



MEMORANDUM
OFFICE OF THE
COUNTY EXECUTIVE
COUNTY OF PLACER

TO: Honorable Board of Supervisors

FROM: Holly L. Heinzen, Chief Assistant County Executive Officer

DATE: October 7, 2014

SUBJECT: California County Tobacco Securitization Agency JPA Amendment

Action Requested

Adopt a resolution ratifying the Sixth Amendment to the Joint Exercise of Powers Agreement (JPA) of the California County Tobacco Securitization Agency to provide for operational flexibility and efficiency in conducting meetings of the JPA.

Background

On November 23, 1998, the attorney generals of 46 states and four U.S. Territories entered into a Master Settlement Agreement with the four largest tobacco manufacturers in the country as a settlement to tobacco litigation. The settlement resulted in California counties receiving a share of revenues based on tobacco receipts and having the option to receive an annual allocation or to securitize the revenues.

California counties that opted to securitize tobacco settlement revenues, including Placer County, were required to use a specific securitization structure. This structure uses a joint powers authority (JPA), the California Counties Tobacco Securitization Agency and a non-profit public benefit corporation, the Gold Country Settlement Funding Corporation which consists of the County Executive Officer, the Assistant County Executive Officer, and one member of the public.

These counterparty entities are needed as intermediaries to the securitization transactions because counties do not have the legal authority to directly pledge Tobacco Settlement Revenues for the repayment of bonds.

The securitization of tobacco settlement revenues has provided a critical resource to finance a number of County facilities including the Community Development Resource Center, the Main Jail Housing Unit 4, the Auburn Justice Center, Bill Santucci Justice Center, and relocation of the DPW Yard in the Tahoe area. It also remains an important financing tool to fund capital facilities projects in the Capital Facilities Financing Plan.

The County joined the California Counties Tobacco Securitization Agency's (the Agency) in 2002 and membership consists of nine California counties (Alameda, Fresno, Kern, Los Angeles, Marin, Merced, Placer, Sonoma, Stanislaus) for the sole purpose of facilitating the securitization of Tobacco Settlement Revenues for these counties. The Agency JPA has been amended five times to add additional counties and to clarify Agency officer and meeting structure.

Issue

The Agency is requesting a Sixth Amendment to the JPA to provide for operational flexibility and efficiency in conducting meetings. Rather than identifying a time/date certain for the Commission's annual meeting and requiring that the entire Commission approve Tobacco Bonds, a Sixth Amendment to the Agreement has been drafted. This Amendment replaces the Bond Issuance Subgroup and substitutes in its place an identically composed group called the Bond Issuance Standing Committee. This approach meets requirements under the Brown Act and allows the Operating Committee to meet in lieu of an annual Commission meeting for issuance of bonds as may be appropriate.

The procedure for approval of Tobacco Bonds will not change from the procedure previously used but the three-commissioner subgroup of the Commission approving the Tobacco Bond resolution and the related forms of documents will be called the Tobacco Bonds Standing Committee rather than the Bond Issuance Subgroup. The Commission will continue to hold its annual meeting on or about September 1 of each year, on a date and at a place selected by the Agency's President for purposes of conducting other business of the Agency.

Fiscal Impact

There is no fiscal impact as a result of this action.

Attachment 1: Resolution to approve the Sixth Amendment to Joint Exercise of Powers Agreement of the California County Tobacco Securitization Agency

Attachment 2: Sixth Amendment to Joint Exercise of Powers Agreement of the California County Tobacco Securitization Agency

760

**Before the Board of Supervisors
County of Placer, State of California**

In the matter of:

Resol. No: _____

A RESOLUTION RATIFYING THE SIXTH
AMENDMENT TO THE JOINT EXERCISE OF
POWERS AGREEMENT (JPA) OF THE
CALIFORNIA COUNTY TOBACCO
SECURITIZATION AGENCY TO PROVIDE FOR
OPERATIONAL FLEXIBILITY AND EFFICIENCY IN
CONDUCTING MEETINGS OF THE JPA.

