Meeting Date: **10/6/2015**

Report Type: Consent

Report ID: 2015-00886

City of SACRAMENTO 01

City Council Report
915 I Street, 1st Floor
www.CityofSacramento.org

Title: Joint Exercise of Powers Agreement between City of Sacramento and Sacramento Public Library Authority

Location: Citywide

Recommendation: Pass a Resolution approving a Joint Exercise of Powers Agreement between City of Sacramento and the Sacramento Public Library Authority to authorize the City, acting through the City Treasurer, to invest funds of the Authority.

Contact: Bob Tokunaga, Senior Investment Officer, (916) 808-5340; John Colville, Senior Investment Officer, (916) 808-8297, Office of the City Treasurer

Presenter: None

Department: City Treasurer

Division: City Treasurer

Dept ID: 05001011

Attachments:

1-Description/Analysis

2-Background

3-Resolution

4-Exhibit A (JEP Agreement - Sac Library)

City Attorney Review

Approved as to Form
Joseph Cerullo
10/1/2015 11:25:05 AM

Approvals/Acknowledgements

Department Director or Designee: John Colville - 10/1/2015 6:49:52 AM

Description/Analysis

Issue Detail: The City of Sacramento, acting through the City Treasurer, and the Sacramento Public Library Authority ("Authority") propose to jointly exercise their respective powers to invest public funds by allowing the Authority to invest funds received from the estate of Erin C. Hurst in a separate account managed by the City Treasurer under his City Charter authority. Both the City and the Authority are public entities as defined in Section 6500 of the California Government Code and each has authority to invest funds in its treasury. Pursuant to the Joint Exercise of Powers Act (Chapter 5 of Division 7 of Title 1 of the California Government Code) and in accordance with Section 6509.7 of the California Government Code, the City and the Authority intend to jointly exercise their common powers to invest funds in their treasuries. The City Treasurer presents an agreement to authorize him to invest the bequeathed funds in a separately managed account, and requests approval of the agreement.

Policy Considerations: The Authority seeks to invest the initial sum of $1 million in a separately managed account. For this, the Authority agrees to pay the City Treasurer's Office a management fee of $5,000 per year and to reimburse any banking and operation fees (not to exceed $150 annually). The Authority's goals for the management of the funds are to preserve the principal, achieve a rate of return in accordance with prudent investment practices and draw down earnings annually to be used to purchase books, as directed by the donor. The funds will be invested pursuant to California Government Code.

Economic Impacts: The City Treasurer's Office will receive an investment management fee of $5,000 annually and be reimbursed for all banking and operation fees (not to exceed $150 per year).

Environmental Considerations: None.

Sustainability: None.

Commission/Committee Action: None.

Rationale for Recommendation: Since 2005, the Authority has entrusted the City Treasurer's Office to provide treasury and accounting services for its excess funds. The City Treasurer's Office currently invests those funds in the City's Pool A. The City Treasurer is willing to continue providing the Authority with the advantages of his staff's investment expertise to benefit a fellow local public agency. Approval of the subject Joint Exercise of Power Agreement will foster cooperation between agencies in the local area and provide the Authority with a professional, low cost, low risk investment solution to meet its investment objectives.

Financial Considerations: Pursuant to the proposed agreement with the Authority, the City will receive compensation at the rate of $5,000 annually and reimbursement of the banking and operations fees (not to exceed $150 per year).

Local Business Enterprise (LBE): Not applicable.

BACKGROUND

The City of Sacramento, acting through the City Treasurer, and the Sacramento Public Library Authority ("Authority") propose to jointly exercise their respective powers to invest public funds by allowing the Authority to invest public funds within its control in a separate account managed by the City Treasurer and pursuant to the power to invest funds granted to the City Treasurer by the City Charter. Both the City and the Authority are public entities as defined in Section 6500 of the California Government Code, and each has authority to invest funds in its treasury. Pursuant to the Joint Exercise of Powers Act (Chapter 5 of Division 7 of Title 1 of the California Government Code) and in accordance with Section 6509.7 of the California Government Code, the City and the Authority intend to jointly exercise their common powers to invest funds in their treasuries.

The Authority and the City Treasurer have negotiated a Joint Exercise of Powers Agreement ("Agreement") to authorize him to accept funds received from the estate of Erin C. Hurst for investment in a separate account managed by the City Treasurer pursuant to City Charter authority and pursuant to California Government Code 53601. The Authority approved the Agreement at its July meeting. The City Treasurer requests approval of the Agreement on behalf of the City.

A copy of the proposed Agreement is attached to the proposed Resolution as Exhibit A.

RESOLUTION NO. 2015-

Adopted by the Sacramento City Council

APPROVING THE JOINT EXERCISE OF POWERS AGREEMENT BETWEEN CITY OF SACRAMENTO AND THE SACRAMENTO PUBLIC LIBRARY AUTHORITY

BACKGROUND

A. In accordance with the Joint Exercise of Powers Act, codified as Government Code sections 6500 through 6599.3, and specifically in accordance with Government Code section 6509.7, the City of Sacramento (the "**City**") and the Sacramento Public Library Authority (the "**Authority**") desire to jointly exercise their common power to invest funds in their treasuries.

