramento, a public agency existing under and by virtue of the laws of the State of California.

(c) The term “Agency” is replaced with the term “Housing Authority” every place it appears in the Amended JPA.

(d) The Housing Authority is hereby afforded the rights, benefits, and protections of the Agency (as that term is used in the Amended JPA) provided for under the Amended JPA as amended by this Third Amendment, and the Housing Authority hereby undertakes the obligations of the Agency (as that term is used in the Amended JPA) under the Amended JPA as amended by this Third Amendment. But the Housing Authority does not assume any other obligation of the Agency under any other agreement, bond, note, resolution, ordinance, agreement, or other instrument to which the Agency is a party or is otherwise subject.

(e) The Agency is hereby relieved of the obligations of the Agency (as that term is used in the Amended JPA) under the Amended JPA as amended by this Third Amendment.

2. Effect of Third Amendment. From and after the effective date of this Third Amendment, this Third Amendment and all of its provisions are part of the Amended JPA as if they were set forth in the Amended JPA. The Amended JPA as amended by this Third Amendment is hereby ratified and confirmed and will continue in full force and effect in accordance with its provisions. If any conflict exists between this Third Amendment and the Amended JPA (as in effect on the day before the effective date of this Third Amendment), then this Third Amendment will prevail. Within 30 days after the effective date of this Third Amendment, the Authority will cause a notice of this Third Amendment to be prepared and filed with the California Secretary of State in the manner set forth in section 6503.5 of the Act.

3. Counterparts. The parties may execute this Third Amendment in counterparts, each of which will be deemed an original, but all of which will constitute the same document.

4. Effective Date. Upon the execution and delivery hereof by the parties hereto, this Third Amendment will be effective as of the day and year first hereinabove written.

(Signature Page Follows)

City of Sacramento

By: _____
Mayor

Attest:
Sacramento City Clerk

By: _____

Approved as to Form
Sacramento City Attorney

By: _____
Joseph Cerullo
Senior Deputy City Attorney

**Redevelopment Agency Successor Agency of
the City of Sacramento**

By: _____
City Manager, acting for Redevelopment
Agency Successor Agency of the City of
Sacramento

Attest:
Sacramento City Clerk, acting for
Redevelopment Successor Agency of the City
of Sacramento

By: _____

Housing Authority of the City of Sacramento

By: _____
Chairperson

Attest:
By: _____
Secretary

Indemnification Agreement

This Indemnification Agreement, dated May __, 2015, for identification, is between the CITY OF SACRAMENTO, a California municipal corporation (the “**City**”), and the HOUSING AUTHORITY OF THE CITY OF SACRAMENTO, a public body corporate and politic (“**Authority**”). The City is providing the Authority with the indemnity described below so as to induce the Authority to sign a third amendment to the Joint Exercise of Powers Agreement that created the Sacramento City Financing Authority (City Agreement No. 89056, as amended by City Agreement Nos. 89-056-1 and 89-056-2) (the “**JPA**”) and thereby replace the Sacramento City Redevelopment Agency as a party to the JPA.

1. As used in this agreement, “**Claim**” means any claim, action, liability, loss, damage, or suit that arises from any liability imposed for injury caused by a negligent or wrongful act or omission occurring in the performance of activities under the JPA. To the extent permitted by law, the City shall indemnify, defend, and hold harmless the Authority and the Authority’s governing boards, commissioners, officers, directors, and employees, and their successors and assigns, against all Claims, except as follows: the City is not obligated by this agreement to the extent a Claim arises from the negligence or wrongful act or omission of the Authority or the Authority’s governing boards, commissioners, officers, directors, or employees, or their successors or assigns.
2. If a Claim is asserted, then the Authority shall provide the City with reasonably timely written notice of the Claim, and thereafter, at no expense to the Authority, the City shall indemnify, defend, and hold harmless the Authority against the Claim and any loss or liability arising under the Claim.
3. The City hereby waives and relinquishes any right of contribution it may have at any time against the Authority under California Government Code sections 895.2 and 895.6, or otherwise, for any Claim for which the City is obligated under Section 1.
4. The City shall not enter into any settlement of any litigation or other proceeding in which the City is jointly liable with the Authority (or would be if joined in the litigation or proceeding) unless the settlement provides for a full and final release of all Claims asserted against the Authority.
5. This agreement is unlimited as to amount or duration and is binding upon, and inures to the benefit of, the parties and the parties’ successors and assigns.
6. This agreement is to be governed by, and interpreted in accordance with, California law. It is effective on the date both parties have signed it, as indicated by the dates in the signature blocks below.

