

**COUNTY OF CONTRA COSTA PUBLIC FINANCING AUTHORITY
AMENDED AND RESTATED JOINT EXERCISE OF POWERS AGREEMENT**

This Agreement (the “Joint Exercise of Powers Agreement”), dated June __, 2015 is by and between the County of Contra Costa, a political subdivision of the State of California (the “County”), and the Contra Costa County Flood Control and Water Conservation District, a flood control district existing under the laws of the State of California (the “District”).

WITNESSETH:

WHEREAS, agencies formed under Articles 1 through 4 (commencing with Section 6500) of Chapter 5, Division 7, Title 1 of the Government Code of the State of California (the Joint Exercise of Powers Act; the “Act”) are permitted to provide financing for any of their members or other local public agencies in the State of California in connection with the acquisition, construction and improvement of public capital improvements, working capital requirements or insurance programs of such members or other local agencies; and

WHEREAS, by a joint exercise of powers agreement, dated April 7, 1992, the County of Contra Costa Public Financing Authority (the “Authority”) was created by the County and the Contra Costa County Redevelopment Agency; and

WHEREAS, effective February 1, 2012, the Contra Costa County Redevelopment Agency was dissolved, and pursuant to the California Health and Safety Code, the Successor Agency to the Contra Costa County Redevelopment Agency (the “Successor Agency”) was established for the purpose of winding down the affairs of the former redevelopment agency; and

WHEREAS, the County, the District, and the Successor Agency have agreed to the withdrawal of the Successor Agency from the Authority and the addition of the Contra Costa County Flood Control and Water Conservation District as a member of the Authority to maintain the County of Contra Costa Public Financing Authority for the purposes set forth herein and to exercise the powers described herein;

NOW, THEREFORE, the County and the District, the only members of the County of Contra Costa Public Financing Authority, for and in consideration of the mutual promises and agreements herein contained, do agree to the amendment and restatement of this Agreement as follows:

ARTICLE I

DEFINITIONS

Section 1.01 Definitions. Unless the context otherwise requires, the words and terms defined in this Article shall, for the purpose hereof, have the meanings herein specified.

“Act” means Articles 1 through 4 (commencing with Section 6500) of Chapter 5, Division 7, Title 1 of the Government Code of the State of California.

“Agreement” means this Joint Exercise of Powers Agreement, as originally entered into or as amended from time to time.

“Associate Member” means a Public Agency which is a party to an Associate Membership Agreement entered into by the Authority and such Public Agency pursuant to Article VII hereof.

“Associate Membership Agreement” means an agreement between the Authority and a Public Agency as described in Article VII hereof.

“Authority” means the County of Contra Costa Public Financing Authority established pursuant to Section 2.02 of this Agreement.

“Board” means the Board of Directors of the County of Contra Costa Public Financing Authority referred to in Section 2.03.

“Bond Law” means the Marks-Roos Local Bond Pooling Act of 1985, being Article 4 of the Act (commencing with Section 6584), as now in effect or hereafter amended, Article 2 of the Act as now in effect or hereafter amended, or any other law available for use by the Authority in the authorization and issuance of bonds to provide for the financing of Obligations, Working Capital Requirements, Public Improvements and/or liability or insurance needs of any Public Agency.

“Bond Purchase Agreement” means an agreement between the Authority and the County, the District or an Associate Member, pursuant to which the Authority agrees to purchase Obligations from the County, the District or an Associate Member, as the case may be.

“Bonds” means bonds, notes or other obligations of the Authority issued pursuant to the Bond Law or pursuant to any other provision of law which may be used by the Authority for the authorization and issuance of bonds, notes or other obligations.

“Directors” means the representatives of the County and the District appointed to the Board pursuant to Section 2.03.

“Fiscal Year” means the period from July 1 in any calendar year to and including June 30 in the succeeding calendar year.

“Members” means the County and the District.

“Obligations” has the meaning given to the term “Bonds” in Section 6585(c) of the Bond Law.

“Public Agency” means any public agency authorized by the Act to enter into a joint exercise of powers agreement with the County and the District.