B. Specifically, the Authority seeks to invest funds received from the estate of Erin C. Hurst in a separate account that is managed by the City Treasurer in accordance with his City Charter authority.

C. The City and the Authority have prepared a Joint Exercise of Powers Agreement (the "**Agreement**") to implement the Authority's investment. The Agreement sets forth the terms and conditions governing the investment and specifies the fees and reimbursements the Authority will pay to the City as compensation for the City's management of the investment.

D. The Agreement is attached to this resolution as Exhibit A.

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

Section 1. The Agreement is hereby approved, and the City Treasurer is hereby authorized to execute the Agreement on behalf of the City and to take all necessary actions to implement its terms.

Section 2. Exhibit A is part of this resolution.

EXHIBIT A

JOINT EXERCISE OF POWERS AGREEMENT

Between

City of Sacramento and the Sacramento Public Library Authority

JOINT EXERCISE OF POWERS AGREEMENT

THIS AGREEMENT is made and entered into this ___ day of the month of September, 2015, pursuant to the Joint Exercise of Powers Act, California Government Code sections 6500 *et seq.*, by and between the SACRAMENTO PUBLIC LIBRARY AUTHORITY, a joint powers authority, ("Owner") and the CITY OF SACRAMENTO, a municipal corporation, ("Manager"). Owner and Manager are hereinafter collectively referred to as the "Parties."

RECITALS

WHEREAS:

A. Owner is a public agency as defined in section 6500 of the California Government Code and has the authority to invest funds in its treasury;

B. Manager is also a public agency as defined in section 6500 of the California Government Code and has the authority to invest funds in its treasury;

C. Pursuant to the Joint Exercise of Powers Act (Chapter 5 of Division 7 of Title 1 of the California Government Code) and in accordance with section 6509.7 of the California Government Code, Owner and Manager intend to, by this agreement, jointly exercise the common power to invest funds in their treasury; and

D. The purpose of this agreement is to authorize the Manager to invest certain assets of the Owner.

AGREEMENT

NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:

1. Incorporation of Recitals
   The foregoing recitals are incorporated herein by this reference.

2. Appointment of Manager
   Owner appoints Manager as the investment manager with respect to certain assets set forth in EXHIBIT A, attached hereto and incorporated herein by this reference, which assets are hereinafter referred to as the "Account."

3. Investment in Separate Account
   The Manager shall invest the Account exclusively in a separately managed account created by Manager. Any assets acquired as a result of the investment of the Account shall be the property of the Owner.

4. Investment Standards

The Manager shall invest the Account in accordance with the investment policy of the Owner (hereinafter referred to as "Investment Policy"), more specifically described in Exhibit B, attached hereto and incorporated herein by this reference.

5. Reports to be filed by Manager to Owner

(a) Reports Required
Manager shall file the following reports with Owner:

(i) Appraisal of the Account for the applicable periods, including but not limited to security symbol and name, cost, market value, trade date (purchases and sales), maturity date, and yield which will be included in the City's Monthly Investment Report. The analysis and appraisal shall be conducted in accordance with recognized professional standards and methods customarily employed in Manager's profession.

(ii) With each monthly report, a summary of the assets in the Account, with commentary reflecting Manager's opinion of current and long term investment outlook.

(b) Reporting Intervals
Manager shall file the report required by section 5(a) above with the Owner at the following intervals, except where otherwise specifically indicated:

(i) Monthly, within 30 calendar days of the end of a month. (This report shall outline the status of the investments of the Account).

(c) Filing of Reports
Manager shall file the report required by section 5(a) above by emailing one copy of the report to Owner.

6. Records, Audit
Manager shall maintain the cost and related records as may from time to time be required by Owner.

7. Liability
Manager shall be responsible for management of the Account in accordance with the Library's Investment Policy set forth in EXHIBIT B, and such other instructions as Owner may provide to Manager in writing from time to time, subject to Manager's right to refuse to implement any subsequent instruction which in Manager's reasonable judgment is contrary to the Investment Policy. Manager shall have no responsibility whatsoever for the management of Owner's assets not listed on EXHIBIT A. Manager shall not be responsible or liable for Owner's decisions on whether or not to withdraw or deposit funds from the

Account. Manager shall not be liable for any act, omission or mistake of judgment in the course of, or connected with, the performance of its responsibilities hereunder, except for its own intentional willful misconduct, lack of good faith, gross negligence or failure to follow the Investment Policy. Without limiting the generality of the foregoing, Manager shall not be liable for the selection of particular securities or other short- or long-term investments or investment vehicles for the Account, in the case of market or other fluctuations or factors which cause diminution of the value of the assets in the Account, save to the extent that Manager fails to comply with its obligations under section 53600.3 of the California Government Code.

