



Office of the Executive Officer

CONSENT CALENDAR  
October 2, 2012

To: Honorable Chairperson and Members of the Successor Agency for the  
Redevelopment Agency

From:  Christine Daniel, Executive Officer

Submitted by: Eric Angstadt, Planning and Development

Subject: Approval of Amended and Restated Joint Exercise of Powers Agreement  
(Berkeley Joint Powers Financing Authority)

RECOMMENDATION

Adopt a Resolution approving an Amended and Restated Joint Exercise of Powers Agreement (Berkeley Joint Powers Financing Authority).

FISCAL IMPACTS OF RECOMMENDATION

None.

BACKGROUND; CURRENT SITUATION AND ITS EFFECTS

The City of Berkeley (the "City") and the Berkeley Redevelopment Agency (the "Agency") created a joint exercise of powers authority, known as the Berkeley Joint Powers Financing Authority (the "JPFA"), pursuant to a Joint Exercise of Powers Agreement dated as of January 11, 1994 (the "Original Agreement").

Pursuant to recent amendments to the Community Redevelopment Law enacted by ABx1 26, the Agency has been dissolved and has been succeeded by the Berkeley Redevelopment Successor Agency (the "Successor Agency"). The Successor Agency was constituted and is governed by the members of the City Council.

However, pursuant to Health & Safety Code Section 34187(b), which was enacted by AB 1484, the Successor Agency will dissolve within one year after the last debt of the Successor Agency has been satisfied. The Successor Agency's last debt will be satisfied before currently outstanding debt of the JPFA will mature and before lease revenue bonds that the JPFA proposes to issue in 2012 would mature. Because City staff and legal counsel believe that is necessary for a joint exercise of powers agreement to have two members, the City wishes to amend the Original Agreement pursuant to an Amended and Restated Joint Exercise of Powers Agreement (the "Amended Agreement") to add the California Municipal Finance Authority (the "CMFA") as a third member and to ultimately replace the Successor Agency as the second party.

RATIONALE FOR RECOMMENDATION

Amendment of the Original Agreement will allow the Successor Agency to withdraw from the JPFA and allow the JPFA to continue to provide financing assistance to the City.

ALTERNATIVE ACTIONS CONSIDERED

None

CONTACT PERSON

Wendy Cosin, Deputy Planning Director, Planning and Development, 981-7402

Attachments:

1. Resolution

RESOLUTION NO. ##,###-N.S.

APPROVING, AUTHORIZING AND DIRECTING THE EXECUTION OF AN AMENDED AND RESTATED JOINT EXERCISE OF POWERS AGREEMENT RELATING TO THE BERKELEY JOINT POWERS FINANCING AUTHORITY

WHEREAS, the City of Berkeley (the “City”) and the Berkeley Redevelopment Agency (the “Agency”) entered into a Joint Exercise of Powers Agreement dated as of January 11, 1994 (the “Original Agreement”) creating the Berkeley Joint Powers Financing Authority (the “Berkeley Authority”); and

WHEREAS, the Berkeley Authority was formed for the purposes specified in the Original Agreement, and, to that end, has issued more than one series of revenue bonds that remain outstanding (the “Bonds”) and entered into other financing-related agreements; and

WHEREAS, pursuant to ABx1 26, passed by the Legislature of the State of California and signed by the Governor of the State of California in June 2011 (“AB 26”), and the California Supreme Court’s decision in *California Redevelopment Assn. v. Matosantos*, the Agency was dissolved on February 1, 2012, and the Berkeley Redevelopment Successor Agency (the “Successor Agency”), pursuant to Section 34178 of the California Health and Safety Code, succeeded the Agency as a party to the Original Agreement; and

WHEREAS, recent legislation of the State of California, known as AB 1484, added Section 34187(b) to the California Health and Safety Code, which section provides that within one year after all of the debts of a redevelopment agency are retired or paid off, its successor agency shall terminate its existence; and

WHEREAS, the latest scheduled maturity date of the outstanding indebtedness of the Agency is more than one year before the final maturity date of the outstanding bonds of the Authority; and

WHEREAS, it is uncertain whether the dissolution of the Successor Agency will impact the existence of the Authority; and

WHEREAS, the California Municipal Finance Authority (“CMFA”), upon authorization by its Board of Directors, acting pursuant to the Joint Exercise of Powers Act, comprising Articles 1, 2, 3 and 4 of Chapter 5 of Division 7 of Title 1 (commencing with section 6500) of the California Government Code (the “JPA Act”), may enter into a joint exercise of powers agreement with one or more other public agencies pursuant to which the contracting parties may jointly exercise any power common to them; and

WHEREAS, to ensure the continuation of the Authority following the dissolution of the Successor Agency, the City has asked CMFA to enter into an Amended and Restated Joint Exercise of Powers Agreement (the “Amended Agreement”) relating to the

Berkeley Authority pursuant to the JPA Act, in order to have CMFA replace the Successor Agency as a member of the Berkeley Authority; and

WHEREAS, there has been prepared an Amended and Restated Joint Exercise of Powers Agreement (the "Amended Agreement") relating to the Authority that provides for the CMFA to become a member of the Authority and for the withdrawal of the Successor Agency;

NOW, THEREFORE, BE IT RESOLVED by the Successor Agency for the former Berkeley Redevelopment Agency, as follows:

*Section 1.* The foregoing recitals are true and correct.

*Section 2.* The Amended Agreement, in substantially the form placed on file with the Secretary, is hereby approved. The Executive Director and the Chairperson of the Successor Agency (each, a "Designated Officer"), each acting alone, are hereby authorized and directed, for and on behalf of the Successor Agency, to execute and deliver the Amended Agreement, in substantially said form, with such changes and insertions therein and the Designated Officers, with the advice of bond counsel to the City, may approve, such approval to be conclusively evidenced by the execution and delivery thereof.

*Section 3.* The Designated Officers are hereby authorized and directed, for and on behalf of the Successor Agency, to take any and all other actions consistent with the purposes of this Resolution.

*Section 4.* This Resolution shall take effect immediately upon its passage and adoption.