

JOINT EXERCISE OF POWERS AGREEMENT
BY AND BETWEEN
THE COUNTY OF SAN MATEO
AND
COMMUNITY DEVELOPMENT COMMISSION
OF THE COUNTY OF SAN MATEO

JOINT EXERCISE OF POWERS AGREEMENT

THIS JOINT EXERCISE OF POWERS AGREEMENT, dated as of May 15, 1993 (herein called this "Agreement"), by and between the COUNTY OF SAN MATEO, a legal subdivision and body corporate and politic of the State of California (herein called the "County"), and the COMMUNITY DEVELOPMENT COMMISSION OF THE COUNTY OF SAN MATEO, a public corporation, duly organized and existing under and by virtue of the laws of the State of California (herein called the "Commission").

W I T N E S S E T H:

WHEREAS, Article 1 of Chapter 5 of Division 7 of Title 1 of the Government Code of the State of California authorizes the County and the Commission to create a joint exercise of powers entity (herein called the "San Mateo County Joint Powers Financing Authority" or the "Authority") which has the power to jointly exercise any powers common to the County and the Commission;

WHEREAS, the County is empowered by the laws of the State of California to own, purchase, lease, sell, exchange or dispose of any real or personal property or any interests in it for any of its corporate purposes and to enter into contracts for public capital improvements;

WHEREAS, the Commission is empowered by the laws of the State of California to exercise the powers and duties of a redevelopment agency, housing authority and community development commission as provided in the California Health and Safety Code;

WHEREAS, Article 4 of Chapter 5 of Division 7 of Title 1 of the Government Code of the State of California (the "Marks-Roos Local Bond Pooling Act of 1985") authorizes and empowers the Authority to issue bonds for financing public capital improvements, working capital, liability and other insurance needs, or projects whenever there are significant public benefits, as determined by the County;

WHEREAS, the Marks-Roos Local Bond Pooling Act of 1985 further authorizes and empowers the Authority to sell such bonds to public or private purchasers at public or negotiated sale; and

WHEREAS, by this Agreement, the County and the Commission desire to create and establish the San Mateo County Joint Powers Financing Authority for the purposes set forth herein and to exercise the powers described herein;

NOW, THEREFORE, the County and the Commission, for and in consideration of the mutual promises and agreements herein contained, do agree as follows:

SECTION 1. DEFINITIONS

Unless the context otherwise requires, the terms defined in this Section 1 shall for all purposes of this Agreement have the meanings herein specified.

Authority

The term "Authority" shall mean the San Mateo County Joint Powers Financing Authority created by this Agreement.

Board

The term "Board" shall mean the governing board of the Authority.

Bonds

The term "Bonds" shall mean bonds (including, but not limited to, lease revenue bonds, assessment bonds, redevelopment agency bonds, government issued mortgage bonds and industrial development bonds), notes (including bond, revenue, tax, or grant anticipation notes), commercial paper, floating rates, and variable maturity securities, and any other evidences of indebtedness and also includes certificates of participation or lease-purchase agreements.

Contract

The term "Contract" shall mean a contract by and between the Authority and the County, whereby the Authority designs, constructs or acquires for the County all or a portion of a Project and the County repays the Authority for such costs.

County

The term "County" shall mean the existing legal subdivision and body corporate and politic of the State of California known as the County of San Mateo.

Law

The term "Law" shall mean Articles 1, 2, 3 and 4 of Chapter 5 of Division 7 of Title 1 of the Government Code of the State of California (Sections 6500-6599), including the Marks-Roos Local Bond Pooling Act of 1985, as amended.

Lease

The term "Lease" shall mean a lease by and between the Authority and the County, whereby the Authority acquires and leases to the County all or a portion of a Project.

Project

The term "Project" shall mean the design, acquisition or construction of any public capital improvement (as defined in the Law) required to be provided by the Authority to the County pursuant to a Lease, a Contract or any other agreement and designated for such purpose.

SECTION 2. PURPOSE

This Agreement is made pursuant to the Law to provide for the joint exercise of powers common to the County and the Commission for the purpose of financing public capital improvements in accordance with the Law by exercising the powers referred to in the recitals hereof and described in Section 5 herein.

The County and the Commission desire to assist in the acquisition of Projects and in order to accomplish that goal are willing to assist pursuant to the Law in designing, acquiring, selling and financing these Projects.