“Public Improvements” has the meaning given such term in Section 6585(g) of the Bond Law.

“Secretary” means the Secretary of the Authority appointed pursuant to Section 3.01.

“Treasurer” means the Treasurer of the Authority appointed pursuant to Section 3.02.

“Working Capital Requirements” means the requirements of any Public Agency for funds to be used by, or on behalf of, such Public Agency for any purpose for which such Public Agency may borrow money pursuant to Section 53852 of the Government Code of the State of California.

ARTICLE II

GENERAL PROVISIONS

Section 2.01 Purpose. This Agreement is made pursuant to the Act providing for the joint exercise of powers common to the County, the District and any Associate Member, and for other purposes as permitted under the Act, the Bond Law and as agreed by one or more of the parties hereto. The purpose of this Agreement is to provide for the financing of Public Improvements or Obligations for, and Working Capital Requirements or liability or other insurance programs of, the County, the District and any Associate Member through the acquisition by the Authority of such Public Improvements and/or the purchase by the Authority of Obligations of the County, the District and any Associate Member pursuant to Bond Purchase Agreements and/or the lending of funds by the Authority to the County, the District and any Associate Member.

Section 2.02 Creation of Authority. Pursuant to the Act, there is hereby created a public entity to be known as the “County of Contra Costa Public Financing Authority”. The Authority shall be a public entity separate and apart from the County, the District and any Associate Member, and shall administer this Agreement.

Section 2.03 Board of Directors. The Authority shall be administered by a Board of Directors consisting of five (5) Directors, unless and until such number is changed by amendment of this Agreement. The members of the Board of Supervisors of the County shall constitute the Directors of the Authority. The Board shall be called the “Board of Directors of the County of Contra Costa Public Financing Authority”. All voting power of the Authority shall reside in the Board.

Section 2.04 Meetings of the Board.

(a) **Regular Meetings.** The Board shall provide for its regular meetings; provided, however, that at least one regular meeting shall be held each year. The date, hour and place of the holding of regular meetings shall be fixed by resolution of the Board and a copy of such resolution shall be filed with the County and the District.

(b) **Special Meetings.** Special meetings of the Board may be called in accordance with the provisions of Section 54956 of the Government Code of the State of California.

(c) **Call, Notice and Conduct of Meetings.** All meetings of the Board, including without limitation, regular, adjourned regular and special meetings, shall be called, noticed, held and conducted in accordance with the provisions of the Ralph M. Brown Act of the Government Code of the State of California.

Section 2.05 Actions Taken. The Secretary shall cause to be kept records, consistent with County policy, of all actions taken by the Board at all meetings of the Board and shall, as soon as possible after each meeting, make such records available for inspection by each Director and the Members.

Section 2.06 Voting. Each Director shall have one vote.

Section 2.07 Quorum; Required Votes; Approvals. Directors holding a majority of the votes shall constitute a quorum for the transaction of business, except that less than a quorum may adjourn from time to time. The affirmative votes of at least a majority of the Directors present at any meeting at which a quorum is present shall be required to take any action by the Board.

Section 2.08 Bylaws. The Board may adopt, from time to time, such bylaws, rules and regulations for the conduct of its meetings as the Board may deem necessary or advisable for the purposes hereof.

ARTICLE III

OFFICERS AND EMPLOYEES

Section 3.01 Chair, Vice-Chair, Executive Director, and Secretary. The Chair of the Board of Supervisors and Vice-Chair of the Board of Supervisors are hereby designated as the Chair and Vice-Chair, respectively, of the Authority. The County Administrator is designated as the Executive Director and Secretary of the Authority. The officers shall perform the duties normal to said offices. The Chair, the Vice-Chair, the Executive Director, or any other person designated by the Board, shall sign contracts on behalf of the Authority, and the Chair shall perform such other duties as may be imposed by the Board. The Executive Director shall administer the day-to-day affairs of the Authority and shall execute the policies and directives of the Board. The Secretary shall cause a copy of this Agreement to be filed with the Secretary of State pursuant to the Act.