(Signature Page Follows)

City of Sacramento

Housing Authority of the City of Sacramento

By: _____
John Shirey, City Manager
Date: _____, 2015

By: _____
LaShelle Dozier, Executive Director
Date: _____, 2015

Attest:
Sacramento City Clerk

Approved as to Form

By: _____

By: _____
David Levine, General Counsel

Approved as to Form
Sacramento City Attorney

By: _____
Joseph Cerullo
Senior Deputy City Attorney

RESOLUTION NO. 2015-XXXX

Adopted by the Sacramento City Council

May [___], 2015

APPROVING THE EXECUTION AND DELIVERY OF A THIRD AMENDMENT TO JOINT EXERCISE OF POWERS AGREEMENT RELATED TO THE SACRAMENTO CITY FINANCING AUTHORITY, AND AUTHORIZING CERTAIN OTHER RELATED ACTIONS

BACKGROUND:

- A. Under the Community Redevelopment Law set forth in sections 33000 through 33855 of the California Health and Safety Code (the “**Law**”), the Sacramento City Council created the former Redevelopment Agency of the City of Sacramento (the “**Former RDA**”), which was authorized to transact business and exercise its powers in accordance with the Law. Upon the dissolution of the Former RDA on February 1, 2012, under Assembly Bill XI 26 (“**AB 26**”), the City of Sacramento (the “**City**”) agreed to serve as the successor agency to the Former RDA (the “**Agency**”).
- B. The Joint Exercise of Powers Act, set forth in sections 6500 through 6599.3 of the California Government Code (the “**Act**”), authorizes two or more public agencies to jointly exercise by agreement any power common to them. In accordance with the Act, the City and the Former RDA entered into the Joint Exercise of Powers Agreement dated as of October 1, 1989 (the “**Original JPA**”), by which they created and established the Sacramento City Financing Authority for the purposes set forth in the Original JPA and to exercise the powers described in the Original JPA (the “**Authority**”). The City and the Former RDA subsequently amended the Original JPA by entering into the First Amendment to Joint Exercise of Powers Agreement dated as of April 1, 1999 (the “**First Amendment**”), and the Second Amendment to Joint Exercise of Powers Agreement dated as of April 1, 1999 (the “**Second Amendment**”). The Original JPA, the First Amendment, and the Second Amendment are collectively the “**Amended JPA.**”
- C. The City desires to enter into a Third Amendment to Joint Exercise of Powers Agreement that is substantially in the form on file with the City Clerk, a copy of which is attached to this resolution (the “**Third Amendment**”), in order to substitute the Housing Authority of the City of Sacramento for the Agency as a member of the Authority.

BASED ON THE FACTS SET FORTH IN THE BACKGROUND, THE CITY COUNCIL RESOLVES AS FOLLOWS:

Section 1. The statements in paragraphs A, B, and C of the Background are true.

- Section 2.** The proposed form of the Third Amendment on file with the City Clerk is hereby approved. The Mayor, Vice Mayor, the City Manager, and the City Treasurer, or their designees (each an “**Authorized Officer**”), are each hereby authorized and directed, on the City’s behalf, to sign and deliver the Third Amendment, which must be substantially in the form on file with the City Clerk, with such changes as the signing Authorized Officer may require or approve with the concurrence of the City Attorney or his designee, such approval to be conclusively evidenced by the execution and delivery of the Third Amendment.
- Section 3.** The City Clerk or her designee is hereby authorized to attest the signature of the Authorized Officer who signs the Third Amendment.
- Section 4.** Each Authorized Officer acting alone is hereby authorized and directed to do all things and to sign and deliver all documents he or she deems necessary or desirable to implement the Third Amendment and otherwise carry out, give effect to, and comply with this resolution; and all such actions previously taken by an Authorized Officer are hereby ratified.
- Section 5.** This resolution takes effect when adopted.

RESOLUTION NO. 2015-XXXX

Adopted by the Governing Board of the Housing Authority of the City of Sacramento

May [___], 2015

APPROVING THE EXECUTION AND DELIVERY OF A THIRD AMENDMENT TO JOINT EXERCISE OF POWERS AGREEMENT RELATED TO THE SACRAMENTO CITY FINANCING AUTHORITY, AND AUTHORIZING CERTAIN OTHER RELATED ACTIONS

BACKGROUND:

- A. Under the Community Redevelopment Law set forth in sections 33000 through 33855 of the California Health and Safety Code (the “**Law**”), the Sacramento City Council created the former Redevelopment Agency of the City of Sacramento (the “**Former RDA**”), which was authorized to transact business and exercise its powers in accordance with the Law. Upon the dissolution of the Former RDA on February 1, 2012, under Assembly Bill XI 26 (“**AB 26**”), the City of Sacramento (the “**City**”) agreed to serve as the successor agency to the Former RDA (the “**Agency**”).
- B. The Joint Exercise of Powers Act, set forth in sections 6500 through 6599.3 of the California Government Code (the “**Act**”), authorizes two or more public agencies to jointly exercise by agreement any power common to them. In accordance with the Act, the City and the Former RDA entered into the Joint Exercise of Powers Agreement dated as of October 1, 1989 (the “**Original JPA**”), by which they created and established the Sacramento City Financing Authority for the purposes set forth in the Original JPA and to exercise the powers described in the Original JPA (the “**Authority**”). The City and the Former RDA subsequently amended the Original JPA by entering into the First Amendment to Joint Exercise of Powers Agreement dated as of April 1, 1999 (the “**First Amendment**”), and the Second Amendment to Joint Exercise of Powers Agreement dated as of April 1, 1999 (the “**Second Amendment**”). The Original JPA, the First Amendment, and the Second Amendment are collectively the “**Amended JPA.**”
- C. The Housing Authority of the City of Sacramento (the “**Housing Authority**”) desires to enter into a Third Amendment to Joint Exercise of Powers Agreement that is substantially in the form on file with the Clerk of the Sacramento Housing and Redevelopment Agency (the “**Clerk**”), a copy of which is attached to this resolution (the “**Third Amendment**”), in order to substitute the Housing Authority for the Agency as a member of the Authority.