The following RESOLUTION was duly passed by the Board of Supervisors of the County
of Placer at a regular meeting held on October 7, 2014 by the following vote on roll call:

Ayes:

Noes:

Absent:

Signed and approved by me after its passage.

Chair, Board of Supervisors

Attest:
Clerk of said Board

WHEREAS, the County of Stanislaus, the County of Merced, the County of Sonoma, and the County of Kern have heretofore entered into an agreement entitled, "Joint Exercise of Powers Agreement," dated November 15, 2000 (the "Original Agreement"), creating The California County Tobacco Securitization Agency (the "Agency");

WHEREAS, the County of Marin, the County of Placer, and the County of Fresno were admitted as Members of the Agency pursuant to an agreement entitled, "First Amendment to Joint Exercise of Powers Agreement," dated May 1, 2002, as amended (the "First Amendment");

WHEREAS, the County of Alameda was admitted as a Member of the Agency pursuant to an agreement entitled, "Second Amendment to Joint Exercise of Powers Agreement," dated August 15, 2002, as amended (the "Second Amendment");

WHEREAS, the County of Los Angeles was admitted as a Member of the Agency pursuant to an agreement entitled, "Third Amendment to Joint Exercise of Powers Agreement," dated January 24, 2006, as amended (the "Third Amendment");

WHEREAS, the Members of the Agency have in an agreement entitled, "Fourth Amendment to Joint Exercise of Powers Agreement," dated September 6, 2006, as amended (the "Fourth Amendment") and an agreement entitled, "Fifth Amendment to Joint Exercise of Powers Agreement," dated April 1, 2012, as amended (the "Fifth Amendment") amended the Original Agreement (the Original Agreement, collectively with the First Amendment, the Second Amendment, the Third Amendment, the Fourth Amendment and the Fifth Amendment is hereinafter referred to as the "Agreement");

WHEREAS, each of the Members, including the County of Placer, desire to amend certain provisions of the JPA Agreement relating to the operations of the Commission; and

NOW, THEREFORE, BE IT RESOLVED as follows:

SECTION 1. Authorization to Amend JPA Agreement. Each of the Chairman of the Board of Supervisors, the County Administrator, the Auditor-Controller, the Treasurer-Tax Collector, or the Director of Finance or the designee of the County Administrator or the Director of Finance (collectively, the "Authorized Officers"), is hereby authorized to execute an amendment to the JPA Agreement, in substantially the form presented at this meeting and on file with the Clerk of the Board of Supervisors, with such changes as such Authorized Officer shall deem advisable or appropriate, and take all other necessary action to implement the amendment to the JPA Agreement.

SECTION 2. Further Actions. The Authorized Officers are hereby authorized and directed, jointly and severally, to do any and all things and to execute and deliver any and all documents which they may deem necessary or advisable in order to consummate, carry out, give effect to and comply with the terms and intent of this resolution and the consummation of the transactions contemplated hereby. Any actions heretofore taken by such officers in furtherance of any of the transactions authorized herein are hereby ratified, confirmed and approved.

SECTION 3. Effective Date. This resolution shall take effect immediately upon its passage.

SIXTH AMENDMENT TO JOINT EXERCISE OF POWERS AGREEMENT
OF
THE CALIFORNIA COUNTY TOBACCO SECURITIZATION AGENCY
BY AND AMONG
THE COUNTY OF STANISLAUS, THE COUNTY OF MERCED,
THE COUNTY OF SONOMA, THE COUNTY OF KERN, THE COUNTY OF MARIN,
THE COUNTY OF PLACER, THE COUNTY OF FRESNO, THE COUNTY OF ALAMEDA
AND
THE COUNTY OF LOS ANGELES

DATED AS OF SEPTEMBER 1, 2014

THIS SIXTH AMENDMENT TO JOINT EXERCISE OF POWERS AGREEMENT, dated as of September 1, 2014 (the "Sixth Amendment"), is made and entered into by and among the COUNTY OF STANISLAUS, the COUNTY OF MERCED, the COUNTY OF SONOMA, the COUNTY OF KERN, the COUNTY OF MARIN, the COUNTY OF PLACER, the COUNTY OF FRESNO, the COUNTY OF ALAMEDA, and the COUNTY OF LOS ANGELES.