Section 3.02 Treasurer. Pursuant to Section 6505.6 of the Act, the County Auditor-Controller is hereby designated as the Treasurer of the Authority. The Treasurer shall be the depository, shall have custody of all of the accounts, funds and money of the Authority from whatever source, shall have the duties and obligations set forth in Sections 6505 and 6505.5 of the Act and shall assure that there shall be strict accountability of all funds and reporting of all receipts and disbursements of the Authority. As provided in Section 6505 and Section 6505.6 of the Act, the Treasurer shall make arrangements with a certified public accountant or firm of certified public accountants for the annual audit of accounts and records of the Authority, which audit may be combined with any audit of the accounts and records of the County or the District.

Section 3.03 Officers in Charge of Records, Funds and Accounts. Pursuant to Section 6505.1 of the Act, the Treasurer shall have charge of, handle and have access to all accounts, funds and money of the Authority and all records of the Authority relating thereto; and the Secretary shall have charge of, handle and have access to all other records of the Authority.

Section 3.04 Bonding Persons Having Access to Public Improvements. From time to time, the Board may designate persons, in addition to the Executive Director, the Secretary, and the Treasurer, to have charge of, handle or have access to any records, funds or accounts or any Public Improvement of the Authority; and the Board shall designate and fix the respective amounts of the official bonds of the Executive Director, the Secretary, the Treasurer, and such other persons pursuant to Section 6505.1 of the Act.

Section 3.05 Legal Advisor. County Counsel shall act as the legal advisor of the Authority, and shall perform such duties as may be prescribed by the Board.

Section 3.06 Other Employees. The Board shall have the power by resolution to appoint and employ such other consultants and independent contractors as may be necessary for the purposes of this Agreement.

All of the privileges and immunities from liability, exemption from laws, ordinances and rules, all pension, relief, disability, workers' compensation and other benefits which apply to the activities of officers, agents, or employees of a public agency when performing their respective functions shall apply to the officers, agents or employees of the Authority to the same degree and extent while engaged in the performance of any of the functions and other duties of such officers, agents or employees under this Agreement.

None of the officers, agents, or employees directly employed by the Board shall be deemed, by reason of their employment by the Board to be employed by the County or the District or, by reason of their employment by the Board, to be subject to any of the requirements of the County or the District.

Section 3.07 Assistant Officers. The Board may by resolution appoint such assistants to act in the place of the Secretary or other officers of the Authority (other than any Director), and may by resolution provide for the appointment of additional officers of the Authority who may or may not be Directors, as the Board shall from time to time deem appropriate.

ARTICLE IV

POWERS

Section 4.01 General Powers. The Authority shall exercise the powers granted to it under the Act, including but not limited to the powers set forth in the Bond Law and the powers of each of the Members as may be necessary to the accomplishment of the purposes of this Agreement, subject to the restrictions set forth in Section 4.04. As provided in the Act, the Authority shall be a public entity separate from the County, the District and any Associate Member.

Section 4.02 Power to Issue Bonds. The Authority shall have all of the powers provided in the Act and in the Bond Law, including the power to issue Bonds thereunder.

Section 4.03 Specific Powers. The Authority is hereby authorized, in its own name, to do all acts necessary for the exercise of the foregoing powers, including but not limited to, any or all of the following:

- (a) to make and enter into contracts;
- (b) to employ agents or employees;
- (c) to acquire, construct, manage, maintain or operate any Public Improvement, including the common power of the County, the District and any Associate Member to acquire any Public Improvement by the power of eminent domain or any other lawful means;
- (d) to sue and be sued in its own name;
- (e) to issue Bonds and otherwise to incur debts, liabilities or obligations; provided, however, that no such Bond, debt, liability or obligation shall constitute a debt, liability or obligation of the County, the District or any Associate Member;
- (f) to apply for, accept, receive and disburse grants, loans and other assistance from any agency of the United States of America or of the State of California;
- (g) to invest any money in the treasury pursuant to Section 6505.5 of the Act which is not required for the immediate necessities of the Authority, as the Authority determines is advisable, in the same manner and upon the same conditions as local agencies, pursuant to Section 53601 of the Government Code of the State of California;
- (h) to apply for letters of credit or other form of financial guarantees in order to secure the repayment of Bonds and enter into agreements in connection therewith;
- (i) to carry out and enforce all the provisions of this Agreement;
- (j) to make and enter into Bond Purchase Agreements and any other agreements, assignments and documents of any nature whatsoever as may be necessary or convenient in the exercise of its powers hereunder or under the Act;
- (k) to purchase Obligations of or to make loans to the County, the District or any Associate Member for the purposes hereof, or to refinance indebtedness incurred by the County, the District or any Associate Member in connection with any of the purposes hereof; and
- (l) to exercise any and all other powers as may be provided in the Act or in the Bond Law.

Section 4.04 Restrictions on Exercise of Powers. The powers of the Authority shall be exercised in the manner provided in the Act and in the Bond Law, and, except for those powers set forth in the Bond Law, shall be subject (in accordance with Section 6509 of the Act) to the restrictions upon the manner of exercising such powers that are imposed upon the District in the exercise of similar powers.

Section 4.05 Obligations of Authority. The debts, liabilities and obligations of the Authority shall not be the debts, liabilities and obligations of the County, the District or any Associate Member.

Section 4.06 Non-Liability for Obligations of Authority. No Member, Associate Member, Director, officer, agent or employee of the Authority shall be individually or personally liable for the payment of the principal of or premium or interest on any obligations of the Authority or be subject to any personal liability or accountability by reason of any obligations of the Authority; but nothing herein contained shall relieve any such Member, Associate Member, Director, officer, agent or employee from the performance of any official duty provided by law or by the instruments authorizing the issuance of any obligations of the Authority.

ARTICLE V

CONTRIBUTIONS: ACCOUNTS AND REPORTS; FUNDS

Section 5.01 Contributions. The Members or any Associate Member may in the appropriate circumstance when required hereunder: (a) make contributions from their treasuries for the purposes set forth herein, (b) make payments of public funds to defray the cost of such purposes, (c) make advances of public funds for such purposes, such advances, to be repaid as provided herein, or (d) use its personnel, equipment or property in lieu of other contributions or advances. The provisions of Government Code Section 6513 are hereby incorporated into this Agreement by reference.

Section 5.02 Accounts and Reports. To the extent not covered by the duties assigned to a trustee chosen by the Authority, the Treasurer shall establish and maintain such funds and accounts as may be required by good accounting practice or by any provision of any trust agreement entered into with respect to the proceeds of any Bonds issued by the Authority. The books and records of the Authority in the hands of a trustee or the Treasurer shall be open to inspection at all reasonable times by representatives of the Members. Within 180 days after the close of each Fiscal Year an annual report of all financial activities for such Fiscal Year shall be presented to the Members, to the extent such activities are not covered by the report of such trustee. The trustee appointed under any indenture or trust agreement shall establish suitable funds, furnish financial reports and provide suitable accounting procedures to carry out the provisions of said trust agreement. Said trustee may be given such duties in said indenture or trust agreement as may be desirable to carry out this Agreement.

Section 5.03 Funds. Subject to the applicable provisions of any instrument or agreement which the Authority may enter into, which may provide for a trustee to receive, have custody of and disburse Authority funds, the Treasurer of the Authority shall receive, have custody of and disburse Authority funds as nearly as possible in accordance with generally

accepted accounting practices, and shall make the disbursements required by this Agreement or to carry out any of the provisions or purposes of this Agreement.

Section 5.04 Annual Budget and Administrative Expenses. The Board may adopt a budget for administrative expenses, which shall include all expenses not included in any financing issue of the Authority, on or about July 1st of each year. The estimated annual administrative expenses of the Authority shall be allocated in such budget by the Authority to the Members and any Associate Member in such manner as the Board may determine.