The Authority will fulfill the purposes of this Agreement by among other things, undertaking the sale and issuance of Bonds in accordance with the Marks-Roos Local Bond Pooling Act of 1985. The County and the Commission hereby agree that any such Bonds issued by the Authority for Projects shall not constitute general obligations of the Authority but shall be payable solely from the moneys pledged to the repayment of principal of or interest on such Bonds under the terms of the resolution, indenture, trust agreement or other instrument pursuant to which the Bonds are issued. Such Bonds shall not

constitute debts, liabilities or obligations of the County or the Commission.

The Authority will further fulfill the purpose of this Agreement by designing, constructing and acquiring such public capital improvements and leasing, leasing-back, selling or reselling such public capital improvements to the County for the County's use or providing such public capital improvements to the County in exchange for repayment of the costs thereof. The County and the Commission agree that the Authority's obligations under any Lease, Contract or other agreement entered into with the County for such purpose and the Authority's obligations under any assignment agreement, indenture, trust agreement or other instrument entered into with a corporate trustee providing for the issuance of any Bonds to be paid from payments to be made by the County under such Leases, Contracts or other agreements or any such Bonds shall not constitute general obligations of the Authority but shall be payable solely from moneys received by the Authority from the County.

SECTION 3. TERM

This Agreement shall become effective as of the date hereof and shall continue in full force and effect until July 1, 2026, unless extended or earlier terminated by a supplemental written agreement of the Commission and the County; provided, however, that in no event shall this Agreement terminate while any Bonds of the Authority remain outstanding under the terms of the indenture, trust agreement or other instrument pursuant to which such Bonds are issued. In any event, the Authority shall

cause all records regarding its formation, existence, the Projects, any Bonds issued by it and proceedings pertaining to its termination to be retained for at least six years following termination of the Authority or final payment of any Bonds issued by the Authority, whichever is later.

SECTION 4. AUTHORITY

A. Creation of Authority

There is hereby created pursuant to the Law an agency and public entity to be known as the "San Mateo County Joint Powers Financing Authority." As provided in the Law, the Authority shall be a public entity separate from the County and the Commission. The debts, liabilities and obligations of the Authority shall not constitute debts, liabilities or obligations of the County or the Commission.

Within 30 days after the effective date of this Agreement or any amendment hereto, the Authority will cause a notice of this Agreement or amendment to be prepared and filed with the office of the Secretary of State of the State of California in the manner set forth in Section 6503.5 of the Law.

B. Governing Board

The Authority shall be administered by the Board, which shall be comprised of five members appointed by the Board of Supervisors of the County of San Mateo (the "Board of Supervisors"). Members of the Board shall serve until resignation or death or until the Board of Supervisors shall appoint a successor. Members of the Board shall not receive any compensation for serving as such, but shall be entitled to

reimbursement for any expenses actually incurred in connection with serving as a member if the Authority and the County shall determine that such expenses shall be reimbursed and there are unencumbered funds available for such purpose.

C. Meetings of Board

(1) Regular Meetings. The Board shall hold at least one regular meeting each year, and, by resolution, may provide for the holding of regular meetings at more frequent intervals. The date upon which, and the hour and place at which, each such regular meeting shall be held shall be fixed by resolution of the Board.

(2) Legal Notice. All meetings of the Board shall be called, noticed, held and conducted subject to the provisions of the Ralph M. Brown Act (Chapter 9 of Part 1 of Division 2 of Title 5 of the Government Code of the State of California (Sections 54950-54961)) or any successor legislation hereinafter enacted.

(3) Minutes. The Secretary of the Authority shall cause minutes of all meetings of the Board to be kept and shall, as soon as possible after each meeting, cause a copy of the minutes to be forwarded to each member of the Board and to the County and the Commission.

(4) Quorum. A majority of the members of the Board shall constitute a quorum for the transaction of business, except that less than a quorum may adjourn meetings from time to time until a quorum is obtained.

D. Officers; Duties

(1) The duties of the President and the Secretary of the Authority shall be as provided in the By-laws of the Authority. In addition, there shall be an Auditor and a Treasurer of the Authority which may be the same person.

(2) Subject to the applicable provisions of any indenture, trust agreement or resolution providing for a trustee or other fiscal agent, and, except as may otherwise be specified by resolution of the Authority, the Treasurer of the Authority is designated as the depository of the Authority to have custody of all the money of the Authority, from whatever source, and, as such, shall have the powers, duties and responsibilities specified in Section 6505.5 of the Law; and the Treasurer of the Authority shall draw checks to pay demands against the Authority when the demands have been approved by the Authority.

(3) The County shall determine the charges to be made against the Authority for the services of the Auditor and the Treasurer of the Authority.

(4) The Treasurer of the Authority is designated as the public officer or person who has charge of, handles, or has access to any property of the Authority, and such officer shall file an official bond in the amount of \$25,000 as required by Section 6505.1 of the Law; provided that such bond shall not be required if the Authority does not possess or own property or funds with an aggregate value of greater than \$500.00.