W I T N E S S E T H:

WHEREAS, the County of Stanislaus, the County of Merced, the County of Sonoma, and the County of Kern have heretofore entered into an agreement entitled, "Joint Exercise of Powers Agreement," dated November 15, 2000 (the "Original Agreement"), creating The California County Tobacco Securitization Agency (the "Agency");

WHEREAS, the County of Marin, the County of Placer, and the County of Fresno were admitted as Members of the Agency pursuant to an agreement entitled, "First Amendment to Joint Exercise of Powers Agreement," dated May 1, 2002, as amended (the "First Amendment");

WHEREAS, the County of Alameda was admitted as a Member of the Agency pursuant to an agreement entitled, "Second Amendment to Joint Exercise of Powers Agreement," dated August 15, 2002, as amended (the "Second Amendment");

WHEREAS, the County of Los Angeles was admitted as a Member of the Agency pursuant to an agreement entitled, "Third Amendment to Joint Exercise of Powers Agreement," dated January 24, 2006, as amended (the "Third Amendment");

WHEREAS, the Members of the Agency have in an agreement entitled, "Fourth Amendment to Joint Exercise of Powers Agreement," dated September 6, 2006, as amended (the "Fourth Amendment") and an agreement entitled, "Fifth Amendment to Joint Exercise of Powers Agreement," dated April 1, 2012, as amended (the "Fifth Amendment") amended the Original Agreement (the Original Agreement, collectively with the First Amendment, the Second Amendment, the Third Amendment, the Fourth Amendment and the Fifth Amendment is hereinafter referred to as the "Agreement");

WHEREAS, pursuant to Section 13 of the Agreement, each Member desires to further amend the provisions thereof to identify an existing bond issuance approval committee as a standing committee and to delegate certain powers of the Commission to such standing committee;

NOW, THEREFORE, the Agreement is amended as follows:

SECTION 1. Amendment of Section 6 of the Agreement. Section 6 of the Agreement is amended to read in its entirety as follows:

SECTION 6. Commission and Bond Issuance Standing Committee.

6.1 Commission Membership. Subject to the provisions of Section 6.4 hereof, the Agency shall be administered by a commission (the "Commission"), as permitted under

Section 6506 of the Act, whose commissioners shall be, at all times, designees (including members) of the Board of Supervisors of each Member. The Board of Supervisors of each Member shall designate two (2) commissioners of the Commission.

6.2 Term of Commission Service. Each commissioner of the Commission shall serve at the pleasure of the Board of Supervisors designating such commissioner.

6.3 Reimbursement of Expenses. Commissioners of the Commission 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 commissioner if the Commission shall so determine and there are unencumbered funds appropriated by the Agency for such purpose.