ARTICLE VI

TERM

Section 6.01 Term. This Agreement became effective on April 7, 1992, and the Authority came into existence on such date and this Agreement and the Authority shall thereafter continue in full force and effect for at least forty (40) years (unless earlier terminated by the Members and any then Associate Members), but in any event so long as either (a) any Bonds remaining outstanding or any material contracts to which the Authority is a party remain in effect, or (b) the Authority shall own any interest in any Public Improvements.

Section 6.02 Disposition of Assets. Upon termination of this Agreement, all property of the Authority, both real and personal, shall be divided among the Members in such manner as shall be agreed upon by the Members.

ARTICLE VII

ASSOCIATE MEMBERSHIP AGREEMENTS

Section 7.01 Power to Enter Into Associate Membership Agreements. In addition to those powers specified in this Agreement, the Authority shall have the power to enter into Associate Membership Agreements with any Public Agency upon the approval, thereof by the Board.

Section 7.02 Contents of Associate Membership Agreements. Each Associate Membership Agreement shall:

- (a) State that the Public Agency is an associate member of the Authority;
- (b) Specify that the purpose to the Associate Membership Agreement is to facilitate the financing of the acquisition by the Public Agency of Public Improvements, or financing Working Capital Requirements or insurance needs of the Associate Member, necessary for the governmental operation of the Public Agency at a cost (taking into account the cost of such financing) which is less than would be possible if the public agency were to acquire the Public Improvements or finance its Working Capital Requirements or insurance needs independently of the Authority;
- (c) Restrict the powers of the Public Agency with respect to the Authority to those enumerated in this Article VII;

(d) Specify that the Public Agency shall not have the power to: (i) vote on any action to be taken by the Authority; or (ii) become an officer of the Authority or a Director; and

(e) Specify the fees, if any, to be charged the Public Agency for its participation in financings of the Authority.

Section 7.03 Approval of Associate Membership Agreements. In determining whether to approve an Associate Membership Agreement with a Public Agency which proposes to be an Associate Member, the Directors may take into account any criteria deemed appropriate to the Directors, including but not limited to the financial well-being of such Public Agency and the nature of the Public Improvement or the Working Capital Requirements or insurance needs which such Public Agency proposes to finance.

ARTICLE VIII

MISCELLANEOUS PROVISIONS

Section 8.01 Notices. Notices hereunder shall be in writing and shall be sufficient if delivered to the notice address of each party hereto for legal notices or as otherwise provided by a party hereto in writing to each of the other parties hereto.

Section 8.02 Section Headings. All section headings in this Agreement are for convenience of reference only and are not to be construed as modifying or governing the language in the section referred to or to define or limit the scope of any provision of this Agreement.

Section 8.03 Consent. Whenever in this Agreement any consent or approval is required, the same shall not be unreasonably withheld.

Section 8.04 Law Governing. This Agreement is made in the State of California under the Constitution and laws of the State of California, and is to be so construed.

Section 8.05 Amendments. This Agreement may be amended at any times, or from time to time, except as limited by contract with the owners of Bonds issued by the Authority or by applicable regulations or laws of any jurisdiction having authority, by one or more supplemental agreements executed by both of the parties to this Agreement either as required in order to carry out any of the provisions of this Agreement or for any other purpose, including without limitation addition of new parties (including any legal entities or taxing areas heretofore or hereafter created) in pursuance of the purposes of this Agreement.

Section 8.06 Enforcement by Authority. The Authority is hereby authorized to take any or all legal or equitable actions, including but not limited to injunction and specific performance, necessary or permitted by law to enforce this Agreement.

Section 8.07 Severability. Should any part, term or provision of this Agreement be decided by any court of competent jurisdiction 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 portions or provisions shall not be affected thereby.

Section 8.08 Successors. This Agreement shall be binding upon and shall inure to the benefit of the successors of the County or the District, respectively. Neither the County nor the District may assign any right or obligation hereunder without the written consent of the other.

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, on the day and year set opposite the name of each of the parties.

Date: _____, 2015

CONTRA COSTA COUNTY

By: _____

Date: _____, 2015

CONTRA COSTA COUNTY FLOOD
CONTROL AND WATER
CONSERVATION DISTRICT

By: _____