BASED ON THE FACTS SET FORTH IN THE BACKGROUND, THE GOVERNING BOARD OF THE HOUSING AUTHORITY RESOLVES AS FOLLOWS:

- Section 1.** The statements in paragraphs A, B, and C of the Background are true.
- Section 2.** The proposed form of the Third Amendment on file with the Clerk is hereby approved. The Chairperson and the Executive Director of the Housing Authority, or the designee of either of them (each an “**Authorized Officer**”), are each hereby authorized and directed, on the Housing Authority’s behalf, to sign and deliver the Third Amendment, which must be substantially in the form on file with the Clerk, with such changes as the signing Authorized Officer may require or approve with the concurrence of legal counsel to the Housing Authority, such approval to be conclusively evidenced by the execution and delivery of the Third Amendment.
- Section 3.** The Clerk or the Clerk’s designee is hereby authorized to attest the signature of the Authorized Officer who signs the Third Amendment.
- Section 4.** Each Authorized Officer acting alone is hereby authorized and directed to do all things and to sign and deliver all documents he or she deems necessary or desirable to implement the Third Amendment and otherwise carry out, give effect to, and comply with this resolution; and all such actions previously taken by an Authorized Officer are hereby ratified.
- Section 5.** This resolution takes effect when adopted.

RESOLUTION NO. 2015-XXXX

Adopted by the Redevelopment Agency Successor Agency of the City of Sacramento

May [___], 2015

APPROVING THE EXECUTION AND DELIVERY OF A THIRD AMENDMENT TO JOINT EXERCISE OF POWERS AGREEMENT RELATED TO THE SACRAMENTO CITY FINANCING AUTHORITY, AND AUTHORIZING CERTAIN OTHER RELATED ACTIONS

BACKGROUND:

- A.** Under the Community Redevelopment Law set forth in sections 33000 through 33855 of the California Health and Safety Code (the “**Law**”), the Sacramento City Council created the former Redevelopment Agency of the City of Sacramento (the “**Former RDA**”), which was authorized to transact business and exercise its powers in accordance with the Law. Upon the dissolution of the Former RDA on February 1, 2012, under Assembly Bill XI 26 (“**AB 26**”), the City of Sacramento (the “**City**”) agreed to serve as the successor agency to the Former RDA (the “**Agency**”).
- B.** The Joint Exercise of Powers Act, set forth in sections 6500 through 6599.3 of the California Government Code (the “**Act**”), authorizes two or more public agencies to jointly exercise by agreement any power common to them. In accordance with the Act, the City and the Former RDA entered into the Joint Exercise of Powers Agreement dated as of October 1, 1989 (the “**Original JPA**”), by which they created and established the Sacramento City Financing Authority for the purposes set forth in the Original JPA and to exercise the powers described in the Original JPA (the “**Authority**”). The City and the Former RDA subsequently amended the Original JPA by entering into the First Amendment to Joint Exercise of Powers Agreement dated as of April 1, 1999 (the “**First Amendment**”), and the Second Amendment to Joint Exercise of Powers Agreement dated as of April 1, 1999 (the “**Second Amendment**”). The Original JPA, the First Amendment, and the Second Amendment are collectively the “**Amended JPA.**”
- C.** The Agency desires to enter into a Third Amendment to Joint Exercise of Powers Agreement that is substantially in the form on file with the Secretary of the Agency (the “**Secretary**”), a copy of which is attached to this resolution (the “**Third Amendment**”), in order to substitute the Housing Authority of the City of Sacramento for the Agency as a member of the Authority.

BASED ON THE FACTS SET FORTH IN THE BACKGROUND, THE AGENCY RESOLVES AS FOLLOWS:

Section 1. The statements in paragraphs A, B, and C of the Background are true.

- Section 2.** The proposed form of the Third Amendment on file with the Secretary is hereby approved. The City Manager or his designee (each an **“Authorized Officer”**) is hereby authorized and directed, on the Agency’s behalf, to sign and deliver the Third Amendment, which must be substantially in the form on file with the Secretary, with such changes as the signing Authorized Officer may require or approve with the concurrence of the City Attorney/General Counsel for the Agency or his designee, such approval to be conclusively evidenced by the execution and delivery of the Third Amendment.
- Section 3.** The Secretary or her designee is hereby authorized to attest the signature of the Authorized Officer who signs the Third Amendment.
- Section 4.** Each Authorized Officer acting alone is hereby authorized and directed to do all things and to sign and deliver all documents he or she deems necessary or desirable to implement the Third Amendment and otherwise carry out, give effect to, and comply with this resolution; and all such actions previously taken by an Authorized Officer are hereby ratified.
- Section 5.** This resolution takes effect when adopted.