6.4 Bond Issuance Standing Committee. There shall be a standing committee of the Commission (the "Bond Issuance Standing Committee"), which shall have continuing subject matter jurisdiction on behalf of the Commission over all action relating to the issuance of Bonds secured by the MSA Payments of any Member (each an "Affected Member"), and which shall be composed, with respect to all action taken on behalf of the Commission in connection with such Bonds, of the commissioners then designated by the Board of Supervisors of the Affected Member pursuant to Section 6.1 hereof and one additional commissioner designated by resolution of the Commission, or, in the absence of such resolution, designated by the President. The Commission hereby delegates to the Bond Issuance Standing Committee on behalf of the Commission all power of the Commission relating to matters in connection with the issuance and sale of Bonds for any Affected Member. Whenever action is taken by the Bond Issuance Standing Committee, (i) the agenda for the meeting of the Bond Issuance Standing Committee at which such action is taken shall be posted at least 72 hours in advance of such meeting pursuant to Section 54954(a) of the California Government Code, and such meeting shall be considered a regular meeting held pursuant to Section 54954 of the California Government Code for purposes of Section 6592.1 of the Law, (ii) the County Counsel to the Affected Member shall serve as counsel to the Agency in connection with all matters relating to the issuance of such Bonds, and (iii) any commissioner representing the Affected Member is authorized to execute, on behalf of the Agency, any Bond Authorizing Document or any related document or certificate in connection with the issuance of such Bonds if so authorized in the resolution of the Bond Issuance Standing Committee approving such Bond issuance. The Bond Issuance Standing Committee may also appoint an interim Secretary of the Agency to serve as Secretary to the Agency in connection with any meeting held by the Bond Issuance Standing Committee as described above in connection with the issuance of Bonds for an Affected Member, and for such purposes the Secretary may be the County Clerk of the Affected Member.

SECTION 2. Amendments to Section 7 of the Agreement.

(a) Section 7.5 of the Agreement is hereby amended to read in its entirety as follows:

7.5 Actions by Commission. The Commission shall take no action except upon the affirmative vote of the majority of the commissioners present, which majority must include at least one commissioner representing each Member.

(b) Section 7.6 of the Agreement is hereby amended to read in its entirety as follows:

7.6 President, Secretary and Vice President. The Commission shall elect a President of the Agency from among its members and shall appoint a Secretary of the Agency, who need not be a commissioner of the Commission. The Commission may elect a Vice-President from among its members. The term of office shall be the Fiscal Year (i.e., July 1-June 30), or until a successor is elected.

SECTION 3. Filing of Notice of Amendment to Agreement.

Within 30 days after the effective date hereof, the Secretary shall cause a notice of this Sixth Amendment to be prepared and filed with the office of the Secretary of State in the manner set forth in Section 6503.5 of the California Government Code.

SECTION 4. Effectiveness; Counterparts.

This Sixth Amendment shall become effective upon execution hereof. This Sixth Amendment may be executed in counterpart as provided in Section 17 of the Agreement.

SECTION 5. Ratification.

All approvals given and actions taken by the Operating Committee or the Commission through the date of this Sixth Amendment are ratified and approved.

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

COUNTY OF STANISLAUS, CALIFORNIA

By _____
Chief Executive Officer

[SEAL] Attest:

Clerk of the Board of Supervisors

Approved as to form:

County Counsel

COUNTY OF MERCED, CALIFORNIA

By _____
County Executive Officer

[SEAL] Attest:

Clerk of the Board of Supervisors

Approved as to form:

County Counsel

COUNTY OF SONOMA, CALIFORNIA

By _____
County Administrator

[SEAL] Attest:

Clerk of the Board of Supervisors

Approved as to form:

County Counsel

COUNTY OF KERN, CALIFORNIA

By _____
Chairman, Board of Supervisors

[SEAL] Attest:

Clerk of the Board of Supervisors

Approved as to form:

County Counsel

COUNTY OF MARIN, CALIFORNIA

By _____
President, Board of Supervisors

[SEAL] Attest:

Clerk of the Board of Supervisors

Approved as to form:

County Counsel

COUNTY OF PLACER, CALIFORNIA

By _____
Chairman, Board of Supervisors

[SEAL] Attest:

Clerk of the Board of Supervisors

Approved as to form:

County Counsel

COUNTY OF FRESNO, CALIFORNIA

By _____
County Administrative Officer

[SEAL] Attest:

Clerk to the Board of Supervisors

Approved as to legal form:

County Counsel

COUNTY OF ALAMEDA, CALIFORNIA

By _____
County Administrator

[SEAL] Attest:

Clerk of the Board of Supervisors

Approved as to form:

County Counsel

COUNTY OF LOS ANGELES, CALIFORNIA

By _____
Authorized Officer

Approved as to form:

By: _____
County Counsel