(5) The Auditor of the Authority is hereby authorized and directed to prepare or cause to be prepared:

(a) a special audit as required pursuant to Section 6505 of the Government Code of the State of California every year during the term of this Agreement; and

(b) a report in writing on the first day of July, October, January, and April of each year to the Board, the County and the Commission which report shall describe the amount of money held by the Treasurer of the Authority for the Board, the amount of receipts since the last such report, and the amount paid out since the first such report.

(6) The Board shall have the power to appoint such other officers and employees as it may deem necessary and to retain independent counsel, consultants and accountants.

SECTION 5. POWERS

The Authority shall have the power to cause the acquisition of Projects and to finance such Projects through the issuance of Bonds for the purposes set forth in Section 2 hereof, all in accordance with the Law.

The Authority shall have the power to cause the acquisition of real and personal property for the use of the County and to cause the design, acquisition and construction of public capital improvements for the use of the County and to finance such public capital improvements by entering into Leases, Contracts and other agreements with the County and assignment agreements, indentures, trust agreements and other agreements with corporate trustees providing for the issuance of Bonds to be paid from the payments to be made by the County under such

Leases, Contracts or other agreements, all in accordance with the Law.

The Authority is authorized, in its own name, to do all acts necessary for the exercise of said powers for said purposes, including but not limited to any or all of the following: to make and enter into contracts; to employ agents and employees; and to sue and be sued in its own name.

Such power shall be exercised subject only to such restrictions upon the manner of exercising such power as are imposed upon the County in the exercise of similar powers, as provided in Section 6509 of the Law, except, however, nothing herein shall limit the powers of the Authority under the Marks-Roos Local Bond Pooling Act of 1985.

Notwithstanding the foregoing, the Authority shall have any additional powers conferred under the Law, insofar as such additional powers may be necessary to accomplish the purposes set forth in Section 2 hereof.

SECTION 6. TERMINATION OF POWERS

The Authority shall continue to exercise the powers herein conferred upon it until the termination of this Agreement as provided in Section 3 or until the County and the Commission shall have mutually rescinded this Agreement; provided, however, that in no event shall this Agreement be terminated or rescinded while any Bonds of the Authority remain outstanding under the terms of the trust agreement or other instrument pursuant to which the Bonds are issued.

SECTION 7. FISCAL YEAR

Unless and until changed by resolution of the Board, the fiscal year of the Authority shall be the period from July 1 of each year to and including the following June 30, except for the first fiscal year which shall be the period from the date of this Agreement to the following June 30.

SECTION 8. DISPOSITION OF ASSETS

At the end of the term hereof or upon the earlier termination of this Agreement as set forth in Section 6 hereof, all assets of the Authority shall be distributed to the County, subject to the provisions of Section 9 hereof.

SECTION 9. CONTRIBUTIONS AND ADVANCES

Contributions or advances of public funds and of personnel, equipment or property may be made to the Authority by the County and the Commission for any of the purposes of this Agreement. Payment of public funds may be made to defray the cost of any such contribution. Any such advance shall be made subject to repayment, and shall be repaid, in the manner agreed upon by the County or the Commission, as the case may be, and the Authority at the time of making such advance. It is mutually understood and agreed that neither the County nor the Commission has any obligation to make advances or contributions to the Authority to provide for the costs and expenses of administration of the Authority, even though either may do so. The County or the Commission may allow the use of personnel, equipment or property in lieu of other contributions or advances to the Authority. After termination of this Agreement pursuant to

Section 3, any surplus money in possession of the Authority shall be returned to the County and the Commission in proportion to the unreimbursed contributions each has made.

SECTION 10. AGREEMENT NOT EXCLUSIVE

This Agreement shall not be exclusive and shall not be deemed to amend or alter the terms of other agreements between the County and the Commission, except as the terms of this Agreement may conflict therewith, in which case the terms of this Agreement shall prevail.

SECTION 11. ACCOUNTS AND REPORTS

The Authority shall establish and maintain such funds and accounts as may be required by good accounting practice. The books and records of the Authority shall be open to inspection at all reasonable times by the County and the Commission and their representatives. The Authority shall give an audited written report of all financial activities for each fiscal year to the County and to the Commission within 180 days after the close of each fiscal year.