8. Fiduciary Relationship

Manager shall maintain strict confidence in the financial affairs of Owner, to the extent permitted by law, taking into account Manager's status as a public agency under the California Public Records Act.

9. Time, Manner of Payment, and Amount of Fees

The amount and method of calculation of the fees to be paid to Manager as full compensation for the services rendered under this agreement are set forth in EXHIBIT C, attached hereto and incorporated herein by this reference. The fees shall be due quarterly at the end of each three month period and shall be deducted from the Owner's account within 15 days after Owner's receipt of a bill from Manager.

10. Term of Agreement: Termination

(a) This agreement shall remain in effect until terminated pursuant to section 10(b) below.

(b) This agreement may be terminated by either party at any time, for any reason, by serving a written notice of termination upon the other party at least 30 days prior to the date of termination specified in the notice. Any notice of termination by Owner pursuant to this paragraph shall be issued by the Library Director of the Sacramento Public Library Authority and be served personally or by registered mail upon Manager. Any notice of termination by Manager pursuant to this paragraph, shall be issued by the City Treasurer and be served personally or by registered mail upon Owner. In the event of termination of this agreement at a time other than at the end of a quarterly billing period, Manager shall be entitled to receive the proportionate fee that the number of completed days of actual service bears to the number of days in a quarter.

(c) Upon termination of this agreement, the Account shall be returned to the Owner.

11. General Provisions

The general provisions set forth below are part of this agreement. In the event of any inconsistency between the general provisions and any other term or condition of this agreement, the other term or condition shall control.

(a) Independent Contractor

Under this agreement, Manager is an independent contractor and no relationship of employer-employee exists between the parties. As an independent contractor, Manager holds Owner harmless from any and all claims that may be made against Owner based upon any contention by any third party that an employer-employee relationship exists by reason of this agreement.

(b) Licenses; Permits. etc.

Manager represents and warrants that it has all licenses, permits, qualifications and approvals of whatsoever nature, which are legally required for Manager to provide the services under this agreement. Manager represents and warrants that it shall, at its sole cost and expense, keep in effect at all times during the term of this agreement any license, permits and approvals which are legally required for it provide the services under this agreement.

(c) Time

Manager shall devote such time to the performance of services pursuant to this agreement as may be reasonably necessary for satisfactory performance of its obligations hereunder.

(d) Notice

Except as otherwise specified herein, all notices, requests, demands, or other communications required or permitted under this agreement shall be in writing and shall be deemed to have been served on the Party to whom notice is to be given on (i) the date of service, if served personally at or by facsimile transmission to the Party's address provided below, (ii) the first business day after mailing, if mailed by an overnight courier service, such as Federal Express or U.S. Express Mail, postage prepaid, to the Party's address provided below, or (iii) the third day after mailing, if mailed by first-class mail, registered or certified, postage prepaid, addressed to the Party's address provided below.

The Parties' addresses are as follows:

To Owner: Library Director
Sacramento Public Library Authority
828 I Street
Sacramento, California 95814
Telephone: (916) 264-2830
Facsimile: (916) 264-2755

To Manager: City Treasurer's Office
Historic City Hall
915 I Street, Third Floor
Sacramento, CA 95814
Telephone: (916) 808-5168
Facsimile: (916) 808-5171

(e) Manager Not Agent
Except in carrying out its investment duties under this agreement, Manager shall have no authority, express or implied, to act on behalf of Owner in any capacity whatsoever as its agent.

(f) Standard of Performance
Subject to the provisions of section 4 of this Agreement, Manager shall perform all services required pursuant to this agreement in the manner and according to the standards observed by a competent practitioner of the investment counseling profession. All products of any nature that Manager delivers to Owner pursuant to this agreement shall be prepared in a substantial, first-class and workmanlike manner and conform to the standards of quality normally observed by a person practicing in the investment counseling profession.

(g) Privileges and immunities: exemptions; benefits
Pursuant to section 6513 of the California Government Code, all privileges and immunities that apply to the activity of officers, agents or employees of the Parties shall apply to such officers, agents or employees to the same degree and extent while they are engaged in the performance of functions and duties pursuant to this agreement.

(h) Amendments
This agreement may only be amended by the affirmative vote of the legislative or other governing bodies of the Parties hereto.

IN WITNESS WHEREOF, the parties hereto have executed this Joint Exercise of Powers Agreement on the date first above written.

SACRAMENTO PUBLIC LIBRARY AUTHORITY

By:_____
Rivkah K. Sass
Library Director

APPROVED TO AS FORM:

_____
Authority Counsel

CITY OF SACRAMENTO
A Municipal Corporation

By:_____
Russell Fehr
City Treasurer

APPROVED TO AS FORM:

_____
City Attorney

ATTEST:

_____
City Clerk

EXHIBIT A

The initial asset in the account is $__ million in cash.

EXHIBIT B

AUTHORITY INVESTMENT POLICY

EXHIBIT C

The Manager's compensation is a $5,000 annual flat fee billed quarterly in equal installments, and the recovery of banking fees not to exceed $150 annually.