



SUSAN S. MURANISHI
COUNTY ADMINISTRATOR

COUNTY ADMINISTRATOR

September 26, 2014

Honorable Board of Supervisors
Administration Building
Oakland, CA 94612

Dear Board Members:

SUBJECT: SIXTH AMENDMENT TO JOINT POWERS AGREEMENT

RECOMMENDATION:

Approve and authorize execution of a Sixth Amendment to the Joint Exercise of Powers Agreement (JPA) of the California County Tobacco Securitization Agency to insure compliance with changes in the law related to JPA bond issuances.

SUMMARY:

In August of 2002, Alameda County became the eighth member of the California County Tobacco Securitization Agency (the "Agency"), a now nine-member agency created to exercise their common powers as related to financings based on funds received pursuant to the California Tobacco Master Settlement Agreements. This agency is administered by a Commission. Changes in California law necessitate conforming amendments to the Agency's governing Joint Powers Agreement (the "JPA Agreement").

DISCUSSION:

Currently, the JPA Agreement of the Agency provides that for the purpose of taking any action relating to the issuance and sale of bonds secured by the Master Settlement Agreements (MSA) payments of a single County Member (the "Affected Member"), the Commission "shall consist of the two commissioners designated by the Board of Supervisors of the Affected Member" and "one additional commissioner designated by resolution of the Commission or, in the absence of such resolution, as designated by the President of the Commission" (the "Bond Issuance Subgroup"). This procedure, using the Bond Issuance Subgroup as the Commission for purposes of approving bond issuances, was designed to give primary responsibility for decision-making for the issuance to the County Member issuing the bonds.

Historically, the Agency has approved bond issuances at special meetings held at the request of the two commissioners of the Affected Member. However, in 2009, Government Code Section 6592.1 was enacted, requiring that joint powers agencies adopt bond authorizing resolutions at regular (as opposed to special) meetings held pursuant to Government Code Section 54954.

Rather than comply with the regular meeting requirement of Government Code Section 6592.1 by 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 approved by the Commission subject to ratification by the County Members ("Amendment"). This Amendment eliminates the Bond Issuance Subgroup and substitutes in its place an identically composed group called the Bond Issuance Standing Committee, with continuing subject matter jurisdiction over issuance and sale of Tobacco Bonds. Pursuant to Section 54954, meetings of a standing committee for which an agenda is posted at least 72 hours in advance of the meeting pursuant to Government Code Section 54954.2(a) are considered regular meetings of the legislative body (here, the Commission). Also, pursuant to Government Code Section 54952, standing committees of a legislative body, irrespective of their composition, which have a continuing subject matter jurisdiction, fixed by formal action of a legislative body, are legislative bodies for purposes of Section 54954. There is no statutory requirement that the whole Commission, rather than a standing committee, vote to authorize the issuance of bonds by the Agency.

Thus, going forward, the procedure for approval of Tobacco Bonds will not change from the procedure the Agency has used before, 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.

This Amendment was heard and discussed at the Agency Annual Meeting of September 24, 2014, and approved pending ratification of member Counties Boards of Supervisors.

FINANCING:

This is an administrative change related to how Agency bond issuances are approved, and has no impact on County funds.

Very truly yours,



Susan S. Muranishi
County Administrator

SSM:TSR:ep

v:\finu\debt financing\tobacco\california tobacco securitization agency\jpa agreement & amendments\

Attachment

c: All Members, Finance Advisory Committee

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.

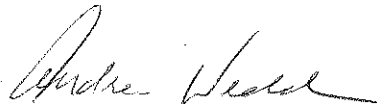
COUNTY OF ALAMEDA, CALIFORNIA

By _____
Authorized Officer

[SEAL] Attest:

Clerk of the Board of Supervisors

Approved as to form:
DONNA R. ZIEGLER, COUNTY COUNSEL



Andrea L. Weddle
Assistant County Counsel

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.

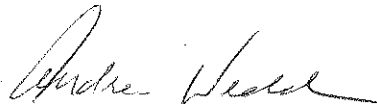
COUNTY OF ALAMEDA, CALIFORNIA

By _____
Authorized Officer

[SEAL] Attest:

Clerk of the Board of Supervisors

Approved as to form:
DONNA R. ZIEGLER, COUNTY COUNSEL



Andrea L. Weddle
Assistant County Counsel