So long as required by Section 6505.6 of the Government Code of the State of California, the Auditor of the Authority shall either make, or contract with a certified public accountant or public accountant to make, an annual audit of the accounts and records of the Authority. In each case the minimum requirements of the audit shall be those prescribed by the State Controller for special districts under Section 26909 of the Government Code of the State of California and shall conform to generally accepted auditing standards. When such an audit of an account

and records is made by a certified public accountant or public accountant, a report thereof shall be filed as public records with the County, the Commission and if required by Section 6505 of the Government Code of the State of California, with the Auditor-Controller of the County. Such report shall be filed within 180 days of the end of the fiscal year or years under examination.

Any costs of the audit, including contracts with, or employment of, certified public accountants or public accountants, in making an audit pursuant to this section shall be borne by the Authority and shall be a charge against any unencumbered funds of the Authority available for the purpose.

In any year the Authority may, by unanimous request of the Board, replace the annual special audit with an audit covering a two-year period.

SECTION 12. CONFLICT OF INTEREST CODE

The Authority, unless otherwise exempt, shall adopt a Conflict of Interest Code.

SECTION 13. BREACH

If default shall be made by the County or the Commission in any covenant contained in this Agreement, such default shall not excuse either the County or the Commission from fulfilling its obligations under this Agreement and the County and the Commission shall continue to be liable for the performance of all conditions herein contained. The County and the Commission hereby declare that this Agreement is entered into for the benefit of the Authority created hereby and the County

and the Commission hereby grant to the Authority the right to enforce by whatever lawful means the Authority deems appropriate all of the obligations of each of the parties hereunder. Each and all of the remedies given to the Authority hereunder or by any law now or hereafter enacted are cumulative and the exercise of one right or remedy shall not impair the right of the Authority to any or all other remedies. Nothing herein shall be construed to create any indebtedness of the County or the Commission and neither the tax revenue nor faith and credit of the County or the Commission are pledged or encumbered by this Agreement.

SECTION 14. SEVERABILITY

Should any part, term, or provision of this Agreement be decided by the courts to be illegal or in conflict with any law of the State of California, or otherwise be rendered unenforceable or ineffectual, the validity of the remaining parts, terms or provisions hereof shall not be affected thereby.

SECTION 15. SUCCESSORS; ASSIGNMENT

This Agreement shall be binding upon and shall inure to the benefit of the successors of the parties. Except to the extent expressly provided herein, neither party may assign any right or obligation hereunder without the consent of the other.

SECTION 16. AMENDMENT OF AGREEMENT

This Agreement may be amended by supplemental agreement executed by the County and the Commission at any time to provide for the financing of public capital improvements, working capital, liability and other insurance needs, or projects

whenever there are significant public benefits, as determined by the County and the Commission in accordance with the Law or for any other purpose; provided, however, that in no event shall this Agreement terminate while any Bonds of the Authority remain outstanding under the terms of the trust agreement or other instrument pursuant to which such Bonds are issued.

SECTION 17. FORM OF APPROVALS

Whenever an approval is required in this Agreement, unless the context specifies otherwise, it shall be given, in the case of the Commission, by resolution duly and regularly adopted by the members of the Commission, and, in the case of the County, by resolution duly and regularly adopted by the Board of Supervisors of the County, and, in the case of the Authority, by resolution duly and regularly adopted by the Board. Whenever in this Agreement any consent or approval is required, the same shall not be unreasonably withheld.

SECTION 18. WAIVER OF PERSONAL LIABILITY

No member, officer or employee of the Authority, the County or the Commission shall be individually or personally liable for any claims, losses, damages, costs, injury and liability of every kind, nature and description arising from the actions of the Authority or the actions undertaken pursuant to this Agreement, and the County shall defend such members, officers or employees against any such claims, losses, damages, costs, injury and liability.

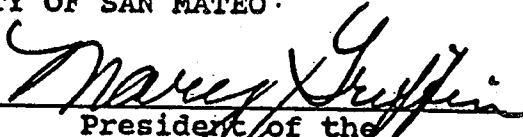
SECTION 19. SECTION HEADINGS

All section headings contained herein are for convenience of reference only and are not intended to define or limit the scope of any provision of this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed and attested by their proper officers thereunto duly authorized, and their official seals to be hereto affixed, as of the day and year first above written.

COUNTY OF SAN MATEO:

By


President of the
Board of Supervisors of
the County of San Mateo

[SEAL]

Attest:


Clerk of the Board of Supervisors
of the County of San Mateo

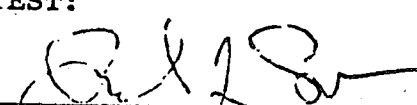
COMMUNITY DEVELOPMENT COMMISSION
OF THE COUNTY OF SAN MATEO

By


President

[SEAL]

ATTEST:


Secretary

